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First Look at the Unified Framework for Fixing Our Broken Tax Code

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On September 27, 2017, the Trump Administration, the House Committee on Ways and Means, and the Senate Committee on Finance released a long-awaited tax proposal, titled the Unified Framework for Fixing Our Broken Tax Code (*the Unified Framework*).[1] The Unified Framework proposes to repeal of the estate and generation-skipping transfer taxes while also lowering rates for businesses and individuals.

Overview of the Unified Framework

President Trump campaigned on promises to simplify the Internal Revenue Code and provide tax relief for middle-class Americans. On April 26, 2017, President Trump released a one-page memo that outlined his latest proposed tax plan. Although there were differences, President Trump's proposals generally aligned with the recommendations made in the Tax Reform Task Force Blueprint created by House Republicans in June 2016.

The Unified Framework essentially consolidates the approach taken in prior proposals. At the individual level, the Unified Framework proposes to:

- Reduce the number of tax brackets from seven to three, with rates of 12, 25, and 35 percent, without specifying where the brackets start and end;
- Almost doubling the standard deduction from its current amount to $24,000 for married taxpayers filing jointly and $12,000 for single filers;
- Repeal personal exemptions for dependents and, to offset the repeal, increase the child tax credit to an unspecified amount and increase the income levels at which the child tax credit begins to phase out;
- Expand the child tax credit concept to give a $500 credit to anyone caring for a family member who isn't a child, regardless of age;
- Repeal the individual alternative minimum tax;
- Eliminate most itemized deductions (including deductions for state and local income taxes), but retain tax incentives for home mortgage interest and charitable contributions;
- Repeal the estate and generation-skipping transfer taxes (without mention of the gift tax); and
- Eliminate the deduction for state and local taxes.

These changes are billed as a way to strengthen and grow the middle class by reducing its tax burden, thereby creating a healthier economy.

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[1] The Unified Framework was released on September 27, 2017, after months of negotiation by the "Big Six" tax officials: Treasury Secretary Steven Mnuchin, Trump economic advisor Gary Cohn, House Speaker Paul Ryan, House Ways and Means Chairman Kevin Brady, Senate Majority Leader Mitch McConnell, and Senate Finance Chairman Orrin Hatch.

The United Framework also follows earlier proposals to lower taxes on U.S. businesses. The Unified Framework would:

- Lower the corporate tax rate from 35 percent to 20 percent;
- Eliminate the corporate alternative minimum tax;
- Limit the maximum tax rate for pass-through businesses—like partnerships, LLCs taxed as partnerships, and subchapter S corporations—to 25 percent instead of the individual tax rates that currently apply;
- Allow immediate expensing of the cost of new investments in depreciable assets "other than structures made after September 27, 2017" for at least five years;
- Limit the deduction for net interest expense incurred by C corporations;
- Eliminate the deduction under Internal Revenue Code § 199 for domestic production;
- Make unspecified changes to modernize rules that give special tax treatment to certain unspecified industries and sectors;
- Exempt the repatriation of foreign profits and replacing the current worldwide tax system with a complete exemption for dividends from foreign subsidiaries; and
- Tax foreign profits of U.S. multinational corporations at a reduced rate and on a global basis.

The Unified Framework promotes these changes as a way to modernize U.S. business taxation, spur the economy, and make the United States more competitive in the international playing field.

Analysis

As with prior proposals, the Unified Framework paints in broad strokes and is short on detail. The lack of detail is, according to some sources, intentional. As with President Trump's prior proposals, the United Framework outlines broader policy but leaves it up to Congressional committees to work out the details. When released, the proposed legislation will supply the detail that the United Framework omits.

The Unified Framework is already being criticized as benefiting the wealthy to the detriment of lower-income taxpayers. The repeal of the estate and generation-skipping transfer taxes remains controversial, especially when coupled with an increase in the tax rate on the lowest individual income tax bracket from 10 to 12 percent. Although this increase could be offset by the higher standard deduction and child care credit—which could result in a lower effective tax rate for low-income taxpayers—much depends on the details about how the individual income tax brackets are structured.

Perhaps the biggest criticism of the Unified Framework is its relative silence on how to pay for the proposed tax cuts. The Unified Framework rests on the premise that the tax changes will spur sufficient economic growth to offset the loss of revenue. This assumption is likely to be challenged by Democratic opposition, as well as by some economists.

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It remains to be seen whether the Unified Framework will gather momentum in Congress. If so, it will open doors for new planning opportunities. These opportunities could include creation of new business entities to take advantage of the lower tax rate on business income. If the estate and generation-skipping transfer taxes are repealed, there will also be opportunities to revisit and, in some cases, modify estate plans in order to reduce unnecessary complexity.

WealthCounsel will continue to monitor these developments and provide attorneys with the latest information about new strategies.