UNITED STATES OF AMERICA

THE POSSIBLE EFFECTS OF THE 2017 TAX REFORM ON GLOBAL MOBILITY PROGRAMMES – A HIDDEN SURPRISE FOR MULTINATIONAL COMPANIES

As a decision maker in a multinational organisation responsible for deploying employees around the world, you may have been wondering how the proposed tax reform under the Trump administration and current GOP Congress will affect your bottom line. The prospect of lower individual tax rates may, on the surface, seem to be favourable when implementing a tax reimbursement policy for a sizable global mobility programme; however, you may be in for a few surprises.

New President, new Congress, the likelihood of tax policy change is very high. Indeed there are many proposals to reduce income tax rates on both individuals and their employers. The proposal to reduce individual income tax brackets to three and setting the highest marginal rate at either 25% or 33% seems moments away. Even though the reduced rates are also expected to be coupled with limitations on itemised deductions and the like, we are all anxious for news to plan mobility policy impacts.

How might the reduction in tax rates affect global mobility policy and assignees?

Outbound US assignees tax equalised

The reduction of individual income tax rates in the United States is likely to increase the employer's costs especially at the middle management level. This is due to the fact that tax equalised assignees would be required to pay less hypothetical tax which is used to offset the company's tax costs. The potential increase in cost will also be dependent on host country tax rates:

- **High tax host location**
  An assignee in a host country, like the United Kingdom for example, with a highest marginal tax rate greater than 25 or 33% is going to cost more. The company commits to paying the host country tax under equalisation but will only be able to collect a fraction of that from the assignee as United States hypothetical tax … and that fraction is decreasing. This in turn leaves more foreign tax credits on the table to carryover and the amount of foreign tax credits that are potentially unusable in the United States will increase under the proposed tax reform. Unused foreign tax credits are to be carried forward for 10 years but may never be used.
- **Low/no tax host location**
  An assignee in a low or no tax host country, one where the highest marginal rate is not greater than the proposed 25 or 33% may also cost more in some cases. Foreign tax credits will be used, but there will likely be a residual United States tax cost and given the additional assignment benefits such as housing, school fees and other benefits, the reduced hypo tax collection will likely leave a balance for the employer to pay on behalf of the employee in the United States, where before there may have been none. However, as we see in the higher income situations, the Trump proposed tax savings become greater.

Outbound US assignees tax protected

A tax protected assignee in a high tax country will again create greater tax reimbursement and gross-up costs for an employer. The low tax country protection may seem like a windfall for the employer because the employee pockets the lower tax cost, but don't forget that employees tend to miss the connection between the lower tax costs in the foreign country and the higher cost in the United States When it comes time to pay at filing in the United States protected assignees may not have the additional funds to pay the additional tax cost that may be due in the United States.

US inbound assignees tax protected

This is best of both worlds. Whether from a high tax or low tax country, under the proposed tax reform, a foreign national working and paying United States and state income tax should have a reduced tax burden. The employer in turn gets reduced tax reimbursement costs on protected assignment related benefits and allowances.

Effects of Trump Proposed Tax Administration	High Tax Country		Low/no tax country	
	USD 125K base	USD 425K base	USD 125K base	USD 425K base
Company Cost Increase	USD 1,400	USD 4,950	USD 1,000	(USD 5,650)
Individual Tax Savings	USD 1,400	USD 4,950	USD 1,400	USD 4,950

Tax estimates based on Married Filing Joint rates, 2 exemptions and standard deduction for both current tax and Trump tax. The Trump tax rate schedule assumed: 12% tax on Taxable Income (TI) up to USD 75,900; 25% on TI up to USD 233,350; and 33% on TI over USD 233,350.

Unexpected mobility side effects

There two noteworthy side effects from the proposed tax reform:

- **Corporate tax deduction value**
  Corporate tax rates are also proposed to be reduced from 35% to either 15% or 20%. The reduced corporate tax rate means that deductions have lower corporate tax value so while assignee tax reimbursement costs for the employer may increase the corporate tax deduction value for the employer decreases.
- **United States becomes a tax haven**
  What has made corporate tax structures outside the United States so successful for global multinational organisations is the opportunity to reorganise where the corporation can take advantage of lower corporate tax rates in countries like Ireland or Luxemburg. If the United States corporate tax rate is reduced to the proposed 15% rate, the incentive to organise and structure United States corporate businesses outside the United States is significantly reduced making the United States now a tax haven country. With an equal playing field, non-United States businesses may consider setting up United States corporate structures to take advantage of the opportunity to access United States markets. This may likely translate into an increase in foreign national inbound transferees to the United States.

BDO comment

Tax reform does seem to be a high priority for the new administration and Congress. Even though there have been very few details provided and no hard timeline for implementation, we all seem to be anxiously waiting for news. Corporations, unlike individuals, don't need visas to relocate around the world to take advantage of tax opportunities. With an open-for-business climate, the United States should become a very tax competitive place to invest and work. Coupled with other attributes such as an indestructible commitment to property protection and rights, the U.S. will likely become the destination of choice for global assignees in the near future.

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