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LEGISLATIVE UPDATE: PRELIMINARY AGREEMENT REACHED ON INCOME AND ESTATE TAX REFORM

By: Kevin S. Koscil

The Obama Administration and Republican leaders reached agreement on December 6 on broad tax reform in both the income and estate tax arenas.

Significantly, the agreement would extend the Bush-era tax rate cuts for all taxpayers, which without action would expire at the end of this year. Expiration would cause tax rates to rise for most Americans but the agreement would extend the cuts for two years; this would include an extension of the 15% capital gains rate. The tentative agreement would also provide alternative minimum tax relief to the 20 million additional taxpayers that would be subject to such tax without an agreement.

The agreement would also temporarily reduce the payroll tax imposed on workers (but not the portion imposed on employers) by two percentage points. The Social Security tax levied on wages would be reduced from 6.2% to 4.2% for one year. This provision would replace the "Making Work Pay Credit," which was included in the 2009 stimulus legislation and provided a $400-per-worker tax benefit that was received by individuals over the course of the year (rather than in a lump sum).

The Federal estate tax is set to return next year and the agreement would temporarily set the top estate tax rate at 35% while exempting $5 million from the tax. This provision would be in place for two years. Without legislation, the Federal estate tax would return next year with a top tax rate of 55% and it would be imposed on taxable estates valued in excess of $1 million.

The agreement would extend benefits for unemployed individuals for 13 months, a revival of a prior extension that lapsed in November.

A White House proposal seeks to encourage business investment by allowing firms to deduct 100% of the value of certain investments in plants and equipment. The 2009 stimulus legislation essentially allowed a 50% deduction in the first year of use for many types of property and allowed certain small businesses to fully deduct investments up to $250,000.

Naturally, several lawmakers oppose portions of the agreement and the price tag is high. The agreement is in its early stages but, given the high priority of tax reform, not to mention the necessity, things could move quickly from here. The democratic leadership has not fallen in behind the President as of yet, but a mutiny in his own party does not seem likely. Stay tuned for further details. We will provide updates as legislation develops. Should you have any questions or wish to discuss the proposals in the meantime, please contact Kevin Koscil (215.864.6827), Scott Borsack (215.864.7048), or Bill Hussey (215.864.6257).

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