THE SENIOR MANAGER AND THE COMPLIANCE WITH TAX OBLIGATIONS

8.1 THE SENIOR MANAGER AND THE COMPLIANCE WITH TAX OBLIGATIONS: Tax managers are responsible for devising, implementing and overseeing the tax plan for a business or client and performing managerial functions in the office. They prepare the required government documents concerning taxes, ensure the accuracy of these documents, and offer solutions to pressing tax problems. Depending on the client, the amount of education, and experience required, managers must be familiar with international, domestic, state, and local tax laws. A tax manager is typically considered an experienced, trusted adviser to senior management and is capable of working with a diverse group of people to further the goals of the company.

The primary responsibility of a tax manager is to accurately and efficiently manage tax reporting and planning and ensure compliance of tax laws for the company or client. The position requires expertise with tax laws and regulations at the international, federal, state, and local levels depending on the client's needs. The manager oversees the completion of accurate tax returns, which helps minimize the tax obligations of the client, and offers solutions to the client based on need. Managers offer solutions and work with staff to improve the quality of employee performance while simultaneously working with senior management to meet the businesses tax objectives.

Tax managers must have at least five to 10 years prior experience along with good judgment to plan and accomplish the tax goals of the company. Ideal candidates for this position usually possess advanced analytical skills, strategic thinking skills, the ability to analyze complex data, and the ability to multitask. A tax manager or supervisor usually has superb written, verbal, and editorial skills along with the ability to perform presentations for clients. Good communication skills and excellent interpersonal skills are necessary to manage the tax accounting staff, report to upper management, and work with project stakeholders in multiple phases of project planning.

A position as a tax manager usually requires a bachelor's or master's degree in taxation or accounting from an accredited university and a considerable amount of experience. A degree in taxation is useful, as it covers all aspects of taxation and tax law, including managerial accounting, corporate income tax and procedures and practices in taxation. Auditing, information systems for accounting, tax planning, and theory of accounting are also involved. Most managers begin their careers in an entry-level position as a Certified Public Accountant or related role and then progress into a management position as experience is gained.

FOR EXAMPLE: Section 45 of the Companies (Auditing and Accounting) Act 2003 will, when commenced, impose an obligation on directors of certain companies to prepare statements on their company's compliance with its relevant obligations. Relevant obligations consist of all obligations under the Companies Acts and under tax law, together with obligations under certain other enactments. For the purposes of assisting in the preparation of such statements, the lists below set out the main compliance obligations of companies under tax law and secondary law made there under. In relation to each obligation the list gives a brief description of the obligation and its corresponding section number in the relevant tax law. References to sections are those sections as amended. The obligations are grouped under various generic headings for ease of reference.

The lists are not exhaustive and are only intended as a general guide to companies' tax compliance obligations. The omission of any provision or obligation from these lists should not be taken as in any way removing any person's obligation to comply with any requirement of tax law contained in any such provision omitted. This includes any obligation contained in any provision dealing with the computation of income or the claiming of any allowance or other relief by way of the making of a claim, election or other action within a specified period.

References to obligations to make returns are references to making full and true returns of income, gains, allowances, etc. calculated in accordance with the law. In addition to the obligations specified, a company is obliged under a number of provisions to do certain things when so required by notice from the Revenue Commissioners or one of their officers. In the context of directors' obligations under section 45 of the Companies (Auditing & Accounting) Act 2003, directors should have a procedure in place to ensure that there is appropriate internal reporting of any instance where their company is notified of any such requirement.

8.2. ALTERNATIVE TAX: The **alternative minimum tax (AMT)** is an income tax imposed by the United States federal government on individuals, corporations, estates, and trusts. AMT is imposed at a nearly flat rate on an adjusted amount of taxable income above a certain threshold (also known as exemption). This exemption is substantially higher than the exemption from regular income tax.

Regular taxable income is adjusted for certain items computed differently for AMT, such as depreciation and medical expenses. No deduction is allowed for state taxes or miscellaneous itemized deductions in computing AMT income. Taxpayers with incomes above the exemption whose regular Federal income tax is below the amount of AMT must pay the higher AMT amount.

A predecessor "minimum tax", enacted in 1969, imposed an additional tax on certain tax benefits for certain taxpayers. The present AMT was enacted in 1982 and limits tax benefits from a variety of deductions. On January 2, 2013, President Barack Obama signed the American Taxpayer Relief Act of 2012, which indexes to inflation the income thresholds for being subject to the tax.

Each year a taxpayer must pay the greater of an alternative minimum tax (AMT) or regular tax. The AMT is a nearly flat tax on taxable income as modified for AMT. As with regular Federal income tax, rates and exemptions vary by filing status. The lower rate and the exemption are phased out above certain income levels at 25% of AMT income. A lower rate applies on capital gains (and qualifying dividends).

In addition, corporations with average annual gross receipts of $7,500,000 or less for the prior three years are exempt from AMT, but only so long as they continue to meet this test. Further, a corporation is exempt from AMT during its first year as a corporation. Affiliated corporations are treated as if they were a single corporation for all three exemptions ($40,000, $7.5 million, and first year).

To the extent AMT exceeds regular Federal income tax, a future credit is provided which can offset future regular tax to the extent AMT does not apply in a future year. However, this credit is limited: see further details in the "AMT credit against regular tax" section.

Regular tax used as a basis for computing AMT is found on the following lines of tax return forms: individual Form 1040 Line 44, or corporate Form 1120 Schedule J line 2 less foreign tax credit.

Under the AMT, no deduction is allowed for personal exemptions (other than the AMT specific exemption, which is larger than the personal exemption except for high income taxpayers), nor is the standard deduction. State, local, and foreign taxes are not deductible. However, most other itemized deductions apply at least in part. Significant other adjustments to income and deductions apply.

Individuals must file IRS Form 6251 and corporations must file Form 4626 if they have any net AMT due. The form is also filed to claim the credit for prior year AMT.

Other individual adjustments in computing AMT include:

- Miscellaneous itemized deductions are not allowed. These include all items subject to the 2% "floor", such as employee business expenses, tax preparation fees, etc.
- The home mortgage interest deduction is limited to interest on purchase money mortgages for a first and second residence.
- Medical expenses may be deducted only if they exceed 10% of Adjusted Gross Income, as compared to 7.5% for regular tax.
- Inclusion of the bargain element of an Incentive Stock Option when exercised, regardless of whether the stock can immediately be sold.

Many AMT adjustments apply to businesses operated by individuals or corporations. The adjustments tend to have the effect of deferring certain deductions or recognizing income sooner. These adjustments include:

- Depreciation deductions must be computed using the straight line method and longer lives than may be used for regular tax. (See MACRS)
- Deductions for certain "preferences" are limited. These include deductions related to:
  - circulation costs,
  - mining costs,
  - research and experimentation costs,
  - intangible drilling costs, and
  - certain amortization.
- Certain income must be recognized earlier, including:
  - long term contracts and
  - installment sales.

Certain other adjustments apply. Corporations are also subject to an adjustment (up or down) for adjusted current earnings. In addition, a partner or shareholder's share of AMT income and adjustments flow through to the partner or shareholder from the partnership or S corporation.

AMT is reduced by a foreign tax credit, limited based on AMT income rather than regular taxable income. Certain specified business tax credits are allowed.

History

A predecessor "minimum tax" was enacted by the Tax Reform Act of 1969 and went into effect in 1970. Treasury Secretary Joseph Barr prompted the enactment action with an announcement that 155 high-income households had not paid a dime of federal income taxes. The households had taken advantage of so many tax benefits and deductions that reduced their tax liabilities to zero. Congress responded by creating an add-on tax on high-income households, equal to 10% of the sum of tax preferences in excess of $30,000 plus the taxpayer's regular tax liability.

The explanation of the 1969 Act prepared by Congress's Staff of the Joint Committee on Internal Revenue Taxation described the reason for the AMT as follows:

"The prior treatment imposed no limit on the amount of income which an individual or corporation could exclude from tax as the result of various tax preferences. As a result, there were large variations in the tax burdens placed on individuals or corporations with similar economic incomes, depending upon the size of their preference income. In general, those individual or corporate taxpayers who received the bulk of their income from personal services or manufacturing were taxed at relatively higher tax rates than others. On the other hand, individuals or corporations which received the bulk of their income from such sources as capital gains or were in a position to benefit from net lease arrangements, from accelerated depreciation on real estate, from percentage depletion, or from other tax-preferred activities tended to pay relatively low rates of tax.

In fact, many individuals with high incomes who could benefit from these provisions paid lower effective rates of tax than many individuals with modest incomes. In extreme cases, individuals enjoyed large economic incomes without paying any tax at all. This was true for example in the case of 154 returns in 1966 with adjusted gross incomes of $200,000 a year (apart from those with income exclusions which do not show on the returns filed). Similarly, a number of large corporations paid either no tax at all or taxes which represented very low effective rates."

Comparison of the regular tax on wages only (not taking into account any deductions) in 2000 and 2004 (orange and blue lines respectively) with the tentative minimum tax (AMT before deducting regular tax) (same brown line for both 2000 and 2004) for a married couple who are filing jointly. Two dashed lines show the margins between the TMT and the regular tax rates in 2000 and 2004—and how this margin was becoming narrower from year to year. This means that not many deductions are needed before the AMT must be paid. And one needs to claim fewer deductions in subsequent years in order for the parity to be reached, and thus to get into the AMT territory. (The TMT is the minimum amount of tax a person will end up paying. If it is less than the usual tax then there is no AMT.)

(Bottom) The same narrowing gap between regular tax and TMT is shown in terms of effective tax rates paid on various amounts of AGI in 2000 and 2004.

The AMT has undergone several changes since 1969. The most significant of those, according to the Joint Committee on Taxation, occurred under the Reagan era Tax Equity and Fiscal Responsibility Act of 1982. The law changed the AMT from an add-on tax to its current form: a parallel tax system. The current structure of the AMT reflects changes that were made by the 1982 law. However both participation and revenues from the AMT temporarily plummeted after the 1986 changes. Congress made other notable, but less significant, changes to the law in 1978, 1982, and 1986.

Further significant changes occurred as a result of the Omnibus Budget Reconciliation Acts of 1990 and 1993, which raised the AMT rate to 24% from the prior level of 21% and then to 26% and 28% for individual filers with incomes that exceeded $175,000. Now, some taxpayers who do not have very high incomes or participate in numerous special tax benefits and/or activities will pay the AMT.[24]

"Patches" to tax rates and exemptions

For years since then, Congress had passed one-year "patches" aimed at minimizing the impact of the tax. While not automatically indexed for inflation until a change in the law in early 2013, the exemption had been increased by Congress many times. In addition, the tax rate was increased for individuals effective 1991 and 1993, and the tax was limited for capital gains and qualifying dividends in 2003.

For the 2007 tax year, the patch was passed on December 20, 2007, but only after the IRS had already designed its forms for 2007. The IRS had to reprogram its forms to accommodate the law change.[25]