Recently Released: Additional Summary of Biden Administration's Tax Reform Plan

April 12, 2021 | **CLIENT ALERTS**

Preliminary Biden Tax Plan

Although high-level details were previously announced, on April 7, 2021, the U.S. Treasury released an additional summary of the Biden administration's tax reform plan, "The Made in America Tax Plan" (the "Plan"). The most widely applicable change in the Plan is an increase in the corporate tax rate to 28% from the current rate of 21%. In addition, the Plan includes numerous other changes with respect to global taxable income, energy tax incentives or credits, and enforcement of current and future tax laws.

Increase in Corporate Tax Rate to 28% and Minimum Book Income Tax

Long discussed by President Biden, an increase in the corporate tax rate to 28% represents a 7% increase over the current rate but still represents a 7% decrease from the pre-2018 rate of 35%. In addition to an increase in the corporate tax rate, the Plan calls for a minimum tax of 15% on corporations with book income over $2 billion. Earlier proposals had called for a minimum tax of 15% on corporations with book income over $100 million. The

Plan states that about 200 corporations have annual book income over $2 billion and, under the Plan, these corporations would be required to pay a minimum tax of 15% on such book income even if their federal income tax liability was zero.

Removal of Fossil Fuel Subsidies and Increase in Clean Energy Incentives
Without providing great detail as to which fossil fuel subsidies will be removed, the Plan states that it will replace fossil fuel subsidies with incentives for clean energy production. The Plan describes extending existing tax credits for clean energy generation and storage and making such credits directly payable by the U.S. Treasury. Further incentives or credits are included in the Plan for clean energy long-distance transmission lines, electricity storage projects, carbon capture and sequestration projects, clean energy manufacturing, and sustainable aviation fuel.

In addition, the Plan provides that tax incentives will be provided for investments "to increase the resilience of households and small businesses to droughts, wildfires, and floods," although specifics are not yet provided. Lastly, the Plan states that it will reinstate tax disincentives that penalize polluters and tax businesses whose pollution requires EPA clean-up costs.

Increase in U.S. Tax Burden for U.S. Multinational Corporations
Another primary focus of the Plan is an effort to increase taxes paid by U.S. multinational corporations on earnings generated abroad, especially earnings attributed to those entities organized in tax haven or low-tax jurisdictions. Accordingly, the Plan proposes numerous changes which, if enacted, would increase the U.S. tax burden of U.S. multinational companies with taxable income attributed to tax haven or low-tax jurisdictions. Included among these changes are proposals for worldwide minimum corporate tax rates (in coordination with other OECD/G20 nations) and strengthening the current global minimum tax. Specifically, the current "global intangible low-taxed income" known as the "GILTI" tax would double to 21% and be calculated on a per-country, rather than aggregate, basis, likely increasing the amount of income earned abroad subject to the tax.

Increased Enforcement
The last proposal of the Plan calls for increasing the IRS' ability to enforce corporate tax abuse and evasion. The Plan discusses the reduction of resources at the IRS during the last decade, the increasing complexity of corporations' tax returns, and decreased impact/likelihood of audit for the largest corporations and wealthiest individuals. The Plan states that this prong is part of a broader overhaul of tax administration.

Path to Law
At this preliminary stage, it is too early to tell which elements, if any, of the Plan will eventually become law. There is not currently any bipartisan support for tax reform and therefore whether the entire Plan, or parts thereof, passes through budget reconciliation or as actual law remains to be seen.

Please contact either of the Lippes Mathias tax attorneys below for more information about this article.