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MoneyTrends

Small Business Proposals Could Pave Way to Bipartisan Tax Reform

Common ground on small business tax reform could open the door to compromise on a larger tax reform package in 2015. In his fiscal year 2016 federal budget, President Obama renewed a number of tax reform proposals targeted to small businesses, along with other proposals that have enjoyed bipartisan support in past years.

The House Ways and Means Tax Writing Committee will mark up stand alone tax reform bills while continuing to work on comprehensive tax reform. On February 4th, the Ways and Means Committee approved seven tax reform bills, including legislation to permanently extend enhanced Code Section 179 small business expensing, make permanent the temporary (now expired) provision allowing certain tax-free distributions from IRAs for charitable purposes, permanently extend the higher deduction limits and potential 15-year carryforward of conservation easement gifts, and permanently extend the incentive for food donations. Meanwhile, the Senate Finance Committee has formed tax reform working groups. The working groups are expected to report their tax reform proposals in May.

Small business reforms

Democrats and Republicans have both called for permanent extension of enhanced Code Section 179 small business expensing. The Tax Increase Prevention Act of 2014 (TIPA) provided for a $500,000 dollar limit and a $2 million investment limit through 2014 (through 2015 for certain longer-lived and transportation property). In his fiscal year ("FY") 2016 budget, President Obama proposed to extend through 2015 the $500,000 dollar limit and the $2 million investment limit. In 2016, the dollar limit would increase to $1 million (with the investment limit remaining at $2 million). Both amounts, under the President's proposal, would be indexed for inflation beginning in 2017. The bill approved by the House Ways and Means Committee on February 4 provides for permanently extending Code Section 179 expensing at the $500,000/$2 million amounts (adjusted for inflation).

In the accounting area, President Obama proposed to create a uniform small business threshold at $25 million in average annual gross receipts for allowing exceptions from certain accounting rules, effective for tax years beginning after December 31, 2015; indexed for inflation with respect to tax years beginning after December 31, 2016. Average annual gross receipts would be determined over a three-year period, ending with the tax year prior to the current tax year. Satisfaction of the gross receipts test would allow an entity to elect one or more of the following items: (1) use of the cash method of accounting in lieu of an accrual method (regardless of whether the entity holds inventories); (2) the non-application of the uniform capitalization (UNICAP) rules; and (3) the use of an inventory method of accounting that either conforms to the taxpayer's financial accounting method or is otherwise properly reflective of income.

Another popular small business provision would eliminate capital gains taxation on investments in qualified small business stock. President Obama proposed to permanently extend the 100 percent exclusion from tax by a non-corporate taxpayer for capital gains realized on the sale of qualified small business stock issued after September 27, 2010 and held for more than five years. The amount of gain eligible for the exclusion would be limited to the greater of $10 million or 10 times the taxpayer's basis in the stock.

An enhanced deduction for new business expenditures and start-up/organizational expenses could also move forward with bipartisan support. The President's FY 2016 budget called for consolidating existing provisions and allowing $20,000 of combined new business expenditures to be expensed, beginning in 2016. That immediately expensed amount would be reduced by the amount by which the combined new business expenditures exceed $120,000.

More business reforms

For many corporate taxpayers, a reduction in the corporate tax rate ranks among the top priorities for 2015. Here again, the White House and Congressional Republicans have found some common ground, albeit with differences over how to pay for a corporate tax rate cut. President Obama's FY 2016 budget calls for a 28 percent corporate tax rate (with a lower rate for domestic manufacturing), paid for, with repeal of unspecific business tax incentives and "base broadening."

Some of the business tax extenders that were renewed for 2014 will inevitably be part of any agreement on a reduction in the corporate tax rate. Which ones, however, will be allowed to expire are unclear at this time.

In recent years, legislation to help military veterans has enjoyed bipartisan support. In 2009, Congress enhanced the Work Opportunity Tax Credit (WOTC) for employers that hire qualified veterans. The enhancements were most recently renewed in TIPA. President Obama proposed to make permanent the WOTC as well as make permanent the enhancements targeted to veterans.

The research credit also enjoys significant bipartisan support. In 2014, the House approved legislation to make permanent the research tax credit, but the bill did not advance in the Senate. President Obama's FY 2016 budget calls for a permanent research tax credit. Additionally, the President proposed to increase the rate of the alternative simplified credit (ASC) from 14 percent to 18 percent, another proposal that has won support from Republicans in past years.

Energy reforms

The popular deduction for residential energy efficient improvements was renewed by TIPA through 2014 and is likely to be on any short list of extenders this year. The credit applies to improvements such as adding insulation, energy efficient exterior windows and energy-efficient heating and air conditioning systems.

For businesses, incentives for renewable energy have waxed and waned in support in Congress. The renewable electricity production tax credit was extended by TIPA through 2014 and the President's budget proposes to make the credit permanent.

Tax administration reforms

Although the White House and Congress are far apart on funding levels for the IRS, there are some tax administration proposals that could pass in Congress and be signed into law by President Obama this year.

Efforts to combat tax-related identity theft may also find common ground. President Obama has proposed to add a $5,000 civil penalty to the Code to be imposed in tax identity theft cases on the individual who filed the fraudulent return. The proposal would allow the IRS to immediately assess a separate civil penalty for each incidence of identity theft.

Legislation to revise some return due dates was also part of the President's budget. Several years ago, a bipartisan group of Senate Finance Committee members supported similar legislation. The President's proposal would move up the filing deadlines for certain information returns and returns filed by partnerships, to allow the IRS to conduct third-party information return matching earlier in the filing season and to give individual taxpayers more complete information before their individual income tax returns are due. The proposal would also accelerate the due date for filing for most information returns from late February to January 31st.

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