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U.S Irish Business Group

Tax

U.S. Irish Business Group bulletin

Issue 1 - U.S. corporate tax reform FAQ's

The potential for major U.S. corporate tax reform is greater than ever and will impact businesses operating in the U.S. and around the world. What is actually being proposed and what does it mean? Edel Carter and Frankie Cronin, who lead our U.S. Irish Business group in San Francisco and New York, have adapted a briefing issued by Grant Thornton U.S. outlining some answers to the most Frequently Asked Questions (FAQs) about the proposed corporate tax reform.

Outlook

1. Is the tax reform really happening?

The prospects for a major tax reform increased tremendously with the Republican election sweep. There is now a very good chance significant tax legislation will be enacted, but it is not a foregone conclusion. Many obstacles must be overcome and many details still need to be worked out. It is possible the tax reform will take longer than expected or fail altogether.

2. What are the obstacles for the tax reform?

There are a variety of factors that could delay (or even derail) the tax reform, or possibly force the current proposals to evolve considerably.

- Obamacare logjam: The top GOP priority is repealing and replacing the Affordable Care Act (ACA). This effort could consume lawmakers and delay the tax reform, although the tax reform could also leapfrog ACA repeal if ACA repeal stalls;
- Cost: President Donald Trump's campaign platform and the GOP blueprint both appear to lose significant revenue even if scored assuming economic growth and an alternative baseline. Changes to the plans may be needed to cut down on cost;
- Agreement on details: Republicans are in sole control of the legislative process right now, but they are not totally unified over the tax reform. It will be both technically and politically difficult to reach a consensus on many issues and the business community will lobby heavily against certain changes;
- Political backlash: ACA was politically costly for Democrats and Republicans may risk a similar backlash if they lose the battle for public sentiment on the tax reform. The current platforms focus largely on making the United States more competitive for investors and large corporations. Republicans may need to pivot to provide greater focus on the middle-income Americans who turned the election in rust belt states; and
- Lack of 60 votes: Republicans' most significant hurdle is their slim 52-seat majority in the Senate. The GOP lacks 60 votes, Democrats can use procedural hurdles like filibusters to effectively block almost any legislation. The reconciliation process would allow Republicans to move tax legislation with simple 50-vote majorities, but it comes with limits. Provisions generally may not lose revenue outside of the ten year budget window, which often requires sunsetting. Republicans may need to alter their current proposals to attract at least eight Democratic votes or meet the constraints of budget reconciliation.

3. What is the timing for the tax reform?

The tax reform could move quickly, but the most likely scenario appears to be final enactment very late in 2017 or 2018 (if successful the tax reform could take up much of 2017 and even spill into 2018). House Republicans are currently drafting a full bill on their tax reform blueprint and are working closely with the administration. This bill will likely be introduced sometime in spring and speaker Paul Ryan is aiming to achieve House passage by the end of July. However, the Senate is months behind and is planning to either produce its own bill or modify the House bill.

4. So when would the tax reform be effective?
The tax reform effective dates are likely to be largely prospective, meaning effective beginning 1 January 2018, or 1 January 2019. It's possible for rate cuts to be enacted retroactively to the beginning of 2017, but unlikely. The 2001 tax cuts provided retroactive rate relief, but only in the context of a budget surplus when the goal was to deliver tax cuts, not enact revenue-neutral tax reform. Nearly all major tax reform efforts have been largely prospective. There could be transition rules that could slow effective dates even further. The tax reform discussion draft from former House Ways and Means Chair Dave Camp, R-Mich., in 2013 slowly phased in its corporate rate cut.

On the other hand, narrower individual provisions could be made retroactive as early as the date they are first made public. This would normally be applied to changes that are viewed as closing "loopholes" or that would allow significant tax-motivated gaming if prospective.

5. What would the tax reform look like?
Republicans are committed to a comprehensive tax reform, but there are policy differences among the House GOP blueprint and Trump's tax reform platform. The House GOP blueprint will likely be the starting point. Broadly it proposes repealing targeted tax benefits in exchange for rate cuts, but unlike past reform efforts, also seeks to make structural changes. The idea is to convert the business income tax system to a more cash-flow based system that mimics the economic impact of a consumption tax like a Value-Added Tax (VAT). The major provisions would:

- cut the top individual rate to 33%;
- cut the top corporate rate to 20% (Trump has proposed 15%);
- create a special 25% rate for active business income from a pass-through;
- repeal most business and individual benefits except for the mortgage interest and charitable deductions and the Research and Development (R&D) credit;
- provide for full expensing of business equipment (including buildings), but limit interest expense;
- make business taxes border adjustable;
- move to a territorial tax system with a 100% dividend deduction; and
- provide a one-time tax on unrepatriated earnings of 8.75% for cash (and cash equivalents) and 3.5% for everything else with the tax to be paid over an eight year period.

Contact

The proposed tax reforms are radical and in particular, the concept of a border adjustment tax will require careful consideration by both U.S. groups exporting into Ireland and by those importing goods from Ireland.

While it is still unclear what exactly any corporate tax reform might look like in the U.S., it is clear that companies all around the world need to understand the implications for their businesses, particularly U.S. companies who operate globally.

Keep up to date **here** or by contacting a member of the team below.

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