Senate Finance Committee Chairman Baucus releases tax administration reform discussion draft

November 20, 2013

In brief

Senate Finance Committee Chairman Max Baucus (D-MT) on November 20, 2013 released a tax administration reform discussion draft prepared by his committee staff. This release, the second in a series of staff tax reform discussion drafts, follows the November 19, 2013 discussion draft on international tax reform. Introducing the release today, Chairman Baucus stated the "tax code today is inefficient and incomprehensible" adding that the discussion draft, which draws heavily from Democratic and Republican Senate Finance Committee member proposals, "explores ways to simplify the tax process for all Americans."

The Finance staff discussion draft ("discussion draft") includes three broad sets of reforms: tax filing reforms; measures to address the tax gap; and reforms to combat tax-related identity theft. The discussion draft also includes a variety of technical corrections to legislation enacted over the last several years and identifies numerous out-of-date and obsolete provisions ("deadwood") that could be potentially removed without making any substantive change in the tax law.

Under the first set of reforms, tax filing reforms, the discussion draft includes several provisions that modernize tax administration through expanded use of technology, such as electronic filing. These proposals also include provisions designed to facilitate taxpayers gathering information required for tax return preparation by changing certain return filing deadlines.

The second set of reforms focuses on efforts to address the tax gap by expanding certain information reporting obligations and expanding IRS collection tools. These provisions generally impact reporting requirements related to bank accounts, mortgage interest and tuition payments but also include reporting related to insurance contracts.

The final broad theme, combating tax-related identity theft, includes provisions designed to reduce access to taxpayer identification information, provide identity theft victims a single IRS point of contact, and establish criminal penalties for the misappropriation of another's tax identity.

Chairman Baucus has requested public comment by January 17, 2014 on the discussion draft and other issues not addressed in the draft.

In detail

Tax filing reforms

The first set of tax administration reforms focuses on tax filing reforms designed to modernize tax administration. The provisions of greatest significance expand electronic filing obligations and change return filing deadlines.

Electronic filing

The discussion draft contains several provisions that would expand required electronic filing and are designed to simplify and modernize the tax filing process. Specifically, these provisions would:

- gradually lower the number of returns required to trigger mandatory electronic filing;
- increase IRS authority for electronic filing of employee benefit plan tax information;
- mandate all individual returns prepared by a paid preparer be electronically filed;
- require paper filed, but electronically prepared, returns to include a scannable bar code; and
- require the release of an electronic format for the preparation, filing, and distribution of Forms 1099.

Observation: While requiring more taxpayers to electronically file returns may initially impose a burden on those taxpayers newly required to electronically file, the benefit to tax administration is clear. Electronically filed returns contain fewer errors, are less costly to process, and may contain more easily manipulable data. Accordingly, mandating increased use of electronic filing is not surprising.

Filing deadline changes

Also under the broad theme of tax filing reform are provisions changing the filing deadlines of certain forms. The Finance staff summary of the discussion draft notes that individuals and corporations lack timely information needed from partnerships and S corporations, and therefore, the proposals mandate a change to the filing deadlines for partnership, S corporation, and corporate returns. Specifically, the return filing deadlines change as follows:

- partnership returns would be due the 15th day of the third month following the close of the taxable year;
- S corporation returns would be extended to the 30th day of the third month following the close of the taxable year;
- Corporate returns would be extended to the 15th day of the fourth month following the close of the taxable year; and
- The filing date for information returns would be accelerated to February 21.

Observation: Timely access to information from a flow-through has always presented problems to its investors, and the expanded use of flow-through entities has exacerbated this problem. Nevertheless, accelerating the existing return deadlines for flow-through entities will create a significant burden on such flow-through entities and their return preparers.

Reducing the tax gap

The second set of reforms in the discussion draft target the tax gap through a series of enhanced information reporting obligations, additional collection tools to be utilized by the IRS, and the regulation of tax return preparers.

Information reporting enhancements

The discussion draft proposes five areas of enhanced information reporting impacting banks, mortgage lenders, life insurance companies, and colleges and universities. These proposals include:

- Expansion of reporting requirements by banks, obligating banks to report the existence of an account, whether or not it is interest bearing, and the elimination of the minimum interest threshold for reporting.
- Inclusion of additional information required on returns relating to mortgage interest, such as the outstanding balance of the loan, the address of the property, and taxes paid from escrow.
- Creation of new obligations for reporting by life insurance companies on the sale of a life insurance policy on the secondary market, including reporting on the basis of the contract and identifying information on the seller of such policy, and upon payment of reportable death benefits.
- Modification of the information colleges and universities are required to report to include the amounts actually received rather than billed.
- Clarification of information a sole-proprietor is required to report.

Observation: Although these proposals appear to focus more on addressing compliance of individual taxpayers, the obligations they create would mainly be borne by the financial and other institutions doing business with these taxpayers, adding to the already significant reporting obligations that exist under present law.

Combating identity theft

In an attempt to battle the growing problem of identity theft, the discussion draft includes several provisions designed to reduce access to taxpayer information. These include restricting access to the Social Security Administration's Master Death File for an extended period and providing authority to truncate Social Security numbers on Forms W-2. Other provisions would provide notice to suspected victims of identity theft, create a IRS single point of contact, and study the use of a personal identification number (PIN) for the prevention of identity theft. Additionally, one provision would, for the first time, establish criminal penalties for the misappropriation of another person's tax identity.

Observation: The inclusion of provisions designed to combat identity theft are not surprising given the focus by the IRS, the Taxpayer Advocate, and the Treasury Inspector General for Tax Administration (TIGTA) on this growing problem.

Technical corrections

The proposed technical corrections address a number of business tax provisions enacted since 2004, including proposals affecting the section 199 domestic manufacturing deduction, certain energy tax provisions, depreciation rules for leasehold improvements and smart meters, and regulated investment companies.

The takeaway

Chairman Baucus notes that over the past three years the Finance Committee has held over two dozen hearings related to tax reform, with most witnesses calling for simplification and many recommending improvements to tax administration. These proposals seek to simplify the administration of the tax law by further modernizing tax administration, minimizing compliance burdens for some taxpayers, reducing tax-related identity theft, and shrinking the tax gap. Given the focus on many of these issues by the IRS, the Taxpayer Advocate, and TIGTA, many of these proposals are not surprising.

While Chairman Baucus released these proposals as part of a series of tax reform discussion drafts and has noted that these proposals should be considered as a package rather than standing alone, some of the proposed tax administration and technical corrections could be considered as part of some other tax bill next year. For example, technical correction provisions could be considered next year as part of a tax bill addressing the research credit and other provisions expiring at the end of 2013 if tax reform legislation is not enacted in 2014.

Let's talk

For a deeper discussion of how this might affect your business, please contact:

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