U.S. Tax Reform Highlights: Impact on Individual Private Clients

December 16, 2017

The Tax Cuts and Jobs Act (the "Bill") released on Friday would, if adopted, significantly change the current rules governing U.S. estate, gift, generation-skipping transfer ("GST") and income taxes applicable to U.S. citizens and residents.

Below is a brief summary of selected new rules applicable to individuals as well as a discussion of opportunities the Bill may present for private clients. Of course, the new rules are complex and each clients' circumstances should be analyzed on a case by case basis.

Estate, Gift and GST Tax Changes

Although there had been discussion of potential repealing the U.S. estate, gift and GST taxes, the Bill retains these taxes but would roughly double the U.S. estate, gift and GST tax exclusion amounts to approximately $11 million (indexed annually for inflation) for decedents dying between January 1, 2018 and December 31, 2025; thereafter, the exclusion amounts would revert to their present levels.

Income Tax Changes

The Bill would lower the top marginal tax rate on individuals to 37% and alter the tax bracket structure. The Bill provides for the following tax brackets for joint filers (indexed annually for inflation):

10%:	$0 to $19,050
12%:	$19,050 to $77,400
22%	$77,400 to $140,000
24%:	$140,000 to $315,000
32%:	$315,000 to $400,000
35%:	$400,000 to $600,000
37%:	$600,000 and above

These tax brackets would sunset after December 31, 2025 and revert to their existing levels. As reflected in the above chart, most individuals would be in more favorable tax brackets as compared to the current bracket structure.

Additionally, the Bill would roughly double the standard deduction to $24,000 but, at the same time, would limit or eliminate many of the more common itemized deductions such as:

- SALT: State and local tax income, sales and property taxes would still be deductible but subject to combined cap of $10,000 per year. In addition, the Bill provides that prepayments of 2018 state income taxes in 2017 would be deemed paid in 2018 so individuals cannot circumvent the limitation on state tax deductibility by accelerating payment of such taxes.
- Mortgage Interest: The Bill would limit the mortgage interest deduction so that interest may only be deducted on the first $750,000 of indebtedness for joint filers for homes purchased on or after December 15, 2017. The limit with respect to the mortgage interest deduction for homes purchased before that date remains unchanged.

The Bill would also increase the annual adjusted gross income limitation on the deductibility of cash contributions to public charities from 50% to 60%.

As with the changes to individual tax brackets, the limitations to the forgoing deductions would sunset after December 31, 2025.

Alternative Minimum Tax Changes

The Bill would retain the alternative minimum tax for individuals but would increase the exemption amounts and phase-out thresholds would be increased for tax years ending on or before December 31, 2025.

Year-End Planning and 2018 Opportunities

With the changes scheduled to take effect in 2018, there are important year-end tax strategies that should be considered. In particular, most individuals' marginal U.S. income tax rates may decline as a result of the Bill. Accordingly, taxpayers may wish to consider deferring income, to the extent possible, until 2018 so that it is taxed at the lower marginal rate.

Similarly, individuals who itemize deductions should consider accelerating their 2018 deductions to 2017 to the extent possible (such as by increasing the amount of 2017 charitable contributions). This may be advisable because some deductions may be less valuable to taxpayers in 2018, due to a number of factors including the lowering of the top marginal income tax rate, the increase in the standard deduction and the various caps on itemized deductions discussed above. However, the taxpayer and his or her advisor should also factor in the potential effect of the AMT on any such decision.

In addition, the increase in the U.S. gift and GST tax exclusion amounts provides the ability to engage in additional lifetime gifting strategies starting in 2018. This kind of planning, including transfers into trusts, not only can reduce U.S. estate tax exposure, but can have significant non-tax benefits as well (for example, a trust can be utilized as a substitute for a Will, and may also provide creditor or spendthrift protection).

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