4 May 2018

Global Tax Alert

Report on recent US international tax developments – 4 May 2018

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United States (US) House Ways and Means Committee Chairman Kevin Brady this week said he wants a vote on a follow-up tax bill to the *Tax Cuts and Jobs Act* (TCJA) before the mid-term election. Referring to the proposal as "Tax Reform 2.0," Chairman Brady said that, among other things, he would like to see certain temporary business provisions made permanent. He further suggested that it would be difficult for Congressional Democrats to vote against making the TCJA's individual tax cuts permanent before the election. Chairman Brady's eagerness to move a second tax reform bill before November is not shared by many in Congress, including some Republicans in the Senate.

Speaking at EY's 13th annual Domestic Tax Conference in New York on 3 May, EY tax partner Ray Beeman, a former Republican House Ways and Means Committee tax counsel, predicted that the prospects for a TCJA tax technical corrections bill this year are slim, given the lack of must-pass legislation in Congress. (Technical corrections legislation is often passed by Congress in conjunction with other legislation.)

Beeman suggested that taxpayers should instead focus on the upcoming TCJA Bluebook for issues in need of technical corrections, which is currently being written by the Congressional Joint Committee on Taxation (JCT). The JCT earlier indicated that, in addition to writing the explanatory bluebook to the legislation, it is also identifying TCJA provisions in need of technical corrections.

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Beeman also said that while the so-called Tax Reform 2.0 is more about political posturing to remind voters of the benefits of tax reform before the mid-term election, it is something that is likely to have traction later, given the sunset of the TCJA individual provisions.

US Internal Revenue Service (IRS or Service) officials this week responded to taxpayer concerns as to how to interpret the new Internal Revenue Code Section[1] 163(j) business interest limitation provision, absent guidance from the Government. While the IRS has indicated that proposed regulations will be released under the provision, no timeline has been announced.

One issue vexing taxpayers is what qualifies as a trade or business when a taxpayer has different trades or businesses for purposes of the interest limitation. An IRS official was quoted as saying the Service is looking at other Code provisions for guidance, including the Code Section 355 regulations for distinguishing among different business lines. The official said the Code Section 355 rules are one of the frameworks being considered. "It doesn't go into a tremendous amount of detail, but it does provide some language," he said.

Another issue the IRS is considering is how to apply the gross receipts test in the Code Section 163(j) exemption for small businesses with average annual gross receipts of $25 million or less for the three-year period, subject to aggregation rules. The tricky part, the official said, is that the issue crosses other tax areas, such as income tax and accounting.

A senior Organization for Economic Cooperation and Development (OECD) official this week said the organization may move up its planned consensus-based blueprint on the digital economy from 2020 to 2019, although that decision is not final. The OECD on 16 March 2018 published an interim report on the tax challenges of the digital economy. OECD Secretary-General Angel Gurria was quoted as urging countries not to implement short-term digital tax solutions, but if they do, to make them temporary so that a viable long-term global strategy can be adopted.

Endnote

1. All "Section" references are to the Internal Revenue Code of 1986, and the regulations promulgated thereunder.

For additional information with respect to this Alert, please contact the following:

Ernst & Young LLP, International Tax Services, Washington, DC

- Arlene Fitzpatrick arlene.fitzpatrick@ey.com
- Joshua Ruland joshua.ruland@ey.com

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EYG no. 02657-181Gbl

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