On both sides of the aisle and at both ends of Pennsylvania Avenue, almost everyone in Washington says it is time for comprehensive tax reform. Still, the odds of comprehensive tax reform being enacted in the 114th Congress that convenes in January 2015 are long. Why? Because rewriting the American tax code is an exceedingly difficult and complex undertaking. That is why it has been nearly 30 years since the last real tax reform, which occurred in 1986 when President Reagan was still in office.

Stakeholders from nearly every industry have skin in the game when it comes to tax reform. Closing so-called loopholes that provide incentives to one industry or another will instigate knock-down-drag-out political fights.

The short political calendar also will make enactment of comprehensive tax reform difficult at best. Remember that in just one year, the presidential aspirants from both major political parties will be crisscrossing the nation trying to secure their
parties’ nominations. The presidential campaign nearly always overtakes such politically charged issues and makes them more difficult to accomplish.

Additionally, for tax reform efforts to succeed, the president must make this issue a priority. While President Obama, incoming Senate Majority Leader Mitch McConnell (R-KY) and House Speaker John Boehner (R-OH) have all discussed the possibility of tax reform in the aftermath of the midterm elections, it remains to be seen whether the president will decide to fully engage with Republicans on this issue.

Still, corporate America continues to make the case that our 35-percent corporate income tax rate is the highest in the world, and requires reform to make U.S. companies more competitive. Attention on corporate inversions has only increased attention on this issue. Furthermore, individual taxpayers continue to make the case for tax simplification and reform, and it is hard to argue with that point.

When the 114th Congress convenes, the new chairman of the Senate Finance Committee will be Senator Orrin Hatch (R-UT). Senator Hatch has a history of working in a bipartisan manner, and will be an essential player in any tax-reform debate. On the House side, Representative Paul Ryan (R-WI) is likely to become chairman of the Ways and Means Committee, although he will face a challenge from Representative Kevin Brady (R-TX) for the position now held by the retiring Representative Dave Camp (R-MI).

Representative Camp is widely credited with releasing a tax-reform discussion draft that calls for reducing the corporate income tax rate to 25 percent. The president has indicated support for a 28-percent corporate rate.

In addition to the political hazards noted above, tax-reform efforts also are burdened by the fact that Republicans and Democrats approach the issue from fundamentally opposed views. Republicans argue that tax reform should be revenue neutral. Many Democrats see tax reform as a method of closing “loopholes” and raising revenue to pay down the debt and invest in infrastructure. Do not expect either party to change those views in any tax-reform debate.

While the outlook for enactment of comprehensive tax reform may appear dim at this point, it would be a mistake for any stakeholder with an interest in tax policy to stand on the sidelines and to decline to engage in the debate.

Comprehensive tax reform is coming. It is simply a question of when it will arrive. Representative Ryan, for example, has stated that he believes tax reform will occur in one to three years. With this in mind, experience indicates that stakeholders who are mostly likely to be heard are also those who have consistently gone to Capitol Hill over the years to make their substantive appeals on tax matters. Standing on the sidelines is not a recipe for success. It is a recipe for failure.

© 2022 McDermott Will & Emery

National Law Review, Volume IV, Number 317

Source URL: https://www.natlawreview.com/article/comprehensive-tax-reform-
question-not-if-when