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# International Tax – What Changes to Expect under the Biden Administration | Ask the Experts Video Transcript

Ellen Juram, Director, International Tax
Linda Weigand, Director, International Tax
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Ellen Juram (00:08):

Hi, and welcome to today's session of Barnes Dennig Ask the Experts. I'm Ellen Juram. And today I'm here with Linda Weigand, and we are both international tax directors at Barnes Dennig. Today, we're going to talk a little bit about the Biden proposals, the president elect Biden proposals and tax plan, and just kind of how some of these proposals might impact some clients and some businesses, specifically those who have international operations.

Ellen Juram (00:38):

As we know that over the last few years, especially if you have international operations, we've seen a lot of significant tax reform and a lot of change, starting at the end of 2017. Some of the proposals that Biden has come up with are really either going to claw back or modify some of those changes that we saw at the end of 2017, that were really effective for 2018, and '19 and '20. One of the most significant things that we saw in the tax reform, the TCJA, which was the reform from 2017, really impacted the tax rates. We went from a 39.6, highest rate for individuals and about a 35% corporate rate. Down to a highest individual rate of 37% and a corporate rate of a flat 21%. Linda, what does the Biden's plan call for with respect to the tax rates?

Linda Weigand (01:36):

Well, Ellen, as expected, we're going to see a hike again in those rates. The individual rates will... The highest rate will go back up to the 39.6%, that we had pre-tax reform in 2017. But the corporate rate will go only up to 28% from 21%. We were at 35% prior to tax reform a few years ago. 28%, Ellen while is a significant increase, will still make us competitive worldwide. That still puts us in the pocket. The significance of these rates is that our clients, who are doing business as a passthrough internationally, will be taxed at the individual rates. Where our clients who are doing business through a C-Corp structure in the U.S. will be taxed at that corporate rate of 28%.

Ellen Juram (02:30):

Thank you. Another one of the major significant components, especially with relation to multinational companies, was the concept of GILTI. It's referred  to as Global Intangible Low Taxed Income. And that was put into place at the end of 2017, effective for 2018. What that did was, prior to that, companies could defer certain profits that were earned offshore, until such time that a dividend was paid back. With GILTI, it essentially got rid of that deferral and taxed more of that income immediately. Without going into a whole lot of computations or details into the calculations, one of the aspects of that is that to the extent that a corporation had earnings offsite of the U.S., they were allowed to take a deduction of up to 50% of those earnings. Effectively saying that those foreign earnings were subject to a tax rate of around 10.5%, instead of 21%. Linda, what are some of the proposed changes and how that's going to impact GILTI?

Linda Weigand (03:47):

Well, Ellen, as you mentioned, the GILTI regime will still be around. It will be largely unchanged. But what the Biden administration proposes to do is to chip away at some of the advantages that lower the amount of income and the rate that this income is taxed. We'll go more, Ellen, to these changes to all of the subsidiary income will be subject to tax in the U.S. at a higher rate. One of the ways he'll do that is to take away this exemption, if you will. Right now, the income of the foreign subsidiary is taxed to the extent that the income exceeds 10% of their investment base in that country. Investment base being defined primarily as taxable personal property. That 10% exemption will be taken away, so that all the income will be subject to tax.

Linda Weigand (04:46):

And then he proposes to get rid of another advantage, where if the effective tax rate in a foreign country is at least 90% of the U.S. rate, the taxpayer can opt to elect out of GILTI. There'll be able to still do that, but it will be at a different rate. Right now that, what they call the high tax kick out, is 18.9%. If the effective rate in that country is 18.9%, you can elect out of GILTI. That'll go to a 25.2% effective tax rate in that country. So all these things will chip away at the advantages or the exemptions for the GILTI, so that the Biden administration can raise approximately 290 million a year in additional revenue.

Ellen Juram (05:38):

Right. And I think another significant change with the GILTI proposed changes or plans is going more towards a country by country calculation. Where right now, if you've got say, losses in the UK and income in Germany, you could offset those two. Where going forward, potentially you may not have that ability.

Linda Weigand (05:57):

Yeah, that's right, Ellen. And that could significantly impact some of our clients.

Ellen Juram (06:02):

Right. Right. Kind of going along with that, the premise or the background behind changing that is, is that Biden thinks that corporations under the tax act that was passed at the end of 2017 was really incentivizing some of these multinational corporations and was just giving them some unfair benefits. One of the things that he wants to also do is to make sure that we're trying to bring more jobs back into the U.S. He's proposed a new concept referred to as Made in America, which is comprised of two different components. The first component is an offshoring penalty. So to the extent that you're offshoring, you could be subject to an offshoring surtax of 10%. And the other is a credit for making things in the U.S. Linda, can you tell me a little bit more about the offshoring penalty and how that could apply?

Linda Weigand (07:04):

Yes. Ellen, this penalty is a surtax penalty. It's a 10% surtax penalty on the profits of certain goods of a U.S. company that are being manufactured overseas, when the administration deems they could have been manufactured in the U.S. okay? Or that the goods are being produced overseas and then being sold right back into the U.S. The penalty would also apply to certain services, where the jobs could have been performed in the U.S. A call center is a good example. There's no reason that call center has to be offshore. Those jobs could be in the U.S. And to the extent that they're not, you're going to be penalized as a 10% penalty. For a corporation being taxed at the new rate of 28%, that would jump the rate on this particular profit from 28% to 30.8%. This could be costly for folks who are offshoring these particular services and products.

Ellen Juram (08:05):

Right. And another aspect to that could be the denials of deductions. To the extent that you're going to have some things offshoring, and within some businesses offshore, any of those expenses could be denied as well under that plan. Let's move forward. If we are trying to incentivize companies to not move things offshore, the Biden plan also provides to incentivize companies for having things made in America. Can you tell us a little bit about the Made in America credit?

Linda Weigand (08:39):

This Made in America credit, this will be a very significant advantage to those companies who are on the uptick right now from either COVID or were experiencing some difficulties, even pre-COVID. This Made in America tax credit will allow for a 10% credit for investment in U.S. businesses to create new U.S. jobs. To the extent that you're retooling your plant to, or reopening, if you had been shut down or significantly cut back, or expanding an existing U.S. manufacturing facility to create new U.S. manufacturing jobs, you're going to enjoy this new 10% investment credit. One of the advantages of this credit is that it will be advanceable. Meaning that you can enjoy that 10% benefit when you incur the cost, and not have to wait until you file your tax return. We're really excited about this. We have clients that are already going through a reopening, retooling process, and we think we can see a lot of potential benefits to this.

Ellen Juram (09:50):

Great. Thank you. This was just a really quick discussion on some of the international provisions under the Biden plans that we wanted to kind of touch on today. And there's numerous other provisions out there, but I think it might be important to just kind of highlight that even though President-Elect Biden, and these are his plans, that this is kind of where he wants policy to go. But ultimately the tax rules are going to be dependent upon Congress.

Ellen Juram (10:23):

And as of today's date, we still don't know exactly how that balance is going to be shifted, as to whether or not some of these proposals will go through. And maybe when. So we're going to keep an eye on that, and keep an eye on any potential tax changes, and how those are going to impact our clients and others that we work with. I'd like to thank everybody for joining us today for today's Ask the Experts. If you have any questions, please feel free to reach out to either Linda or I directly. And if you'd like to listen to more Ask the Experts, please go ahead and follow us on our YouTube channel, under Barnes Dennig. Thanks again.