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What does Trump's tax agenda mean for Canadian corporations and individuals?

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Canadians with business or personal interests in the United States and American citizens living in Canada may want to take a renewed look at the fast-changing tax environment south of the border. Tax reform was one of the key planks in Donald Trump's election platform, although it's unclear how many of these ideas he'll be able to implement. It would be prudent to consider some possible implications for your business, your family and yourself.

Of course, any steps you take depend on your personal circumstances and they should be taken only after consultation with a qualified business professional. But in broad strokes, here are some ideas to consider.

Lower corporate tax rates

For years, Canadians have worked with the fact that, while U.S. corporate income taxes stood at 35%, Canadian corporate taxes were generally much lower at 26%, in line with other industrialized countries. Personal income taxes, however, have been generally higher in Canada. Now, Donald Trump has been agitating for lower U.S. corporate rates, as well as lower personal income taxes for high-income Americans.

The higher U.S. corporate tax rates in the past meant that many Canadian companies with operations in the United States sought to minimize their U.S. taxable income. If Trump's plan to lower corporate taxes succeeds, it may become more practical to have a higher proportion of your overall company activity in the U.S. There are three main ways to make that shift.

- More operations, more sales and more general activity in the U.S.
- Use transfer pricing. In the past, the mind and management might be retained in Canada with the U.S. operations paying to access those benefits. It might now be worthwhile to have more presence in the U.S.
- A separate U.S. corporation, with its location partly influenced by consideration of the individual states' tax rates.

Of course, none of these changes can be accomplished overnight. Given the uncertainty swirling around the Trump administration, implementation of the president's ideas is still a question mark.

Some of these steps are relatively easy to implement. For example, more sales trips south of the border or hiring customer service staff in the U.S. might be short-term steps. Setting up an office (or more offices) with service capacity, a parts depot and a warehouse are longer term. Changing the transfer pricing – without causing concern among tax authorities in either country – might be longer-term yet. If the "mind and management" of the business is all in Canada, transferring it to the U.S. might be set in motion only if the business picture in the U.S. continues to brighten.

If operations have been conducted by a Canadian business entity in the past or if an entity has been used in a tax favorable jurisdiction (such as Barbados or Ireland), it may also be practical to consider setting up a new U.S. company. When taking these steps, it is advisable to pay close attention to the state income tax rates, as the difference between rates in various states (such as California and Florida) can be significant.

Are new U.S. income tax structures a welcome mat for you?

Along with the lower corporate income tax, the U.S. president has proposed other changes that may make it more worthwhile for Canadian business owners to consider moving to the U.S.. These

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changes would have the effect of easing the tax burden on high-earning and high-net-worth individuals.

These proposed changes include:

- A simplified set of just three tax brackets, down from seven, and a top tax bracket for people earning over $225,000 of 35%.
- A repeal of the Alternative Minimum Tax (AMT).
- Repealing the estate tax, which often catches Canadians who own property in the U.S. with a surprise tax bill from Uncle Sam.

One of the most dramatic aspects of Trump's tax plan applies to pass-through businesses such as LLCs and partnerships. These entities are not taxed themselves, but their income is taxable in the hands of the owners of the entity. This income would be taxed at the newly-lowered rate of 15%, creating a strong incentive for owners of businesses to organize their tax structure in a pass-through model.

Time for a checkup or reality check?

As noted, foretelling the future is particularly challenging in the Trump era, so it could be that not all of these changes come to pass. But because these issues remain a key part of Donald Trump's message and of his supporters, it would be a good idea to pay close attention. This applies particularly to Canadian individuals and companies with operations in the U.S. or which are considering having them. It is a good idea to schedule a meeting with a qualified professional with an understanding of the issues, in order to:

- See if the company is set up to start making changes to its operations (such as, perhaps, opening an office in the U.S.) if the Trump plan seems to be moving forward.
- Understand the risks and vulnerabilities. For example, the Trump administration's "America First" policy could start to exclude imported goods and services.
- Consider a move. Determine whether some or all of the company's management team should consider emigration to the U.S.

In brief: Donald Trump's tax plan

Some of the ideas floated during the U.S. election campaign, which seem to be current priorities of the White House are:

Business tax

- Reduce the maximum corporate tax rate from 35% to 15%.
- Establish a top rate on pass-through business income (such as partnerships) of 15%, which is 20 percentage points below the top rate on wages.

Personal tax

- Eliminate the Alternative Minimum Tax.
- Collapse the current seven tax brackets into three, with the highest bracket for incomes over $225,000 having a rate of 35%.
- Repeal the estate tax.
- Increase the standard deduction to $24,000 for married couples and $12,600 for singles.
- Eliminate individual itemized deductions other than for mortgage interest and charitable giving.

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