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white paper

The Obama Administration's Fiscal Year 2010 Tax Proposals: A Summary of Select Provisions and Potential Impact

Last month, the U.S. Treasury published a General Explanation of the Obama administration's Fiscal Year 2010 Revenue Proposals ("Treasury Proposal"). RSM McGladrey has summarized a few of the 125-plus provisions that could have a significant impact on your federal tax. If you have questions about any of the provisions, please contact an RSM McGladrey professional tax adviser at a location near you.

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Introduction: Provisions affecting domestic business

The Treasury Proposal contains three recommendations under a heading called "Tax Cuts for Business." It appears that the administration intends to help alleviate the impact of severe business operating losses by expanding the number of years to which such losses can be carried back. Further, it seems that encouraging technological development is also high on the president's list, and the Treasury Proposal reflects that goal as it would make the research and experimentation credit permanent. However, the far greater number of business proposals will significantly raise taxes for businesses generally and some proposals target special tax breaks in the current law for certain industries. Oil and gas producers, organizers and managers of hedge funds and real estate developers would all experience significant changes in the ways they are taxed if these proposals become law. In addition, there are a number of proposals designed to expand information reporting, improve compliance by business, and revise some ways that income from financial products is reported. All in all, the Treasury Proposal seems designed to impose greater burdens on businesses in order to pay for deficit reduction and health care reform.

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Repeal of lower-of-cost-or-market inventory accounting method

Current law

Certain taxpayers are permitted to use a lower-of-cost-or-market method for valuing inventory. A taxpayer may write down the carrying value of inventories to replacement or reproduction cost resulting in larger deductions when the replacement cost falls. A taxpayer may also write down the cost of subnormal goods to reflect their decline in value — also resulting in a larger tax deduction.

Proposed law and impact

Similar to other proposed changes, this change would assist in raising revenue. The current proposal would prohibit taxpayers from writing down the value of inventories. These changes would be effective for taxable years beginning after 12 months from the date of enactment, and any one-time increase in gross income would be included ratably over a four-year period beginning with the year of change.

Repeal of last-in first-out (LIFO) inventory valuation

Current law

LIFO accounting is a historical method of recording the value of inventory which benefits taxpayers in times of inflation. A company records the last units purchased as the first units sold. Since most inventory prices have generally risen over time, LIFO records the sale of the most expensive inventory first — increasing cost of goods sold as compared to reporting the inventory under a first-in first-out method of accounting. This results in a company having decreases in profit and reduces taxes.

Proposed law and impact

The current proposal is to repeal LIFO. Consistent with much of Obama's Green Book, this repeal is a revenue raiser. If repealed, a taxpayer would be required to write up the value of its LIFO inventory to a first-in, first-out value. If the proposal is successful, the increase in gross income will be taken into account over eight years for tax years beginning after Dec. 31, 2011.

Expand the net operating loss carryback

Current law

A net operating loss (NOL) is the amount by which a taxpayer's business deductions exceed its gross income. An NOL may be carried back two years and carried forward 20 years to offset taxable income in such years.

The American Recovery and Reinvestment Act of 2009 (ARRA) extended the carryback period for applicable 2008 NOLs to up to five years for eligible small businesses whose average annual gross receipts do not exceed $15,000,000.

Proposed law and impact

In recognition of "significant financial losses" experienced by "taxpayers in all segments of the economy," a lengthened NOL carryback period would be made available to more taxpayers. The lengthened period would be "temporary."

Reinstate the Superfund Environmental Income Tax

Current Law

A corporate environmental income tax was imposed at a rate of 0.12 percent on the amount by which a corporation's modified alternative minimum taxable income exceeded $2 million for

taxable years beginning before Jan. 1, 1996. A corporation's modified alternative minimum taxable income was its alternative minimum taxable income determined without regard to the alternative minimum tax net operating loss deduction and the deduction for the corporate environmental income tax.

The tax was dedicated to the Hazardous Substance Superfund Trust Fund (Superfund Trust Fund). Amounts in the Superfund Trust Fund are available for expenditures incurred in connection with releases or threats of releases of hazardous substances into the environment.

Proposed law and impact

Due to the continuing need for funds to remedy damages caused by releases of hazardous substances, the corporate environmental income tax would be reinstated for taxable years beginning after Dec. 31, 2010.

Codify the "economic substance" doctrine

Current law

Economic Substance Doctrine. The judicial "economic substance" doctrine generally denies tax benefits from a transaction that does not meaningfully change a taxpayer's economic position, other than tax consequences, even if the transaction literally satisfies the requirements of the Internal Revenue Code. Although courts frequently apply the economic substance doctrine, they have not applied it uniformly.

Accuracy-Related Penalties. A 20-percent accuracy-related penalty applies to an underpayment of tax attributable to a substantial understatement of income tax. This penalty may be reduced if the underpayment is not related to a tax shelter and (i) the taxpayer's treatment is supported by substantial authority, or (ii) the relevant facts were adequately disclosed, and there is a reasonable basis for the item's tax treatment. A separate 20-percent penalty applies to an understatement of income tax attributable to certain reportable transactions. The penalty rate is increased to 30 percent if the taxpayer has not disclosed a reportable transaction as required by law. These penalties may be set aside or reduced if the taxpayer can demonstrate that there was "reasonable cause" for the taxpayer's position and that the taxpayer acted in good faith.

Denial of Interest Deduction. The deduction for any interest paid with respect to a reportable transaction is denied if the relevant facts were not adequately disclosed.

Proposed law and impact

Clarification of the economic substance doctrine and increasing penalties for transactions that lack economic substance would further deter transactions designed solely to obtain tax benefits.

Clarification of Economic Substance Doctrine. Codification of the economic substance doctrine would clarify that a transaction satisfies the economic substance doctrine only if (i) it changes in a meaningful way (apart from federal tax effects) the taxpayer's economic position, and (ii) the taxpayer has a substantial purpose (other than a federal tax purpose) for entering into the transaction. Codification of the economic substance doctrine would also clarify that a transaction will not be treated as having economic substance unless the present value of the reasonably expected pre-tax profit is substantial in relation to the present value of the net federal tax benefits arising from the transaction.

New Understatement Penalty. A 30-percent penalty would be imposed on an understatement of tax attributable to a transaction that lacks economic substance, reduced to 20 percent if there is adequate disclosure of the transaction's relevant facts in the taxpayer's return. The new economic substance penalty could be asserted or abated by the Internal Revenue Service.

Denial of Interest Deduction. Any deduction for interest attributable to an understatement of tax arising from the application of the economic substance doctrine would be denied.

These economic substance provisions would apply to transactions entered into after the date of enactment.

Make the research & experimentation (R&E) tax credit permanent

Current law

A taxpayer is allowed a credit against its income tax liabilities calculated as a percentage of qualified current research and experimentation expenditures in excess of a "base amount." Routinely, after the credit has expired, Congress has been extending it for 18-24 month periods. Presently, it is scheduled to expire again on Dec. 31 of this year.

Proposed law and impact

Based on the administration's recognition that the R&E credit encourages technological development, an important component of economic growth, the proposal would make the credit permanent and eliminate the uncertainty about its future availability. This should allow taxpayers to factor the credit into their decisions relating to new investments in research projects. Taxpayers would not have to be concerned with a project being initiated during an eligible credit period but not completed before the expiration of the credit.

Tax carried (profits) Interests as ordinary income and self-employment income

Current law

Allocations of partnership income and losses attributable to a partner's carried/profits interest in a partnership (an interest received in exchange for services) are treated the same as allocations attributed to a partnership interest received in exchange for property or other invested capital. Such allocations retain the tax character of the partnership income and gain. This can include such tax beneficial items as long-term capital gain and certain dividends, presently taxed at a 15-percent rate for high-income taxpayers.

In addition, income attributable to a profits interest is generally subject to self-employment tax except to the extent the partnership generates income that is not subject to self-employment tax such as long-term capital gains and certain dividends.

Proposed law and impact

The administration sees an unfair situation where compensation for services attributable to carried interests is taxed at a lower rate than other forms of service income. The administration proposes to level the playing field by designating the interest in **any** partnership that is earned as a result of a partner's services to the partnership as a services partnership interest (SPI). The taxation of an SPI would be:

1) The portion of that partner's SPI income that is not attributable to invested capital would be ordinary income regardless of the character of that income at the partnership level
2) The partner would be required to pay self-employment taxes on such income
3) The gain recognized on the sale of an SPI that was not attributable to invested capital would generally be taxed as ordinary income, not as capital gain

A partnership allocation attributable to a service partner's invested capital, however, would retain the tax characteristics of partnership items allocated to the partner. In addition, the administration proposes to treat income or gain arising from certain "disqualified interests" that are related to the partnership (such as convertible or contingent debt, an option or any derivative) as ordinary income.

This proposal would be effective for taxable years beginning after Dec. 31, 2010.

Expand pro rata Interest expense disallowance for corporate-owned life insurance (COLI)

Current law

The interest deductions of a business (excluding insurance companies) are reduced to the extent the interest is allocable to unborrowed policy cash values based on a statutory formula. An exemption to the pro rata interest expense disallowance applies to contracts that cover individuals who are officers, directors, employees or 20-percent owners of the business. In making the calculation of the disallowed amount, it is not relevant whether the interest expense claimed by the business is actually attributable to the COLI insurance or not. A pro rata disallowance of the interest expense deduction would still be applied.

Proposed law and impact

The administration observes that leveraged businesses can fund deductible interest expenses with tax exempt or tax deferred income credited in certain insurance contracts. The proposal would potentially further decrease the interest expense deduction by repealing the exemption for insurance contracts covering employees, officers or directors. Contracts that cover 20-percent business owners would still be exempted from this disallowance rule. Many businesses, particularly those with substantial interest expense deductions, would need to rethink whether corporate-owned life insurance is a viable option for its executives and employees should this proposal pass.

The proposal would apply to contracts entered into after the date of enactment.

Repeal percentage depletion for oil and gas wells

Current law

Presently, an independent producer or royalty owner is allowed a percentage depletion deduction for oil and gas investments that can exceed the investment or "basis" in the oil or gas property. This amount is subject to a number of limitations, but is calculated by applying a statutory percentage to the gross income from the property and comparing it to the "cost" depletion available with respect to that property (limited by the basis). The deduction for the year is the greater amount. Many taxpayers claim percentage depletion for a number of years after they have recovered or deducted their entire investment.

Proposed law and impact

The administration sees a "distortion" in the market that favors oil and gas income and encourages more investment than would a neutral market. This is inconsistent with the administration's policy of reducing carbon emissions and encouraging the use of renewable energy sources. Although percentage depletion would

continue to be available for investments in other mineral product properties, percentage depletion would not be allowed for oil and gas wells for years that begin after 2010. This is only one of a number of proposals that would deny currently available benefits to oil and gas investors.

Introduction: Revisions of U.S. taxation of foreign business

The attention and speculation among corporate tax professionals and CFO's alike over the last several months has been rampant. With one short placeholder in the budget, the Obama administration spurred wide ranging concerns on whether deferral, in an international tax context, was dead as a U.S. tax policy matter. The administration stoked this concern with a $210 billion revenue raiser labeled too generally to draw any conclusions other than the president's comment that Washington was going to end tax breaks for companies that ship jobs overseas.

The international tax proposals in the Treasury Proposal, when published, stopped short of completely eliminating deferral structuring opportunities with respect to foreign operations, but it does represent a significant shift in international tax policy. Responding to recent focus on offshore evasion concerns, the proposal also increases the reporting and penalty implications associated with the under-reporting of income accomplished with the use of offshore jurisdictions and bank secrecy laws.

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Extension of expiring "look-through" provisions for controlled foreign corporations

Current law

The current law allows a special limited time "look-through" provision for certain types of payments (i.e., dividends, interest, royalties) received by a controlled foreign corporation (CFC) from a lower-tiered CFC. This provision allowed the recipient CFC to consider the underlying activities of the payer in order to avoid triggering an immediate U.S. income inclusion. This provision was commonly used in establishing foreign holding company structures to defer U.S. taxation on foreign earnings and was set to expire for tax years beginning on or after Jan. 1, 2010.

Proposed law and impact

This provision would be extended through Dec. 31, 2010 to avoid uncertainty for taxpayers.

Reduction in ability to treat foreign entities as disregarded entities

Current law

Certain types of foreign entities were granted the ability to choose their treatment within the U.S. tax system using the entity classification rules (also known as "check-the-box"). The check-the-box laws potentially allow a foreign entity to be treated as either a branch or a partnership under U.S. tax law without impacting the taxation in the foreign jurisdiction. The use of these provisions is common amongst foreign holding company structures to secure U.S. tax deferral opportunities.

Proposed law and impact

The Obama administration believes that U.S. companies are gaining a tax deferral opportunity by allowing low-taxed foreign earnings to avoid current U.S. taxation. The proposal would eliminate deferral opportunities by disregarding the check-the-box election in the case of lower-tiered foreign entities owned in a foreign holding company structure unless the single entity owner of the otherwise disregarded entity is organized in the same country as the owner. Of more concern, however, is that this provision would also potentially change the U.S. tax treatment of direct foreign subsidiaries that have made a check-the-box election. These "first-tier" subsidiaries would be excepted from the new rule except in tax avoidance situations. This provision would be effective for tax years beginning after Dec. 31, 2010.

Deferral of certain deductions relating to deferred foreign income

Current law

U.S. taxpayers are generally allowed current deductions for certain expenses that are otherwise required to be allocated and apportioned against foreign source income. The allocation and apportionment of these expenses was required only for purposes of computing the allowable foreign tax credit.

Proposed law and impact

The proposal would defer the deduction of expenses, other than research and experimentation expenditures, apportioned to foreign-source income until such time as the U.S. taxable income includes the foreign income to which the expenses relate. Interest expense is likely the most significant expense that will be trapped by this provision. The provision would be effective for tax years beginning after Dec. 31, 2010.

Foreign tax credit pooling

Current law

Under current law, a U.S. parent is allowed a foreign tax credit for taxes paid by its foreign subsidiary — "the deemed paid credit." The amount of foreign tax available is directly traced to the foreign subsidiary that is triggering the U.S. income tax inclusion. The foreign tax credit limitation conceptually limits the U.S. tax credit to the lesser of the actual foreign tax or the pre-credit U.S. tax on the foreign income. In order to maximize the foreign tax credits allowable, companies would commonly look for opportunities to blend the effective foreign tax rate from multiple foreign sources. This often would mean mixing high- and low-tax foreign income.

Proposed law and impact

This provision would force taxpayers to blend the earnings and taxes of all of their foreign subsidiaries, without regard to which particular foreign subsidiary is creating the U.S. taxable income. This change would result in the blending of low-tax offshore earnings, which the administration is targeting, with high-tax earnings, thereby reducing the U.S. foreign tax credit companies can claim. The result of this is the dilution of the benefit of offshore tax structuring used commonly with easily mobile income sources like royalty generating intellectual property. The proposal would be effective for taxable years beginning after Dec. 31, 2010.

Limit shifting of income through intangible property transfers

Current law

The current transfer pricing laws require that upon the transfer (or license) of intangible property, the income with respect to the transfer must be "commensurate" with the income attributable to the intangible property. In addition, on a transfer of intangible property to a foreign corporation, there are provisions that also attempt to subject the transfer to U.S. tax in an amount that is "commensurate" with the transferee's income from the property. The government is concerned with the ability of taxpayers to circumvent the application of U.S. tax on transfers outside of the U.S. on these types of property.

Proposed law and impact

The proper valuation and pricing for these transactions has been an area of widespread disputes between the IRS and taxpayers. To prevent the shifting of income outside the U.S., the proposal would clarify the definition of intangible to include workforce in place, goodwill and going concern value. The proposal would also grant the commissioner greater flexibility in the methodology for valuing such transfers. These provisions would be effective for taxable years beginning after Dec. 31, 2010.

Limit earnings stripping by expatriated entities

Current law

The current Internal Revenue Code potentially limits the deductibility of interest paid to related persons to the extent that the company fails the debt to equity safe harbor (currently 1.5 to 1) and has interest expense that exceeds 50 percent of its adjusted taxable income (essentially a cash basis taxable income). Certain U.S. entities enter into transactions that result in an "expatriation" whereby a U.S. parent company would essentially be replaced by a foreign parent company while the legacy shareholders remain largely intact.

Proposed law and impact

The Treasury Department found strong evidence that entities that were involved in expatriation transactions were commonly loaded up with a significant amount of debt to reduce future U.S. taxable income. To curb this perceived abuse, for expatriated entities, the proposal would eliminate the safe harbor debt rule and reduce the limitation threshold to 25 percent of adjusted taxable income on interest paid to related parties, excluding interest paid to an unrelated party in which the debt is subject to a related party guarantee.

This provision is narrowly targeted at entities that entered into expatriation transactions for years beginning after July 10, 1989. These provisions would be effective for taxable years beginning after Dec. 31, 2010.

Double penalties on unreported income from non-disclosed foreign bank accounts

Current law

An accuracy related penalty of 20 percent can be applied in situations in which there is a substantial understatement of income tax or an understatement from negligence or disregard of the tax rules. An understatement relating to a reportable transaction can be subject to a 20 percent penalty that increases to 30 percent if the reportable transaction is not adequately disclosed.

U.S. taxpayers are required to disclose the existence of a financial interest in a financial account located in a foreign country and provide details by filing a "Report of Foreign Bank and Financial Accounts (FBAR)."

Proposed law and impact

Clearly, the Obama administration has shown a great deal of concern relating to the potential tax evasion associated with taxpayers setting up offshore accounts. Under the proposal, the accuracy related penalty would be doubled to 40 percent for understatements that arise from a transaction involving a foreign

account that the taxpayer failed to disclose within its filings as required under another Obama proposal. In addition, the understatement penalty for a reportable transaction would remove the "reasonable cause" exception. Finally, another proposal would increase the foreign account information to be disclosed on the taxpayer's income tax return.

Unlike many of the international related provisions, these proposed provisions would apply for taxable years beginning after Dec. 31 of the year of enactment.

Export related tax incentive – IC-DISC

Current law

A U.S. company that exports products and certain services may be able to capture a tax savings via the use of an IC-DISC, a special tax exempt entity that collects a commission for its participation in an export sale. If structured properly, the IC-DISC can result in a marginal tax savings of up to 20 percent of the profits resulting from the exports.

Proposed law and impact

The proposal does not change the availability of the benefit.

Introduction: Provisions affecting individuals

With a series of recommendations that are intended to help the deficit reduction effort, the Treasury Proposal would reinstate the pre-Bush tax cuts and reduce the benefit of itemized deductions and personal exemptions for high-income individuals. The Treasury Proposal explains that "Increasing the income tax liability of wealthy taxpayers would make the income tax system more progressive and would redistribute the cost of government more fairly among taxpayers of various income levels."

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Increase of the individual income tax rates to 39.6 percent and 36 percent

Current law

The highest and second highest individual income tax rates are 35 percent and 33 percent, respectively.

Proposed law and impact

Beginning on Jan. 1, 2011, the highest and second highest individual income tax rates would be 39.6 percent and 36 percent, respectively. These rates would apply to taxpayers with taxable income starting at $250,000 for joint filers and $200,000 for single filers (both indexed for inflation from 2009). Increasing the individual income tax rates of high-income taxpayers would make the system more progressive and redistribute the cost of government.

Increase of the tax rate on net long-term capital gains and qualified dividends to 20 percent

Current law

The maximum tax rate on net long-term capital gains and qualified dividends for individuals is 15 percent. Any net long-term capital gains and qualified dividends that would have been otherwise taxed at the 10 percent or 15 percent income tax rates are taxed at zero percent. These rates apply to both regular tax and the alternative minimum tax (AMT).

Proposed law and impact

Beginning on Jan. 1, 2011, the tax rate on net long-term capital gains and qualified dividends would increase to 20 percent. This increase would apply to joint filers with income exceeding $250,000 and to single filers with income exceeding $200,000 (both indexed for inflation from 2009 and reduced by the amount of the standard deduction and two or one personal exemption amounts depending on filing status). The 2009 standard deduction for joint filers is $11,400 and the 2009 exemption amount is $3,650. If the proposal were effective for 2009, the threshold would be $231,300. The administration supports keeping the tax rate on net long-term capital gains and qualified dividends low. Increasing the tax rate to 20 percent for high-income taxpayers would keep the top tax rate for net long-term capital gains and qualified dividends at historically low levels.

The administration wants to protect the lower- and middle-income taxpayers from this rate increase. Therefore, the zero and 15 percent tax rates for net long-term capital gains and qualified dividends would be extended permanently for taxpayers with income up to $250,000 for joint filers and $200,000 for single filers (both indexed for inflation from 2009).

Increase of the limitation on itemized deductions

Current law

Allowable itemized deductions (other than medical expenses, investment interest expense, theft and casualty losses, and gambling losses) are reduced when adjusted gross income (AGI) exceeds $166,800. The reduction is a calculation based on AGI.

Proposed law and impact

Beginning on Jan. 1, 2011, allowable itemized deductions (other than medical expenses, investment interest expense, theft and casualty losses, and gambling losses) would be reduced when

AGI exceeds $250,000 for joint filers and $200,000 for single filers (both indexed for inflation from 2009). The reduction would be the lesser of 3 percent of the amount AGI exceeds $250,000 for joint filers ($200,000 for single filers) or 80 percent of otherwise allowable itemized deductions.

By imposing these limitations on high-income taxpayers, the cost of government would be redistributed to all taxpayers.

Additionally, when the taxpayer has income subject to a tax rate higher than 28 percent, the reduction in tax liability due to itemized deductions would be limited to 28 percent of the value of those itemized deductions. The administration indicates that the additional revenue from this proposal would be used to "fund important reforms to the medical care and medical insurance systems."

Reinstate the personal exemption phase-out

Current law

Taxpayers are entitled to a personal exemption for the taxpayer and each dependent. The amount of the exemption is indexed annually for inflation. The personal exemption begins to phase-out when AGI exceeds $250,200 for joint filers and $166,800 for single filers. However, each taxpayer receives a minimum benefit for each personal exemption regardless of income level.

Proposed law and impact

Again, the administration seeks to make the system more progressive and redistribute the cost of government among taxpayers. The administration would reinstate the personal exemption phase-out. Beginning Jan. 1, 2011, the personal exemption would begin to phase-out when AGI exceeds $250,000 for joint filers and $200,000 for single filers (both indexed for inflation from 2009).

The personal exemption would be reduced by 2 percent of the exemption amount for each $2,500 or fraction thereof by which AGI exceeds $250,000 for joint filers and $200,000 for single filers (both indexed for inflation from 2009).

Therefore, high-income taxpayers would not receive any benefit for personal exemptions.

Require minimum term for grantor retained annuity trusts (GRATs)

Current law

A GRAT is an irrevocable trust created for a specific term of years which is intended to terminate prior to the grantor's death. During the term, the grantor receives an annuity from the trust. A GRAT is funded with assets intended to appreciate in value with the goal that at the end of the term there will be assets left in the trust which will be distributable to the grantor's children.

Proposed law and impact

Frequently, a GRAT is structured to exist for a short period of time. They are created to transfer assets to the grantor's beneficiaries at a greatly reduced or eliminated gift tax cost. GRATs will have a minimum term of 10 years, thus increasing the odds that the grantor will die before the GRAT terminates and thereby reducing the likelihood that there will be a gift tax-free transfer. Many commentators believe that this proposal is in response to the aggressive GRAT planning strategies undertaken by taxpayers in prior years. Such strategies, such as "zero-out" GRATs, were used to pass asset appreciation to beneficiaries at little to no gift tax cost. Although the "zero-out" GRAT would still be available under this proposal, the 10-year term requirement may dissuade many.

Introduction: Reporting and information

The Treasury Proposal observes that, "…compliance increases when taxpayers are required to provide better information to the IRS in usable form." With that thought in mind, the administration proposes to expand the number of businesses required to file income tax returns electronically and require payments to corporate vendors to be reported on Form 1099. In addition, the Treasury Proposal would expand information reporting in other areas, increase transparency and obtain more information for the IRS — all designed to increase compliance.

Electronic filing requirements expanded to include more taxpayers

Current law

Corporations with assets of $10 million or more who file Form 1120 and who file at least 250 returns (e.g., w-2s, 1099s, etc.) annually with the IRS are required to electronically file their income tax returns, unless they are granted a waiver due to technological hardship.

Proposed law and impact

All taxpayers who are required to file a Schedule M-3 (partnerships and corporations) would also be required to file electronically. Essentially, while adding partnerships to the list of taxpayers required to e-file, the proposal would also impact other taxpayers by authorizing the IRS to reduce the 250 return requirement that exempted smaller corporate taxpayers from the e-filing requirement. Taxpayers who could prove that technological limitations prevent them from e-filing would still be able to ask for a waiver from the requirement.

Require information reporting on payments to corporations

Current law

Currently, a taxpayer making payments to a non-corporate recipient aggregating $600 or more for services or gains in the course of a trade or business in a calendar year is required to send an information return (Form 1099) to the IRS setting forth the amount, name and address of the recipient.

Proposed law and impact

In order to improve compliance, the current proposal would expand the Form 1099 reporting described above to include corporations for payments after Dec. 31, 2009.

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