

Client Alert

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Trump Administration Releases One-Page Tax Plan

By Thomas Humphreys, David Strong and Brennan Young

On April 26, 2017, amidst much anticipation, the Trump administration released its tax plan, entitled “2017 Tax Reform for Economic Growth and American Jobs” (the “Plan”).¹ The Plan was presented at a press conference by Secretary of the Treasury Steven Mnuchin and Director of the National Economic Council Gary Cohn.² Touted on its face as the biggest individual and business tax cut in American history, the plan only consists of a single page containing just twelve substantive bullets, though Mnuchin stated that the Plan is intended only to outline the core principles of the Trump administration’s tax reform agenda. The Plan offers less detail than plans issued by President Trump during his campaign,³ and it is unclear whether the public should look to his campaign materials to fill in the gaps.

The Plan first states its four goals: (1) grow the economy and create millions of jobs; (2) simplify the tax code; (3) provide tax relief to American families, especially middle-income families; and (4) lower the business tax rate “from one of the highest in the world to one of the lowest.”

INDIVIDUAL REFORM

Like President Trump’s campaign materials, the Plan would provide tax relief to American families by (1) reducing the seven individual income tax brackets to three tax brackets of 10 percent, 25 percent, and 35 percent (up from 33 percent in the campaign plan); (2) doubling the standard deduction; and (3) providing tax relief to families with child and dependent care expenses.

The Plan would simplify the Internal Revenue Code by (1) eliminating targeted tax breaks that mainly benefit the wealthiest taxpayers; (2) protecting the home ownership and charitable gift tax deductions; (3) repealing the alternative minimum tax; and (4) repealing the estate tax. While the home ownership and charitable gift tax deductions will be preserved, Mnuchin confirmed at the press conference that the Plan envisions eliminating all itemized deductions on the personal side, which would include eliminating the itemized deduction for state and local taxes.

Finally, the Plan would repeal the 3.8 percent tax imposed on net investment income. The repeal of this tax was also featured in the recent Republican health care proposal, which failed to get sufficient Republican support in the House.

¹ A copy of the Plan is available online, at <http://www.journalofaccountancy.com/content/dam/jofa/news/2017-tax-reform-for-economic-growth.jpg>.

² A transcript of the press conference is available online, at <https://www.whitehouse.gov/the-press-office/2017/04/26/briefing-secretary-treasury-steven-mnuchin-and-director-national>.

³ For more detailed information about tax plans released by President Trump during his campaign, see Vol. 9, Issue 4 of our quarterly publication, Tax Talk, available at <https://media2.mofo.com/documents/170210-tax-talk.pdf>.

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BUSINESS REFORM

The Plan proposes four prongs to reform the federal taxation of businesses in the U.S. First, the Plan would reduce the business tax rate to 15 percent. During the press conference, Mnuchin confirmed that this business rate is going to be available for small- and medium-sized businesses, as well as corporations. What is unclear, however, is how this rate will apply to entities treated as partnerships for U.S. federal income tax purposes. Instituting such a tax for non-corporate businesses raises various challenges, the obvious one being how to prevent conversion of salary income to business income. Another uncertainty for taxation of domestic business activities is whether President Trump still intends to pursue elements of a domestic cash-flow tax (i.e., immediate deduction for certain domestic investments), a concept included in both his campaign materials and the House tax reform plan. Also absent from the Plan is the limitation on interest deductions that corresponds with immediate expensing of investment in a cash-flow tax system; President Trump's campaign materials proposed to limit deductions for corporate interest expense for certain businesses, and the House plan proposed to only allow deductions for net interest expenses on debt against interest income. As with the campaign plan, there is no detail on how financial instruments or financial institutions would fit into the revised corporate tax system.

Second, the Plan would change the U.S. system of international taxation from the current "worldwide" taxation system, which generally taxes all income of U.S. businesses regardless of the country from which the income is earned, to a "territorial tax system," which would generally mean that companies will only pay U.S. federal income tax on income earned or sourced in the U.S. Interestingly, the Plan does not include the concept of a border-adjusted cash-flow tax, which was a key point of international tax reform (in addition to raising significant revenue) for House Republicans in their tax reform blueprint.

Third, as President Trump stated in his campaign materials, the Plan would include a one-time repatriation tax on the "trillions of dollars [of U.S. companies] held overseas." The Plan is silent as to what the rate of such a repatriation tax might be and, during the press conference, Mnuchin would only say that the repatriation tax will be at "a very competitive rate." Finally, the Plan would eliminate tax breaks for special interests, although the details of this statement are undefined. To the extent President Trump's campaign materials should be used to fill in the blanks in the Plan, the elimination of tax breaks for special interests might include "eliminat[ing] most corporate tax expenditures except for the Research and Development tax credit," although even in President Trump's campaign materials, no more detail than that was given about such eliminations.⁴

PROCESS

In terms of process, the Plan states that the Trump administration will hold listening sessions with stakeholders throughout the month of May, and will continue to work with the House and Senate to develop the details of the Plan. Accordingly, during the Q&A portion of the press conference, Cohn and Mnuchin deferred to further discussion with the House and Senate multiple times, even for key points such as the rate of a one-time repatriation tax and the income brackets for individual tax rates.

⁴ President Trump's tax reform page on his campaign website that contained this quote is no longer available. For a summary, see <https://taxfoundation.org/details-donald-trump-tax-reform-plan-september-2016>.

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LOOKING AHEAD

Mnuchin told reporters at the press conference that the Plan is just meant to introduce the “core principles” of the Trump administration’s tax reform agenda, and that the administration will release more details as they are agreed upon by Congress and the president. Further, Mnuchin said that the Trump administration is “determined to move this as fast as we can and get this done this year.” However, for the moment, the Plan raises more questions than it provides technical answers.

We will continue to update on additional details and developments through further alerts as they arise.

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