Dated January 6, 2017

Tax Reform (Territorial Taxation) for Individuals

Statement of Principles:

- The U.S. should tax individuals and corporations on a consistent basis so as to minimize complexity and minimize opportunity for taxpayers to take advantage of differences between individual income tax and corporate income tax.
- The U.S. should tax on the basis of revenue and income derived within the physical boundaries of the U.S. and its possessions ("Territorial Taxation").
- The U.S. should tax on a basis of information within the control of the U.S. and its territories and which does not require information sharing with other countries around the world.

Current Tax System as it Relates to Individuals

- U.S. Citizens ("Citizens") and permanent residents are taxed on worldwide income, regardless whether such income is earned in the U.S. or solely within a different country, with certain deductions and credits applicable based upon taxes paid in other countries and other permitted deductions ("Worldwide Taxation").
- The U.S. is the only member of the G-7, the 35 member OECD and the only developed country in the world that uses Worldwide Taxation to tax its Citizens. The only other countries that use Worldwide Taxation are Eritrea and, potentially (based upon some reports), China and North Korea.

Rationale for Switch to Territorial Taxation

- Promote export of U.S. goods and services and increased employment for Americans. Americans residing abroad are the most effective advocates for (and exporters of) American made goods and services. Currently, due to Worldwide Taxation, outside the U.S., American workers are substantially more expensive to hire than workers from other countries due to Worldwide Taxation and the IRS compliance system in place due to Worldwide Taxation. Switching to Territorial Taxation would increase employment of Citizens which would be good for Citizens in general and would also increase exports of U.S. goods and services since it would be more economical to employ Citizens offshore in export industries.
- Increase the soft power and reach of the U.S. Citizens are the most effective ambassadors of the U.S., and encouraging Citizens to work and reside abroad substantially augments the influence and footprint of the U.S. by exposing large numbers of foreigners to our beliefs, values, thinking and ways of life.

- Encourage skilled immigration to the US. Worldwide Taxation discourages talented, successful entrepreneurs and others around the world to take up US citizenship because to do so will cause their income earned outside of the U.S. to be subject to US taxation. The U.S. should draw such skilled individuals to become US Citizens and to develop successful businesses in the U.S. (which would then be subject to US Territorial Taxation).
- Discourage expatriation of skilled US Citizens. The past 10 years has witnessed a substantial increase in US Citizens giving up their US citizenship. Many of these are individuals who are, or will be, contributing to the US economy and the export of US goods and services and whom the US should try to retain as Citizens. There is now a global market in citizenship for talented individuals and the U.S. should ensure it retains and attracts its fair share of such talented individuals who will contribute to the growth of the US economy.
- Eliminate unfair double taxation of Americans residing overseas. Under Worldwide Taxation, Citizens residing outside of the U.S. pay taxes both to their country of residence and, additionally, pay further taxes to the IRS. Double taxation treaties do not prevent Citizens from being subject to punitive double taxation because many countries tax their residents through mechanisms other than income tax (which are not creditable against U.S. income tax obligations) and America imposes additional taxes (such as capital gains tax and the 3.8% tax for the Affordable Care Act) for which no foreign taxes may be creditable.
- Territorial Taxation enhances U.S. national security by removing any necessity for information sharing with other countries. In order to effectively implement Worldwide Taxation, a multitude of information sharing and tax specific agreements are required between the US and most countries around the world. Sharing personal financial information of Citizens with countries around the world, particularly those that are not our allies, opens up such individuals (who may be government or private sector individuals) to hacking, espionage, blackmail and other attacks from foreign powers. Recent years have witnessed a significant increase in adoption of various financial information sharing regimes (including the anticipated implementation of Common Reporting Standards by the OECD in 2017) without any effective mechanism to ensure the information remains confidential once disclosed to another country or that such information would not be used, either individually or in aggregate, to harm or attack either the U.S. or Citizens.
- Encourage repatriation of wealth held overseas. Just like corporations, successful businesswomen and men have companies and enterprises overseas that have earned substantial profits but have not declared dividends to their US Citizen owners because such dividends would be taxable by the IRS even through taxes have been, or will be, paid to the country where such income was earned. Switching to territorial system would allow for such wealth to be repatriated and invested in the US economy.
- Substantially reduce size and cost of IRS. Switching to Territorial Taxation would allow for a substantial reduction of the international division of the IRS. Compliance costs would substantially be reduced because the IRS would automatically receive almost all of the information it requires to determine a person’s tax liability through the reporting structures in place within the U.S.

Details of Territorial Taxation Proposal for Individuals:

What would be Taxed:

- Any wage, salary, pension, dividend, interest, commission, service or other income paid by a bank, corporation or other entity organized within the U.S.
- Capital gains on sales of any assets, tangible or otherwise, located in the U.S. and securities of corporations or other entities organized within the U.S. or listed or traded on a securities exchange with the U.S.
- Any wage, salary, pension, commission, service or other similar income paid to an individual resident in the U.S. by any corporation or other entity organized outside the U.S.
- Any dividends paid to an individual resident in the U.S. by any corporation or other entity organized outside the U.S. that is actively managed and/or controlled, individually or jointly, by such individual to the extent such dividends are derived from earnings of a business engaged within the U.S.
- Any dividends or interest of a passive nature (not from a company actively managed and/or controlled, individually or jointly by the resident) paid to an individual resident in the U.S. by any bank, corporation or other entity organized outside the U.S.[1]
- Any profit on any unincorporated (flow through) business engaged in within the U.S. would be taxed in the same manner as for corporations, regardless of the residency or citizenship of the owner(s).

What would not be Taxed:

- Capital gains on sales of any assets, tangible or otherwise, not located in the U.S. and securities of corporations or other entities organized not in the U.S. and not listed or traded on a securities exchange within the U.S.
- Any wage, salary, pension, dividend, interest, commission, service or other income paid by a bank, corporation or other entity organized outside the U.S. to a person not resident in the U.S.
- Any dividends paid to an individual resident in the U.S. from a corporation or other entity organized outside the U.S. that is actively managed and/or controlled, individually or jointly, by such individual to the extent such dividends are not derived from earnings of a business engaged within the U.S.
- Any profit on any unincorporated (flow through) business engaged in outside the U.S. would be taxed in the same manner as for corporations, regardless of the residency or citizenship of the owner(s).

[1] Under a pure territorial system, these items should not be taxed either as they are derived from entities and operations outside of the U.S. territory. If appropriate and consistent with how a corporate territorial system will be implemented, we would encourage the consideration of not taxing these amounts as well.

Comparison Chart

Type of Income	Current Tax System	Proposed Territorial Tax System
Wage, salary, pension, dividend, interest, commission, services, etc. income (fixed, determinable, annual and periodic income "FDAP Income") earned in the US (from whatever source) by any Citizen resident in the U.S. and any alien individual resident in the U.S. ("Resident Alien Individual")	Fully Taxed	Fully Taxed, except that dividends paid by actively managed and/or controlled foreign corporation (or other entity) to its controlling shareholder(s) would not be taxed to the extent such earnings are not derived from a business engaged within the U.S. [2]
FDAP Income paid by U.S. bank, corporation or other U.S. entity to a Citizen not resident in the U.S. or alien individuals not resident in the U.S. ("Non-Resident Alien Individuals").	Taxed for Citizen (subject to 911 exclusion where applicable). Taxed for Non-Resident Alien Individuals but significantly reduced or eliminated by most treaties	Taxable (eliminate Section 911 exclusion) Instruct Treasury to negotiate for removal of Treaty Benefits and provide for full taxation at 30% withholding
FDAP Income paid by non-U.S. bank, corporation or other Non-U.S. entity to Citizen not resident in the U.S. or Non Resident Alien Individuals.	Taxed for Citizens (subject to 911 exclusion) Not Taxed for Non Resident Alien Individuals	Not Taxed No Change
Capital gains on sales of any assets, tangible or otherwise, located in the U.S. and securities of corporations or other entities organized within the U.S.	Fully taxed for Citizens and Resident Alien Individuals Gains from sale of U.S. real property and real property holding	No Change No Change

2 Under a pure territorial system, dividends and interest paid by a non-U.S. entity should not be taxed as they are derived from entities and operations outside of the U.S. territory. If appropriate and consistent with how a corporate territorial system will be implemented, we would encourage the consideration of not taxing these amounts as well.

Type of Income	**Current Tax System**	**Proposed Territorial Tax System**
	companies is taxed to Non-Resident Alien Individuals Gains from sales of most other assets is generally exempted for Non-Resident Alien Individuals	 Instruct Treasury to negotiate for removal of Treaty Benefits and provide for full taxation through 30% withholding
Capital gains on sales of securities listed or traded on a securities exchange within the U.S.	Fully taxed for Citizens and Resident Alien Individuals Gains from sales of U.S. listed securities is generally exempted for Non-Resident Alien Individuals	No Change Instruct Treasury to negotiate for removal of Treaty Benefits and provide for full taxation through 30% withholding
Capital gains on sales of any assets, tangible or otherwise, located outside the U.S. and securities of corporations or other entities organized without the U.S. and not listed or traded on a securities exchange within the U.S.	Fully taxed for Citizens and Resident Alien Individuals Not Taxed for Non-Resident Alien Individuals	Not Taxed No Change
Profit on any business engaged within the U.S.	Fully taxed for Citizens and Resident Alien Individuals Income of Non-Resident Alien Individual effectively connected to a US trade or business are taxable Income of Non-Resident Alien individual not effectively connected to U.S. Trade or Business are not taxed under most	No Change No Change Remove treaty benefits and Tax in the same manner as US business owned by US Citizen

Type of Income	Current Tax System	Proposed Territorial Tax System
	treaties.	
Profit on any business engaged without the U.S.	Fully taxed for Citizens and Resident Alien Individuals Not taxed for Non-Resident Alien Individuals	Not Taxed No Change

Other Changes to Tax Code

Eliminate 911 deductions and exemptions related to Citizens and Alien individuals as most Citizens and Alien individuals employed outside of the US will be (and can be) employed by non-US entities.

Repeal FATCA as unnecessary, burdensome and requires sharing of financial information through IGAs with other countries.

Repeal FBAR requirements or provide exemption from FBAR reporting for persons ordinarily resident outside of the U.S.