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U.S. Tax Reform: International in the cross-hairs

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U.S. businesses still interpreting 2017 tax legislation will soon need to respond to Biden Administration proposals to fund ambitious plans to rebuild infrastructure and assist families.

In 2017, the U.S. tax base was expanded to include worldwide income through the creation of the Global Intangible Low-Taxed Income (GILTI) provisions, affecting nearly all U.S. multinationals. As detailed in the U.S. Treasury explanation, the Biden proposals would increase the GILTI inclusion by eliminating the offset for the deemed return on tangible assets and reducing the current corporate GILTI deduction from 50% to 25%. Coupled with a new corporate tax rate of 28%, these changes would more than double the tax rate on GILTI income. The proposal also imposes a “per-country” limitation on foreign tax credits available to offset the GILTI tax cost and eliminates the current high-tax exception to GILTI.

Further changes impacting multinationals include the repeal of the Foreign-Derived Intangible Income (FDII) deduction that provided benefits on export sales and the Base Erosion Anti-Avoidance Tax (BEAT). The FDII loss may be offset by new research and development incentives and general credits. The BEAT minimum tax provisions would be replaced by a new mechanism that denies deductions for payments made to related entities that are subject to a low effective tax rate, targeting large companies with more than $500 million in global revenues.

U.S. rules penalizing inversion transactions would be tightened by lowering the continued U.S. ownership threshold to 50% from the current 80%. An additional proposal would impose a minimum tax on book earnings of certain multinational corporations. This would be distinct from the proposed Global Minimum Tax under consideration by the G-7 leadership.

The U.S. objectives for infrastructure and family assistance will carry a significant cost. Revenues will need to be found to pay for these programs, and the continued suspicions cast on businesses working outside the U.S., and the diminished focus on cross-border considerations by most of the American electorate, make international tax increases a politically attractive target for legislators facing re-election challenges.

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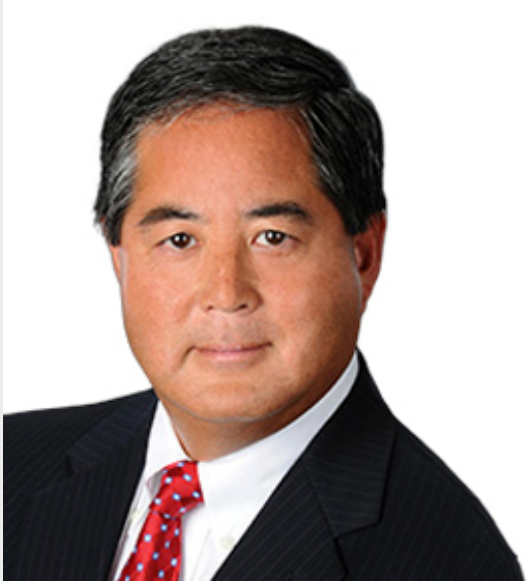

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