

Do You Need a Risk Factor for Proposed U.S. Federal Income Tax Reform?

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Tax reform efforts by Congress are ongoing, and the substance of the tax bills remains fluid. However, for foreign corporations with U.S. operations, there are some specific potential risks to consider, such as additional limitations on the deductibility of interest, the migration from a “worldwide” system of taxation to a territorial system, and the use of certain border adjustments.

Foreign corporations with U.S. operations may want to consider including a risk factor in their periodic reports or offering documents regarding the potential impact of U.S. tax reform. A sample risk factor (based on the current iteration of the tax bills) is below. As the tax bills are amended during the legislative process, the language of the risk factor may need to be edited prior to use.

Possible U.S. federal income tax reform could adversely affect us.

The new U.S. administration and certain members of the U.S. House of Representatives have stated that one of their top legislative priorities is significant reform of the Internal Revenue Code. Proposals by members of Congress have included, among other things, changes to U.S. federal tax rates, imposing significant additional limitations on the deductibility of interest, allowing for the expensing of capital expenditures, the migration from a “worldwide” system of taxation to a territorial system, and the use of certain border adjustments. There is substantial uncertainty regarding both the timing and the details of any such tax reform. The impact of any potential tax reform on our business and on holders of our common shares is uncertain and could be adverse. [Prospective investors should consult their own tax advisors regarding potential changes in U.S. tax laws.]

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