Anchin Alert

Anchin, Block & Anchin LLP
Accountants and Advisors

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How the Senate Tax Bill Could Cost You

A provision in the Senate's tax plan would take away an investor's ability to specifically identify which stock shares they relieve when they go to sell their holdings. The provision would require investors selling a portion of a position in stock to sell their oldest shares first, also known as first-in-first-out, or FIFO. This provision is slated to take effect on stock sales starting on January 1, 2018 and is estimated to increase government revenue by $2.7 billion over the next 10 years. The House tax bill, released in early November 2017, did not address this topic.

Under current rules, investors with taxable brokerage accounts can chose which tax lot of a security to sell, allowing them to minimize income taxes on capital gains. They can tell their broker to sell the oldest shares first (the first-in-first-out or FIFO method) or direct a sale of shares that were purchased on a particular date (specific identification method). The Senate provision would eliminate the specific identification method and would force most investors to sell their oldest shares first. While some argue that this proposed change would be a good move as far as tax reform because it simplifies taxes, it does leave investors with fewer choices when they sell stock.

This week, Congress began the process of reconciling the House and Senate versions of their respective tax bills. If this FIFO provision survives and becomes law, the change would stand to affect a wide range of investors from ordinary investors and traders, including hedge funds and family offices. The Senate proposal does exempt regulated investment companies, such as mutual funds and exchange traded funds but does not exempt private funds, such as hedge funds.

If Congress passes this FIFO provision, you may be able to avoid FIFO by dividing your holdings between multiple (different) brokers, separating your low-basis and high-basis holdings. Setting up different accounts with the same broker may be an option, but that may not work under the proposed FIFO provision. Another option could be to set up a family partnership (a separate taxable entity) to hold certain tax lots of securities. Note that while many of these ideas could be viable, they are far from definitive since the tax bill is not yet final. However, if this provision does pass and is effective for all security sales as of January 1, 2018, you should be prepared to act quickly. You should begin discussions now with your brokers, legal and tax advisors to have a plan in place should the need arise.

We will continue to monitor the prospects for tax reform and stand ready as ***Your Expert Partner*** to help you plan effectively and to navigate through the various tax rules that may apply to you, your family and your fund.

For more information, please contact your Anchin Relationship Partner or George Teixeira at 212.840.3456.

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Anchin, Block & Anchin LLP
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212.840.3456 • www.anchin.com

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