SSDA-AT WEEKLY LEGISLATIVE NEWS

November 6, 2017

A big thanks to all those who made the SSDA-AT meeting in Vegas a HUGE success

Tax Reform Bill

Last week, the House Republican Leadership introduced its much anticipated tax reform plan - the Tax Cuts and Jobs Act (H.R.1).

The bill will go to the Ways and Means Committee for mark-up this week and Chairman Kevin Brady has already offered a Chairman's mark to tweak certain parts of the bill.

As you probably know, the budget bill anticipated a $1.5 trillion reduction in revenue based on static scoring. As of the Chairman's mark today, the anticipated loss in revenue is $1.41 trillion, which leaves the leadership with a cushion to sweeten some of the provisions that are causing problems with some of the House Republicans, such as the loss of the state and local tax deduction (SALT), the capping of the mortgage interest deduction and phase out for higher income taxpayers, elimination of the medical expense deduction and the treatment of pass through entities.

We are still working our way through the details of the entire plan. At this point, we were pleased to see that some of the big issues that we were concerned about came out the "right way." These include the retention of the step-up in basis at death, a higher exemption for federal estate tax with repeal of the estate tax phased in by 2024, continued interest deductions for small businesses (100% for those businesses with average gross receipts $25 million or less), cash method of accounting expanded to more small businesses, the expansion of Section 179 and 401(k) pre-tax deferral limits unchanged. That said, there are a number of sections in the bill where we have concerns including the provisions for pass through entities and the non-qualified deferred compensation provisions.

We think it will be interesting to see the analyses surely coming out soon which will show how various taxpayers fare under the House bill. We think that a number of upper middle income taxpayers will end up with a tax increase and would be surprised

if the Republicans leave this group of active voters upset with the new bill.

The Ways and Means Committee's overview of the bill can be found here and its section-by-section analysis can be found here. We anticipate doing a webinar on tax reform shortly after the Senate bill is dropped (some think this may be as early as next Thursday) since it is likely that the Senate version will prevail over the House version due to the much narrower margin for passage in the Senate.

House tax Bill Permanently Repeals Death Tax

The Tax Cut and Jobs Act released November 2nd calls for permanent repeal of the death tax effective Jan 1, 2024. The specific policy called for in the bill (page 168):

-Immediately doubles the exemption to $11.2 million per individual and $22.4 million per couple with portability

-Permanently repeals federal estate tax effective Jan 1, 2024

-Maintains gift tax at current levels until Jan 1, 2024 then cuts the gift tax rate to 35% on gifts over roughly $12 million

-Permanently repeals generation skipping tax effective Jan 1, 2024

-Maintains full step-up in basis

The policies effective Jan 1, 2024 are the same as the SSDA-AT supported Death Tax Repeal Act of 2017. The legislation is led by Rep. Kristi Noem (R-SD) H.R. 631 (101 cosponsors) and Sen. Thune (R-SD) S. 205 (37 cosponsors). This language passed the House as Chairman Brady's Death Tax Repeal Act in April of 2015 with a vote of 240-179. Seven Democrats joined.

Inclusion of permanent repeal in the House legislative text is significant - this is the first major legislation produced since the Rep. Camp discussion draft was unveiled in 2014.

Let's take a look at how a $30 million business would fare under the new estate tax plan:

Estate of family business owner - $30 million in total assets

Current law (for 2018):

The estate may exempt $5.6 million in assets

$30 million - $5.6 million = $24.4 million x 40% death tax rate = $9.76 million tax bill

Proposed law from Jan 1. 2018 to Jan 1. 2024:

The estate can now exempt the first $11.2 million from estate taxes

$30 million - $11.2 million = $18.8 million x 40% death tax rate = $7.52 million tax bill ($2.24 million savings vs. current law)

Proposed law after Jan 1. 2024:

The estate tax is permanently repealed

$0 death tax bill

($9.76 million savings vs. current law) - the difference between keeping a business in the family and being forced to sell to a foreign competitor.

The bill provides for portability of the exemption for a surviving spouse but numbers show only about 5% (roughly 250 of 5,000 estates that paid the estate tax in 2016) had any unused spousal exclusion to reduce their tax burden. These numbers illustrate the difficulty in properly planning for the estate tax.

The scenario above shows that doubling the exemption provides much welcomed immediate relief, but full death tax repeal is critical. The only permanent resting place for the estate tax should be six feet under. Getting to conference with two bills that repeal the estate tax is key to the future of family businesses in every state.

Act Would Repeal WOTC

Section 3404 of the House "Tax Cut and Jobs Act" repeals WOTC effective January 1, 2018.

The provision is scored as saving $3.6 billion over the next ten years, which is the lifetime of the tax reform bill.

A good section-by-section summary of the bill is attached. WOTC repeal in at page 42.

Full text of the bill is at www.waysandmeans.house.gov.

Let's pull out all stops, vote in Ways and Means is just around the corner. Congress needs to hear from everyone—veterans, disability organizations, community services, minority advocates, and employers who can vouch for the value of WOTC to the nation.

Markup of H.R. 1, "Tax Cut and Jobs Act" will begin today at noon, and is expected to continue all day.

At that time, Congressman Tom Reed (R-NY), the lead sponsor of WOTC in the House, intends to offer an amendment making WOTC permanent, instead of repealing it.

We need as many contacts as soon as possible, in-person and by telephone or e-mail or fax on your letterhead, to Ways and Means members conveying a simple message, "At markup of the tax bill, we urge you to support Congressman Tom Reed's amendment to make the work opportunity tax credit permanent. "

At this point, there's no need to make the case for WOTC—this is the time to ask for their vote.

If you reach a staff person, ask them to get word to the congressman as soon as possible that you and your organization are asking him to support the Reed amendment making the work opportunity tax credit permanent when it's offered during markup of the tax bill.

Urge the staff person to make sure the congressman gets the message before markup begins today at noon.

Many thanks for your strong response to the campaign. Let's raise our voices and finish the job, we can win!

At markup our supporters, led by Republican congressman Tom Reed (NY) and a Democratic congressman to be determined, will offer an amendment to make WOTC permanent.

It's now time to immediately send e-mails to your congressional contacts and have every employer and worker advocacy organization fax letters on their letterhead, to your own congressman and the congressmen where your organization has operations. We recommend message along the following lines:

"Dear Congressman:

We've learned the tax reform bill repeals the work opportunity tax credit. This is a sad and unwise blow to America's family's in deepest poverty, the result of which will be generations in the bottom fifth of families repeating the cycle of poverty. These 22 million families making less than $22,300 a year are comprised largely of single-person, black, and Hispanic households located in concentrated areas of poor housing in both inner cities and rural areas. Recent Census Bureau research shows that, of 22.7 million households in the bottom fifth by income, 69 percent remained at the bottom between 2009 and 2012. Moreover, compared to the base period of 2004-2007, Census says, "Households experienced less mobility between 2009 and 2012."

House leaders are believing wrongly that economic growth will expand opportunity for families in the bottom fifth of the income scale because every chief executive since President Kennedy has uncovered evidence showing that most people at the bottom stay at the bottom, repeating a cycle of poverty. They acknowledged that income immobility and chronic unemployment risked emergence of an underclass of citizens with less chance to get ahead than other Americans. It was President Reagan who

acknowledged the need for action to expand job opportunity for the bottom fifth, enacting a targeted jobs credit on the principle that work is the way out of poverty. The Census Bureau data shows the problem has not gone away and doesn't go away with economic growth. Removing WOTC is a cruel blow, leaving more people at the bottom stifled in poverty.

By terminating WOTC, which helps 1.6 million workers a year to enter productive private-sector employment in every economic sector (50 percent in sales and clerical occupations, 22 percent in manufacturing, 17 percent in food service) Congress is making a mockery of evidence-based policymaking. WOTC has been working by getting families in deepest poverty—those receiving needs-based public assistance: welfare, food stamps, and SSI—into jobs. In addition, Congress has included unemployed veterans and people with disabilities as WOTC target groups because of their lower workforce participation. With 1.6 million jobs a year, capped at an average cost of $1,560 a year, WOTC is the only federal program of a scale sufficient to deal with scope of the problem in a cost-effective way. Academic research has shown to be the most cost-effective Federal jobs program; it has passed evidence-based evaluations by GAO. It deserves to be made permanent in the tax code.

Sincerely yours,

(end of letter)

WAYS AND MEANS WILL MARKUP TAX REFORM THIS WEEK. IT'S IMPERATIVE YOU ACT IMMEDIATELY! MANY THANKS FOR YOUR COOPERATION.