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This newsflash deals with far-reaching tax reform framework unveiled by President Trump on September 27, 2017 and its impact for the US corporations.

President Trump's ambitious tax reform framework...What does it mean for corporate taxpayers?

US President Donald Trump and his Republican allies in the Congress has unveiled sweeping tax reform proposal on Wednesday September 27, 2017. These reforms are widely seen as the most comprehensive changes to the Code since 1986. While the enactment of these tax reforms is by no means certain, the same are still being viewed very closely by businesses and tax professionals across the globe. Moreover, the reforms seem to have generated enthusiasm across the globe, with the dollar attaining a one-month high against various currencies and most Asian indices displaying a bullish trend next morning.

Although there are significant tax reforms on an individual tax front, such as reduction in tax rates, elimination of Alternative Minimum Tax and elimination of estate & generation skipping taxes, this article aims at presenting certain key corporate tax reforms and the impact thereof.

The analysis of five key corporate tax reforms is presented below:

(1) Reduction in corporate tax rates:

The framework proposes a 20% tax rate for C corporations, and "aims to eliminate" the corporate alternative minimum tax (AMT). Additionally, it provides that the committees might consider methods to reduce the double taxation of corporate earnings.

Observation:

These provisions will not only help reduce the tax bill for C Corporations, but also aid in elimination or reduction of double taxation that arises in case of C corporations, thereby making pass-through LLCs a more preferred structure as compared to C Corporations. We will have to wait and watch if this benefit would also be extended to C Corporations with foreign shareholders.

(2) Expensing of capital investments:

The framework allows businesses to immediately write off (or "expense out") the cost of new investments in depreciable assets other than structures, made after September 27, 2017, for at least five years.

<u>*Observation:*</u>

One of the key objective of these tax reforms is to boost economic growth, and this reform seems to be headed in that direction. Huge tax incentive is being presented for corporations (manufacturing sector likely to be the biggest beneficiary) to undertake capital investments in depreciable assets. Unfortunately, this benefit has not been extended to "structures" which seems to suggest that land and building would not be eligible for immediate expensing. The benefit does not seem to have been extended to intangible assets which was a part of House GOP blueprint. However, based on previous whitepapers and proposals, this benefit of expensing may also be tagged along with the interest limitation discussed below. Specifically extending the benefit to all eligible investments made after September 27, 2017 suggests that the US government does not want to create a disincentive for investment during the time-period when the tax reform is being considered.

(3) <u>Interest Expense limitation:</u>

The framework proposes partially limiting the deduction for net interest expense incurred by C corporations.

<u>*Observation:*</u>

There is significant ambiguity associated with this provision as the framework does not specify how the amount of interest expense deduction limitation would be determined. Moreover, whether the limitations would apply to existing debts or only to prospective debts is unclear. C corporations will need to monitor forthcoming details of this proposal very minutely. This provision has significant repercussion on highly leveraged US corporates, specifically where the debt is from a non-US parent, related parties or financial institutions. Additionally, there is no clarity on the applicability or relevance of the current provisions pertaining to debt and interest deductibility such as IRC section 163(j) and IRC section 385 going forward.

(4) <u>Changes to business deductions and credits:</u>

The framework proposes that the current IRC section 199 domestic production activities deduction (DPAD) and few other business deductions and credits may be repealed. On the other hand, the framework preserves research and development (R&D) credit, which has proven to be effective in promoting policy goals important in the American economy.

<u>*Observation:*</u>

The elimination of DPAD and few other deductions & credits will adversely impact manufacturing and technology companies, which benefit extensively from such deductions and credits. However, preserving R&D credit is a huge boost for corporations that invest heavily in R&D activities. It will be interesting to see whether the reduction in the tax rate accompanied by a reduction in deductions, credits and interest limitation actually reduce the effective tax rate for corporations or if rate reduction turn out to be merely compensatory.

(5) Territorial taxation of global American companies and Base Erosion rule:

The framework proposes to exempt foreign profits, when they are repatriated to the United States, by replacing the current worldwide system with a 100% exemption for dividends from foreign subsidiaries in which the U.S. parent owns at least a 10% stake.

The framework also indicates that rules will be included to protect the U.S. tax base by taxing the foreign profits of U.S. multinational corporations at a reduced rate, and on a global basis.

Observation:

Under the current tax regime, the US government levies taxes on multinational companies on a worldwide basis. This has motivated several US multinationals (including tech giants such as Apple and Microsoft) to accumulate billions of dollars overseas or directly reinvested them abroad.

The proposed reform may encourage such multinationals to repatriate such foreign profits to the US & re-invest these profits to generate more jobs in the US.

Further, with an aim to dissuade US companies from artificially shifting their profits to low-tax jurisdictions or tax havens the framework also proposes imposition of tax at a reduced rate (yet to be notified) on global profits.

Conclusion:

It is pretty certain that the current framework proposed will undergo significant modification once detailing commences in the course of the legislative process. Moreover, given the legislative uncertainties (especially in light of recent failure for Republicans in the US Senate to repeal and replace Barack Obama's healthcare law), it needs to be seen whether such significant tax legislation actually see the light at the end of the tunnel. Regardless, keeping a close eye on the proposal is extremely crucial for all businesses in the coming months.