

Update on Federal Tax Reform

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The U.S. House of Representatives passed H.R. 1, The Tax Cuts and Jobs Act, by a vote of 227 to 205 yesterday afternoon. Remaining untouched in the House bill was language that includes a 20% import tariff for all imports from foreign jurisdictions. It also mandates a 14% tax applicable to all income earned but not distributed back to the U.S. (deferred income) since 1986, and on a moving forward basis, it imposes a minimum income tax for foreign earnings of 10% to 12.5%.

These new taxes on foreign sourced income, combined with the proposed import tariff, would directly impact the competitiveness of manufacturing companies operating in Puerto Rico as Puerto Rico income is considered foreign in nature per the Internal Revenue Code, therefore, these proposed taxes would impact all products manufactured in Puerto Rico and sold into the U.S.

Shortly after H.R. 1 passed the U.S. House, House Speaker Paul Ryan and Resident Commissioner Jenniffer Gonzalez-Colon issued a joint statement that stated:

“Puerto Rico is still working to rebuild following the damage done by Hurricanes Irma and Maria. Congress has been sending aid, many of our members have visited Puerto Rico following the storms, and we are always looking for more ways to help the island. One of those ways is through additional tax incentives so that our fellow U.S. citizens in Puerto Rico can have all the possible resources to rebuild their lives and their economy. It is our intention to make improvements to our tax reform legislation as it relates to Puerto Rico when we go to conference.”

Late Thursday night the U.S. Senate Committee on Finance concluded a four day markup by passing a draft bill released by Chairman Orrin Hatch. The bill passed along a party-line vote of 14-12. Senate Majority Leader Mitch McConnell has said he will bring the bill to the Senate floor after the Senate returns from Thanksgiving recess the week of November 27th.

The Senate proposal does not include language resembling the House’s import tariff. Added in the Senate Finance Committee is language relating to the rum cover over excise tax for Puerto Rico and the Virgin Islands. The language would

create a tiered rate that would be applicable from December 31, 2017 to December 31, 2019. The Senate's draft bill currently states: "The rate of tax is lowered to \$2.70 per proof gallon on the first 100,000 proof gallons of distilled spirits, \$13.34 for all proof gallons in excess of that amount but below 22,130,000 proof gallons, and \$13.50 for amounts thereafter. The proposal contains rules so as to prevent members of the same controlled group from receiving the lower rate on more than 100,000 proof gallons of distilled spirits. Importers of distilled spirits are eligible for the lower rates."

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