13 November 2020

Global Tax Alert

Report on recent US international tax developments – 13 November 2020

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Joe Biden has been projected as the winner of the United States (US) Presidential election, although President Trump has refused to concede the election as of this writing. Tax, healthcare, immigration and climate policy are key areas where the incoming Biden Administration likely will diverge significantly from the Trump Administration. The election results will not be certified by the Electoral College until 14 December, and several state recounts and legal challenges are ongoing.

Although President-elect Biden had previously signaled that tax increase plans would be implemented on "Day 1," it now appears that such plans may wait until after the coronavirus and its effects are addressed. The likelihood and scope of any such changes will become clearer only after control of the Senate is decided by two run-off elections in Georgia on 5 January 2021; the composition of the incoming Senate now stands at 48 Democrats to 50 Republicans.

On taxes, the President-elect has said he would raise the top corporate income tax rate to 28% from 21%. He also proposed taxing capital gains and dividends as ordinary income for those with annual incomes of more than US$1 million and setting a 15% minimum tax on the book income of corporations with book income greater than US$100 million. These changes are proposed to pay for increased spending on infrastructure, healthcare, education and the environment, not to reduce the debt or deficit. Biden may face a Congress reluctant to raise taxes or increase spending, however.

Building a better working world

In regard to international tax, President-elect Biden indicated he supports measures that would discourage off-shoring and encourage on-shoring. To that end, Biden has proposed increasing the tax rate on profits earned by foreign subsidiaries of US firms by increasing the GILTI[1] tax rate to 21% and applying the regime on a per-country basis. He has also proposed creating a "Made in America" tax credit to offset 10% of investments geared toward creating jobs in the US and introducing a surtax on certain goods and services imported into the US. For more details, see recent EY articles on tax and trade policy under a Biden Administration and how the outcome of the Senate races could shape policy in 2021.

The Internal Revenue Service (IRS) has updated the website that includes a listing of the jurisdictions with which the US Competent Authority has entered into a Competent Authority Agreement (CAA) for the automatic exchange of Country-by-Country (CbC) reports and the jurisdictions that are in negotiations for a CAA. Most recently, the IRS added Singapore to the list of countries with which the US has signed a CAA for the automatic exchange of CbC reports. The US Competent Authority also released a joint statement with the French Competent Authority, explaining that France is negotiating a CAA with the US to allow for the automatic exchange of CbC reports. The Joint Statement indicates that with respect to fiscal years of multinational enterprise groups commencing on or after 1 January 2019 and before 1 January 2020, the Competent Authorities intend to spontaneously exchange CbC reports.

Endnote

1. Global Intangible Low-Taxed Income.

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