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Extension of US Tax Relief Provisions.

Following the recent agreement between President Obama and the Republicans to extend various tax relief provisions that expired or were due to expire at the end of this year, Congress enacted the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 on December 16, 2010 to provide temporary relief. President Obama is expected to sign the bill into law shortly.

A few key tax provisions affecting individuals and subsidiaries of US corporations are as follows:

Individual Tax Rates

Income tax rates

The individual income tax rates that were scheduled to increase on January 1, 2011 (to a maximum of 39.6%) will instead remain unchanged for all income levels. The lower rates will be extended for an additional two years, with the highest rate remaining at 35%.

Capital Gains and Qualifying Dividends

The scheduled rate increase for capital gains (to a maximum of 20%) and qualifying dividend income (to a maximum of 39.6%) will instead be deferred to 2013. The maximum capital gains rate of 15% will apply for the next two years, and qualifying dividends will be taxed at capital gains rates, rather than ordinary income rates, through 2012.

Alternative Minimum Tax (“AMT”) Relief

Under current law, US taxpayers receive an exemption of $33,750 (individuals) and $45,000 (married filing jointly) towards the AMT. The new legislation will increase the exemption amounts for 2010 to $47,450 (individuals) and $72,450 (married filing jointly) and for 2011 to $48,450 (individuals) and $74,450 (married filing jointly).

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Payroll Tax Relief

The new legislation reduces the Social Security tax rate for employees and self-employed individuals by two percentage points for 2011. Employees will be subject to a 4.2% tax (instead of 6.2%) on the first $106,800 of wages, and self-employed individuals will be subject to 10.4% tax (instead of 12.4%) on the first $106,800 of self-employment income.

Estate Tax Relief

Under current law, there is no estate tax for 2010, but the tax will be reinstated for 2011 and beyond with tax rates up to 55%. The new legislation provides exemptions of $5 million per person and $10 million per couple, and a top tax rate of 35% for the next two years, through 2012.

Extenders for Controlled Foreign Corporations ("CFCs")

Payments Between Related CFCs

The new legislation extends through 2011 the "look-through" treatment of payments between related CFCs. Under this look-through treatment, dividends, interest, rents, and royalties received by one CFC from a related CFC are not currently taxable as subpart F income of the US shareholder, to the extent attributable to income that is neither subpart F income nor income that is effectively connected with a US trade or business of the payor.

Active Financing Exception to Subpart F

The new legislation extends through 2011 an exception from subpart F income for active financing income. Under this exception, income derived by a CFC in the active conduct of banking, financing, or similar business (and some insurance company income) is not currently taxable as subpart F income.

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