What changes can we expect in tax policy?
Doug Van Dyke, Brian Rose, and Raj Rupani, Deloitte Tax LLP
September 20, 2017
Agenda Topics

I. Why are people talking about tax reform

II. Trump’s Tax Reform & Announcement

III. Federal tax reform overview; including comparison

IV. 2017 legislative calendar

V. Domestic tax planning

VI. Energy industry considerations

VII. International tax planning

VIII. Modeling of tax reform scenarios
I. Why Have People Been Talking About Tax Reform?
High corporate tax rate

Narrow tax base

Worldwide tax system
Corporate income tax rates around the world

### 15 Highest Corporate Tax Rates 2016

<table>
<thead>
<tr>
<th>Country</th>
<th>Rate (%)</th>
</tr>
</thead>
<tbody>
<tr>
<td>United Arab Emirates</td>
<td>55</td>
</tr>
<tr>
<td><strong>United States</strong></td>
<td><strong>38.9</strong></td>
</tr>
<tr>
<td>Argentina</td>
<td>35</td>
</tr>
<tr>
<td>Chad</td>
<td>35</td>
</tr>
<tr>
<td>Democratic Republic of the Congo</td>
<td>35</td>
</tr>
<tr>
<td>Equatorial Guinea</td>
<td>35</td>
</tr>
<tr>
<td>Guinea</td>
<td>35</td>
</tr>
<tr>
<td>Malta</td>
<td>35</td>
</tr>
<tr>
<td>US Virgin Islands</td>
<td>35</td>
</tr>
<tr>
<td>Zambia</td>
<td>35</td>
</tr>
<tr>
<td>India</td>
<td>34.6</td>
</tr>
<tr>
<td>Sint Maarten</td>
<td>34.5</td>
</tr>
<tr>
<td>France</td>
<td>34.4</td>
</tr>
<tr>
<td>Belgium</td>
<td>34</td>
</tr>
<tr>
<td>Brazil</td>
<td>34</td>
</tr>
</tbody>
</table>


### Marginal Tax Rates: US vs. OECD Average

Source: OECD historical data
But some industries fare better than others
(And that’s part of the problem)

Congressional action on health care – potential impact on tax policy
II. Trump’s Tax Reform & Announcement
Trump’s tax announcement

Key features

**Individual Reform**

- Tax relief for American families, especially middle-income families:
  - Reducing the 7 tax brackets to 3 tax brackets of 10%, 25% and 35%
  - Doubling the standard deduction
  - Providing tax relief for families with child and dependent care expenses

- Simplification:
  - Eliminate targeted tax breaks that mainly benefit the wealthiest taxpayers
  - Protect the home ownership and charitable gift tax deductions
  - Repeal the Alternative Minimum Tax
  - Repeal the death tax

- Repeal the 3.8% Obamacare tax that hits small businesses and investment income

Source: White House fact sheet, April 26, 2017
Trump’s tax announcement (2 of 2)

Key features

*Bu*sine*s Re*fo*r*m*

- 15% business tax rate
- Territorial tax system to level the playing field for American companies
- One-time tax on trillions of dollars held overseas
- Eliminate tax breaks for special interests

Source: White House fact sheet, April 26, 2017
Note that Congress will want to be heard on tax policy...
And it won’t be with one voice
Executive Order: April 21, 2017
Bottom line question:

Is tax reform “more likely than not” in 2017?
III. Federal Tax Reform
Federal Tax Reform Overview
Evaluation of Proposed Tax Rates and Ongoing Proposals

Corporate Tax Rate Reform
Proposed Rate Considerations

35% Current Tax Rate
25% Camp II Proposal
20% House GOP Proposal
15% Trump Administration Proposal

Considerations that may lower tax base

• Repeal Corporate AMT
• Full Expensing of Capital Investments
• Retain R&D Credit
• Retain LIFO

Considerations that may increase tax base

• Interest Expense Limitation
• Repeal Most Business Tax Expenditures (Trump Administration)
• Repeal IRC §199

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## Domestic Reform Proposals

<table>
<thead>
<tr>
<th>Provision</th>
<th>Current Law</th>
<th>Trump Administration Proposal</th>
<th>House GOP Blueprint</th>
<th>Camp II</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Top Corporate Rate</strong></td>
<td>35%</td>
<td>15%</td>
<td>20%</td>
<td>25%</td>
</tr>
<tr>
<td><strong>Top Individual Rate</strong></td>
<td>39.6% (plus additional 0.3% Medicare tax for high-income earners)</td>
<td>35%</td>
<td>33%</td>
<td>35%</td>
</tr>
<tr>
<td><strong>Research Credit</strong></td>
<td>Generally allows either a 20% credit for qualifying research expenses in excess of a base amount, or a 14% alternative simplified credit</td>
<td>Retain research credit, but repeal most other business tax expenditures</td>
<td>Retain credit; Ways and Means Committee will &quot;evaluate options&quot; to make it &quot;more effective and efficient&quot;</td>
<td>Research credit (alternative simplified credit) would be permanent</td>
</tr>
<tr>
<td><strong>IRC §199 Deduction and Other Business Deductions</strong></td>
<td>Up to 9% deduction under IRC §199 for certain income attributable to domestic production activities</td>
<td>Repeal most business tax expenditures except for the research credit</td>
<td>Repeal IRC §199</td>
<td>Repeal of IRC §199 phased out over two years (6% in year one, 3% in year two); repeal of percentage depletion</td>
</tr>
<tr>
<td><strong>Capital Cost Recovery</strong></td>
<td>Taxpayers generally recover costs under the Modified Accelerated Cost Recovery System (MACRS)</td>
<td>Firms engaged in US manufacturing may elect to deduct the full cost of their capital investments in year one; option revocable within first 36 months</td>
<td>Full expensing in year one of all assets, tangible and intangible, other than land</td>
<td>Depreciation would be computed using straight-line method with longer recovery periods (similar to ADS)</td>
</tr>
<tr>
<td><strong>Net Operating Loss (NOL)</strong></td>
<td>Available for 2-year carryback and 20-year carryforward</td>
<td>No Change Specified</td>
<td>NOLs carried forward indefinitely, annual future deduction is limited to 90% of net taxable income. NOL carrybacks will no longer be permitted</td>
<td>NOL would only be permitted to offset 90% of the corporation’s taxable income in the carryback or carryforward year</td>
</tr>
<tr>
<td><strong>Interest Expense</strong></td>
<td>Generally deductible</td>
<td>Businesses that elect full expensing in year one will lose their ability to deduct net interest expense</td>
<td>Interest expense deductible against interest income, but no current deduction for net interest expense; net interest expense may be carried forward indefinitely</td>
<td>Modifies IRC §163(j) with new thin cap rules; limit for adjusted taxable income reduced from 50% to 40%</td>
</tr>
</tbody>
</table>

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IV. 2017 Legislative Calendar
### The 2017 legislative calendar

For the remainder of CY 2017, the House and Senate are scheduled to be in session on **55 overlapping days** and an additional **22 days** when either the House or Senate is in session.

<table>
<thead>
<tr>
<th>Month</th>
<th>Details</th>
</tr>
</thead>
<tbody>
<tr>
<td>JUN</td>
<td>1 week District work period</td>
</tr>
<tr>
<td>JUL</td>
<td>1 week District work period</td>
</tr>
<tr>
<td>AUG</td>
<td>5 week summer recess</td>
</tr>
<tr>
<td>SEPT</td>
<td>1 week District work period</td>
</tr>
<tr>
<td>OCT</td>
<td>1 week District work period</td>
</tr>
<tr>
<td>NOV</td>
<td>1 week District work period</td>
</tr>
<tr>
<td>DEC</td>
<td>Target Adjournment 12/15</td>
</tr>
</tbody>
</table>

**BY SEPT 30**

- Pass FY18 spending bills... or shut down part of the gov’t
- Reauthorize FAA
- Raise or suspend federal debt ceiling?
- Extend Children’s Health Insurance Program
- Senate continues processing Trump’s nominees

**ACA repeal and replace**

- Repeal through FY17 budget reconciliation process

**Must dos**

- ACA repeal and replace
  - Repeal through FY17 budget reconciliation process

**ACA repeal and replace**

### ACA repeal and replace

- Repeal through FY17 budget reconciliation process
## The 2017 legislative calendar

### A potential – and increasingly ambitious – tax reform timeline

For the remainder of CY 2017, the House and Senate are scheduled to be in session on 55 overlapping days and an additional 22 days when either the House or Senate is in session.

<table>
<thead>
<tr>
<th>Month</th>
<th>House</th>
<th>Senate</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>JUN</strong></td>
<td>Pass FY18 budget resolution including reconciliation instructions; start tax reform hearings; negotiations with Senate and White House continue</td>
<td>House Ways &amp; Means vote</td>
</tr>
<tr>
<td><strong>JUL</strong></td>
<td>1 week District work period</td>
<td>Full House vote</td>
</tr>
<tr>
<td><strong>AUG</strong></td>
<td>5 week summer recess</td>
<td></td>
</tr>
<tr>
<td><strong>SEPT</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>OCT</strong></td>
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<td></td>
</tr>
<tr>
<td><strong>NOV</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>DEC</strong></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Note: The timeline is subject to change and depends on various factors including legislative priorities and political dynamics.
V. Domestic Tax Planning Considerations
Federal Planning Considerations Prior to Rate Change

• The current tax reform proposals include a 10 – 20% corporate rate reduction.
• By accelerating deductions into pre-reform years / deferring revenue into post-reform years, taxpayers may receive a permanent rate benefit (as illustrated below):

<table>
<thead>
<tr>
<th>Current Gross DTA</th>
<th>Tax Reduction if DTA accelerated into 2016 at 35% Rate</th>
<th>Tax Reduction if DTA Deducted in 2018 at 25% Rate</th>
<th>Permanent Benefit of Accelerating Deduction into 2016</th>
</tr>
</thead>
<tbody>
<tr>
<td>$100,000,000</td>
<td>$35,000,000</td>
<td>$25,000,000</td>
<td>$10,000,000</td>
</tr>
</tbody>
</table>

• In addition, current method planning at CFCs may provide a permanent benefit on repatriated earnings through enhancing utilization of foreign tax credits.
• The following four slides provide examples of planning considerations for 2016 and 2017 federal income tax returns.
Rate Reduction Planning – Permanent Cash Savings

Tax Reform Proposals Include a Reduction in Corporate Rates Between 10 – 20%

| Accounting Method Planning Implemented Prior to Rate Reform May Result in Permanent Rate Reduction for Taxpayers |
|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|---------------------------------------------------------------|
| Current Gross DTA | Cash Tax Reduction if Deduct in 2017 at 35% Rate | Cash Tax Reduction if Deduct in 2018 at 25% Rate | Permanent Benefit of Accelerating Deduction into 2017 |
| $100,000,000 | $35,000,000 | $25,000,000 | $10,000,000 |

Generally, a taxpayer changing its method of accounting for an item of income or expense only shifts the recognition of such items between deferred and current tax expense. The change would typically produce cash tax savings but rarely creates a permanent tax benefit.

In taxable years bordering a change in federal corporate tax rates, however, taxpayers can capitalize on a permanent tax savings opportunity by decreasing current tax expense as much as possible in years where a decrease in rates is anticipated.

Tax Reform has provided Companies with an opportunity to use accounting method changes that may result in cash tax savings as well as permanent rate savings.

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Current Year Considerations
Proposals for Full Expensing and Deferring Capital Expenditures

<table>
<thead>
<tr>
<th>Capital Expenditure Deferral</th>
<th>Proposal to provide for full expensing for tangible property including equipment and buildings</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Full expensing for capital costs related to the acquisition of intangible property</td>
</tr>
<tr>
<td></td>
<td>Exclusion of land: no expensing of capital expenditures for land</td>
</tr>
</tbody>
</table>
# Current Year Considerations
## Expense Acceleration and Revenue Deferral

<table>
<thead>
<tr>
<th>Items not requiring method change</th>
<th>Items that can be changed automatically</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inventory – Expand or Adopt LIFO; Identify LCM write-downs</td>
<td>Changes to implement the tangible property regulations</td>
</tr>
<tr>
<td>Section 199 – Planning to increase deduction; amend prior returns</td>
<td>Deduct bonuses and vacation pay</td>
</tr>
<tr>
<td>Identify casualty and abandonment losses</td>
<td>Inventory - Lower of cost or market/subnormal goods/reduce UNICAP costs/LIFO enhancements</td>
</tr>
<tr>
<td>Write-off of worthless intangibles</td>
<td>Depreciation changes – recovery period and missed depreciation changes</td>
</tr>
<tr>
<td>Accelerating payment liabilities on the sale of a business</td>
<td></td>
</tr>
<tr>
<td>Specified Liability losses</td>
<td></td>
</tr>
<tr>
<td>Disputed sales and other exclusions from income</td>
<td></td>
</tr>
<tr>
<td>Depreciation – analyze placed in service dates for potential changes; bonus depreciation</td>
<td></td>
</tr>
<tr>
<td>Identify partially and wholly worthless bad debts</td>
<td></td>
</tr>
</tbody>
</table>

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# Current Year Considerations
## Expense Acceleration and Revenue Deferral

### Items that can be changed automatically (cont.)

<table>
<thead>
<tr>
<th>Item</th>
</tr>
</thead>
<tbody>
<tr>
<td>IBNR (incurred but not reported) - self-insured medical; medical services included in workers’ compensation</td>
</tr>
<tr>
<td>Changes to comply with Treas. Reg. § 1.263(a)-4 including prepaid expenses</td>
</tr>
<tr>
<td>Advanced deduction of payroll taxes</td>
</tr>
<tr>
<td>Deduct software development costs</td>
</tr>
<tr>
<td>Single item cash to accrual - does not include payment liabilities</td>
</tr>
<tr>
<td>Changes to comply with gift card guidance</td>
</tr>
<tr>
<td>Changes to comply with section 467 (deferred rent)</td>
</tr>
</tbody>
</table>

### Advance Consent Method Changes

**Income Recognition:**
- Unbilled revenue (See TAM 200903079)
- Changes in revenue recognition for GAAP purposes
- Disputed receivables

**Expense Recognition:**
- IBNR approach for non-medical benefit liabilities (e.g., warranty, environmental)
- Identify deductible items in accruals and reserves
- The 3 ½-month rule to accelerate expense for prepaid services or property provided to the taxpayer
- Application of recurring item exception
- Acceleration of disallowed basis under ETI and FSC (CBS Case)
Multistate Tax Planning Considerations

• Corporate background and profile
  – Impact of federal tax reform will vary by industry, geography and type of tax

• Decrease in federal income tax rate
  – State impact of federal accounting method changes
    o For example, a federal accounting method change may impact the Texas Margin Tax (e.g. the repair regulations)

• State tax attribute analysis (NOLs and credits, release of valuation allowances/tax accounting impact, etc.)
  – Overlooked state tax attributes in prior years may become valuable with onset of accounting method changes, repatriation and federal/state tax reform differences

• Review of territorial impact/BEPS/ IRC §385 implications, if applicable
  – Filing methodologies and elections
  – Understand what planning steps have been taken to address BEPS and IRC §385 concerns and how tax reform will impact those plans
  – State tax impact may remain despite federal changes to interest deduction (e.g. Massachusetts)

• Full expensing of business investment
  – State Conformity
    o Reasonable expectation that state conformity to federal tax reform will vary widely, potentially increasing federal and state tax differences
    o Technology solutions may be necessary/recommended to more accurately and efficiently track variances
  – State Credits and Incentives opportunities

• Elimination of state interest expense
  – State conformity

• Elimination of deductions/credits
  – State conformity
Multistate Tax Planning Considerations (cont.)
Examples of the “urgency” to act now for State taxes

Immediate Considerations for State Tax Analysis

1. The resolution of state tax audits resulting in payments, may yield a permanent tax rate benefit
   ✓ Negotiating a resolution can be a time consuming process

2. The analysis and resolution of client’s uncertain tax positions (e.g., proactive filing in states with economic nexus, VDAs, market sourcing, etc.) may yield a permanent tax rate benefit

3. Reporting of federal RAR changes to states where a liability may result

Other Benefits

1. Expiring statutes of limitations in various states may limit the ability to utilize additional state attributes such as net operating losses, credits/incentives

2. Analyzing the state tax effect of federal changes may provide a company more time to initiate changes to mitigate an unfavorable impact

3. If tax reform allows for the repatriation of funds from overseas under beneficial terms, investment of those funds in certain states could bring potential tax benefits from states’ economic development agencies; given the potential magnitude of funds to be repatriated, companies should proactively explore potential credits and incentives packages so that they are prepared to take necessary action steps in the event of repatriation of funds
Other Considerations

**Additional Issues to be Addressed:**

- Multi-state Tax Impact: Method of accounting changes and the use of state tax attributes will impact ETR; evaluate impact of territorial federal taxation; determine state conformity for full expensing and limits on interest deductibility; evaluate state tax controversies and determine the ability to resolve state tax audits and controversies prior to federal rate reduction.

- Global Employment: Evaluate the impact of lower tax rates and a territorial tax regime on global movement of employees, analyze income allocated to employee activities, accelerate compensation payments if rates are lowered prospectively; review stock compensation for employees in offshore affiliates.
VI. Energy Industry Considerations
Tax Reform Outlook
Potential Considerations for Rate-regulated Utilities

1. **Consider the effects** of the specific tax law changes on regulatory tax expense and deferred tax liabilities and, accordingly, on ratemaking.

2. **Determine whether existing formula rate templates** would accommodate amortization of tax-related regulatory assets or liabilities that may result from specific tax law changes.

3. **Analyze the application of the existing normalization requirements** and any normalization requirements enacted related to a decrease in tax rate.

4. **Analyze elections available under tax reform on shareholders and customers.**

5. **Recompute tax gross-up factors for contributions in aid of construction.**
Tax Reform Outlook
Potential Considerations for Rate-regulated Utilities (cont.)

6 Identify imported supplies, inventory and components of depreciable assets and determine the impact of potential non-deductibility on ratemaking.

7 If interest expense is disallowed, assess the nature of carrying charges recoverable on regulatory assets and payable on regulatory liabilities.

8 If interest expense is disallowed, consider the ratemaking implications of operating companies issuing debt rather than holding companies.

9 If tax rate reductions are delayed to 2018 or phased in over a number of years, consider planning to defer income and accelerate deductions.

10 Identify deductions eligible for extended loss carryback.

11 Consider the impact on returns from renewable energy generation facilities.
Potential Considerations for Renewable Energy Generation Facilities

1. Analyze the effects of lower tax rates and on the potential repeal of Alternative Minimum Tax (AMT) on the ability to utilize production tax credits (PTC) and investment tax credits (ITC).

2. Model the impact of specific tax reform proposals on the returns of investors in partnerships owning renewable energy generation facilities.

3. Monitor specific proposals related to PTC and ITC.

4. Determine the impact of specific tax reform proposals on the expected timing of “flips” of profit/loss and credit allocations.
Tax Reform Outlook
Potential Considerations for Renewable Energy Generation Facilities (cont.)

5. Dividends on preferred equity may provide an “interest” type deduction.

6. Identify imported components of depreciable assets and determine the impact of potential non-deductibility on the cost of development projects and the likely after-tax returns of the projects.

7. Model the impact of specific tax reform proposals on the financial reporting of investors employing the HLBV method to account for investments in partnerships owning renewable energy generation facilities.

8. If passthroughs are taxed at the entity level, consider alternative structures for investments in project companies operating renewable energy generation facilities.
VII. International Tax Planning
International Tax Reform – Scope of US International Taxation

**Trump Administration Proposal:** "Territorial Tax System"²

- **US Co.**
  - US Income
  - Foreign Co. Dividends?
  - Subpart F income?

- **Foreign Co.**
  - Foreign Branch Income?
  - Included in US Co’s Taxable Income

**House GOP: Dividend Exemption and Border Adjustment**

- **US Co.**
  - US Income
  - Add-back Imported Costs (i.e., NO deduction)
  - Foreign Co. Dividends
  - Export Income

- **Foreign Co.**
  - Foreign Base Company Sales/Services Income
  - Passive Income

**Camp Bill**

- **US Co.**
  - US Income
  - Dividends (95% not taxed)

- **Foreign Co.**
  - Income from Foreign Markets
  - Foreign Base Company Sales Income
  - Other Foreign Income

---

NOTE 1: Trump Administration, House GOP and Camp plans all propose a one-time Transition Tax on previously deferred earnings of Controlled Foreign Corporations. Rates vary from 10% (President Trump) and split rates under House GOP and Camp (3.5% and 8.75%)

NOTE 2: The mechanics of the Trump Administration’s territorial tax regime are currently unknown and therefore additional information is needed to determine the extent to which certain income is subject to United States taxation.
Territorial vs. Worldwide

<table>
<thead>
<tr>
<th>Territorial System</th>
<th>Worldwide System</th>
</tr>
</thead>
<tbody>
<tr>
<td>Australia</td>
<td>Japan</td>
</tr>
<tr>
<td>Austria</td>
<td>Luxembourg</td>
</tr>
<tr>
<td>Belgium</td>
<td>Netherlands</td>
</tr>
<tr>
<td>Canada</td>
<td>New Zealand</td>
</tr>
<tr>
<td>Czech Republic</td>
<td>Norway</td>
</tr>
<tr>
<td>Denmark</td>
<td>Portugal</td>
</tr>
<tr>
<td>Estonia</td>
<td>Slovak Republic</td>
</tr>
<tr>
<td>Finland</td>
<td>Slovenia</td>
</tr>
<tr>
<td>France</td>
<td>Spain</td>
</tr>
<tr>
<td>Germany</td>
<td>Sweden</td>
</tr>
<tr>
<td>Hungary</td>
<td>Switzerland</td>
</tr>
<tr>
<td>Iceland</td>
<td>Turkey</td>
</tr>
<tr>
<td>Italy</td>
<td>United Kingdom</td>
</tr>
</tbody>
</table>

Key differences

- A territorial tax system allows companies to exclude or deduct foreign profits received from foreign subsidiaries from domestic taxable income hence exempting those profits from domestic tax. In contrast, a worldwide system subjects those profits to domestic taxation but may instead allow a Foreign Tax Credit on taxes paid on profits in another jurisdiction.

- OCED countries with a territorial tax system tend to have a lower tax rates when compared to countries that tax worldwide income.

- CFC issues: A common concern in a territorial system is base erosion. Income repatriated to parent companies generated outside the territory is not subject to tax. This can lead to a greater incentive to shift income to foreign subsidiaries in lower tax jurisdictions. In a worldwide tax system, however, CFC’s may likely choose to never repatriate profits essentially differing income indefinitely.
### International Tax Reform Action Steps (cont.)
#### Planning for the Transition Tax

<table>
<thead>
<tr>
<th>Modeling of Various Scenarios</th>
<th>Change Year-End of CFCs</th>
<th>CFC Earnings &amp; Profits</th>
<th>Defer Earnings &amp; Profits / Accelerate Foreign Taxes</th>
<th>Repatriate Cash and Excess Foreign Tax Credits</th>
</tr>
</thead>
<tbody>
<tr>
<td>Various Proposals</td>
<td>Various Transition Years</td>
<td>Various Proposals</td>
<td>Various Proposals</td>
<td>Dividends</td>
</tr>
<tr>
<td>Various Transition Years</td>
<td>Various Transition Years</td>
<td>Various Transition Years</td>
<td>Various Transition Years</td>
<td></td>
</tr>
<tr>
<td>With and Without E&amp;P Deficit Offset</td>
<td>With and Without use of FTCs</td>
<td>Utilization of E&amp;P Deficits</td>
<td>Accounting Method Changes Impact Earnings</td>
<td></td>
</tr>
<tr>
<td>With and Without use of FTCs</td>
<td>With and Without use of FTCs</td>
<td>Identify Loss Assets owned by CFCs</td>
<td>Pending Foreign Tax Adjustments Affect Foreign Tax Pools</td>
<td></td>
</tr>
<tr>
<td></td>
<td>With and Without use of FTCs</td>
<td>Restructuring Transactions to Impact E&amp;P</td>
<td>Consider Accelerating Taxable Foreign Transactions</td>
<td></td>
</tr>
</tbody>
</table>

- May delay transition year for calendar year taxpayers
- Fiscal year taxpayers may already enjoy deferral
- Make year end change on 2016 tax return
- Consider filing of 2016 tax return prior to tax reform enacted
- Utilization of E&P Deficits
- Identify Loss Assets owned by CFCs
- Restructuring Transactions to Impact E&P
- Accounting Method Changes Impact Earnings
- Pending Foreign Tax Adjustments Affect Foreign Tax Pools
- Consider Accelerating Taxable Foreign Transactions
- Dividends Return of Basis
Competing proposals create uncertainty around tax reform and may lead to inaction

However...

**There is Common Ground**
The Trump, House GOP and Camp proposals all include:
- Transition Tax
- Headline Rate Reduction

**Time value of money:**
US tax attributes are worth more today than they will be tomorrow (and may expire with tax reform)

**Window of opportunity:**
through tax reform implementation to achieve potential current and future year ETR benefits

Material **foreign jurisdictions are NOT radically reforming** their tax regimes

**Pending more specific direction on tax reform, US multinationals may wish to consider:**
- Mitigating transition tax and defer earnings to post-transition period
- Utilizing / monetizing existing tax attributes (including unrecognized attributes)
- Exploring opportunities for permanent tax savings through accounting method changes
- Reducing foreign tax

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## International Reform Planning Matrix

<table>
<thead>
<tr>
<th>Provision</th>
<th>Immediate Planning Consideration</th>
<th>Enactment of New Tax Legislation (Pre-Effective Date)</th>
<th>Future State Planning (Post-Effective Date)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Territorial Regime</strong></td>
<td>• Re-evaluate permanently re-invested assertion</td>
<td>• Consider impact of Participation Exemption (under Trump Administration, House GOP and Camp II) on Treasury cash management strategy</td>
<td></td>
</tr>
<tr>
<td><strong>Transition Tax</strong></td>
<td>• Evaluate CFCs with significant E&amp;P</td>
<td>• Loss planning and E&amp;P management</td>
<td>• Mitigate Transition Tax on Offshore-Earnings (relationship with repatriation, FTC, and E&amp;P)</td>
</tr>
<tr>
<td></td>
<td>• Identify offshore cash pockets</td>
<td>• Worthless stock deductions</td>
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<td></td>
<td>• Cash balances vs. non-cash assets</td>
<td>• Utilize E&amp;P deficit pools</td>
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<td></td>
<td>• House GOP proposals suggests 8.75% rate for cash and cash-equivalents, but 3.5% rate for other assets</td>
<td>• Cash Repatriation, if FTCs will yield ETR that is lower than Transition Tax Rate</td>
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<td>• Enhance FTCs through planning</td>
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<td>• Repatriation planning (see Appendix)</td>
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<td>• Review Asset mix, if lower tax rate is applied to non-cash assets</td>
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</tr>
<tr>
<td><strong>Prevention of Base Erosion – Subpart F</strong></td>
<td></td>
<td>• Determine potential impact on supply chain structures</td>
<td>• Defer low-taxed foreign income into post-effective period</td>
</tr>
<tr>
<td><strong>IRC §163(j) Interest expense</strong></td>
<td></td>
<td>• Enhance interest expense deduction in pre-effective date tax year</td>
<td>• Determine alternative planning for repatriation from US to foreign parent</td>
</tr>
</tbody>
</table>
Considerations for Global Mobility and Human Resources

**Costs of international assignments**
- Changes to individual income tax rates will result in changes to the company costs incurred in relation to tax equalized assignments
- US hypothetical taxes may decrease
- Tax reimbursement costs could increase or decrease depending on the mix of assignees inbound and outbound to the US, and also to high or low-tax countries

**Talent**
- Changes in the ability to move employees between countries may require companies to reassess their talent strategy as it relates to talent acquisition, mobility, global footprint, and overall employer brand.
- These changes may include cross-border entry constraints related to immigration and also new taxes/tariffs.
- International travel may become increasingly difficult or costly for business travelers.

**Business travel**
- Decrease in corporate tax rates may incentivize companies to identify non-US sourced income to effectively utilize foreign tax credits
- Employers may be able to increase the amount of non-US income by better monitoring where revenue-producing employees work

**Accelerated corporate tax deductions**
- Employee benefit plans may present several considerations for accelerating deductions, for example:
  - Accelerating the accrual of bonus payments
  - Pre-funding of qualified retirement plans
  - Pre-funding Voluntary Employees Beneficiary Association Plans (VEBAs)

**Deferral of income by individuals**
- Anticipation of lower individual tax rates may motivate employees to defer income to future tax years
- Deferral of income by employees may also delay corporate tax deductions related to that income

**Equity compensation**
- **Share-based income tax accounting.** Changes to corporate tax rates will magnify issues presented by recent share-based payments guidance (ASU 2016-09)
- **Tax withholding.** Rules regarding withholding taxes from share-based awards through net share settling have been relaxed; companies using a sell-to-cover approach may want to revisit the potential impact on EPS and cash flow
- **Recharge strategy.** Tax reform may allow for greater tax-free repatriation of cash, allowing companies to revisit whether to repatriate only upon transfer of stock

**Equitable compensation**

**Key considerations and planning**

**Trump administration and GOP key policy objectives:**
- Reducing both corporate and individual tax rates
- Creating jobs in the US
- US (and global) cross-border policy reform
- Repealing and replacing the Affordable Care Act (ACA)

**Affordable Care Act**
- Although efforts to repeal and replace ACA are currently taking place within Congress, ACA remains the law of the land, including the employer mandate that requires employers to offer healthcare coverage to 95% of full-time employees
- Identifying full-time employees based on the tax law and regulations can be complex and employers could face a significant liability if the 95% requirement is not satisfied
- Information reporting requirements (i.e., Forms 1095-B, 1095-C) remain in-place and some aspect of reporting may also be required under new proposals
VIII. Tax Reform Modeling
Modeling of Tax Reform Scenarios

Tax Reform Readiness Plan of Action

- Different Proposals / New Developments Anticipated
- Effective Dates
- Interplay between International and Domestic Planning Objectives
- US Deferred Tax Assets (FTCs, NOLs, AMT)
- E&P and Tax Pools

Various Modeling Inputs

- Accounting Law Changes (ARB 51)
- US Foreign Tax Credit Position
- Offshore Cash Balances
- Interest Expense
- Customer Location
Modeling of Tax Reform Scenarios

• The need to accurately model and assess the impact of proposed tax reform proposals on your business will affect your ability to:
  • Establish a point of view on tax reform
  • Update C-Suite on potential considerations
  • Align domestic and international tax planning posture
  • Prioritize planning that can be implemented shortly after the enactment of tax reform (i.e., mid-term strategies), including:
    o Identifying Stakeholders
    o Preparing Workplans
    o Making Treasury Decisions
• Review ASC 740 impacts of various tax proposals and planning impacts
• As tax reform proposals will undoubtedly evolve throughout this calendar year, it will be important to have an agile approach to modeling the tax effects of new proposals on your business operations
• Deloitte has built a dynamic tax reform technology solution that gives our tax professionals the ability to help companies weigh proposals against one another, scenario plan, and create customized alternatives in order to analyze the effects of reform proposals on your business. See Appendix for screenshots of the recently released web-based Tax Reform Navigator
Note:
- Certain aspects of the Tax Reform Model may not be available for use on attest clients due to independence limitations.
- Hypothetical tax calculation only—the use of the Tax Reform Model is not a substitute for a full analysis of the potential tax and financial accounting consequences of any possible Proposal.
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Final observations, takeaways, and questions
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