GROWERTALKS

SAF in the Lobby

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# President Trump Signs Order to Begin WOTUS Repeal Process

*Society of American Florists*

President Trump has signed an executive order instructing the Environmental Protection Agency (EPA) and the Army Corps of Engineers to “review and reconsider” a rule seeking to broaden the definition of navigable waters and potentially affecting flower growing operations.

Known as Waters of the U.S., or WOTUS, the rule expanded federal jurisdiction over pollution in streams and wetlands.

The Clean Water Act defines U.S. waters that are protected and how. Supreme Court decisions have subsequently added to or clarified interpretations and have also caused confusion.

In 2014, the EPA and the Army Corps of Engineers proposed an extensive and very controversial new regulation that would greatly expand the definitions of which waters are included under regulatory jurisdiction. The rule gave EPA authority over a large percentage of the nation’s waterways, including even minor streams, drainage and irrigation ditches, and could subject landowners and businesses to increased lawsuits.

Agriculture, along with other industries, protested the proposal, fearing it would bring many farms, nurseries and other agricultural operations under unnecessarily stringent regulation.

SAF and AmericanHort commented on the rule when it was released, noting that the floriculture and nursery industries have dedicated significant resources through the Floriculture and Nursery Research Initiative (FNRI), the American Floral Endowment (AFE) and the Horticultural Research Institute (HRI) toward water-related best practices research. The proposed rule, the two organizations said, could create confusion and require permits for activities such as removing debris and vegetation from a ditch or building a patio, fence or pond.

The executive order is the first step toward fulfilling one of Trump’s key campaign promises. A timeline for additional action is unclear while the rule is in litigation.

While WOTUS was generally considered an overreach by the EPA, and repeal is the ultimate objective of many Republicans, Sen. Tom Carper (D-DE), the Senate Environment and Public Works Committee’s top Democrat, said he was encouraged by the Trump administration’s decision to review the regulation and not repeal it outright.

# A Look Ahead at Business Taxes

Tax reform is a major topic of discussion in Washington these days. Here’s a brief look at what may be in store for business taxes based on the House Republican Blueprint for tax reform and what we’ve heard from President Trump:

Reduced Business Tax Rates

The House Blueprint: A new concept, “active business income,” is part of the House Republican Blueprint plan. The proposal is to cap “active business income” from pass-through entities and sole proprietors at a 25% tax rate.

“Active business income” is defined as the income remaining after deducting “reasonable compensation for services” for the owner or owners. This means that for owners of a pass-through entity, an amount equal to a reasonable compensation for the owners’ services would be taxed at the regular personal income tax rate for each owner and the remainder of the income generated by the company would be considered “active business income,” which would be taxed at a rate no higher than 25%.

The tax rate for C corps would drop to 20% in the House Blueprint.

President Trump’s plan: The business tax rate drops to 15% for C corps. Also, it appears that the “active business income” concept for pass-through entities is included in the administration’s plan, though the rate would be 15%, or 10% less, than in the House Blueprint.

Businesses Expensing for Investments

The House Blueprint: All U.S. businesses would be permitted to expense investments in all tangible and intangible assets, except land. But the House Blueprint eliminates the deduction for interest expense associated with debt incurred to finance an investment.

President Trump’s plan: Manufacturers would be able to deduct 100% of asset acquisition and production costs, but would not be permitted to deduct interest expenses.

The Alternative Minimum Tax (AMT) would be eliminated under both plans.

Border Adjustability

The House Blueprint: The corporate tax would not apply to exports, while businesses would no longer be able to deduct the cost of imported items—meaning imports would be subject to corporate tax. Clearly the intent here is to encourage exports and discourage imports.

This provision is intended to raise more than $1 trillion in tax revenue over 10 years. It is, however, causing a feud within the GOP and is pitting companies like General Electric, Boeing and pharmaceuticals companies (exporters) against Walmart, Target, automakers and other retailers (net importers).

House Ways and Means Committee Chairman Rep. Kevin Brady (R-TX) has sent out warning signals that this provision is key to raising revenue, and without it, the lower tax rates envisioned in the House Blueprint would have to be increased.

SAF took this issue to Capitol Hill during its recent Congressional Action Days event asking that floral products be exempted.

President Trump's plan: The president's plan would impose tariffs on imports from other countries. Many economists believe this could lead to unnecessary trade wars with our trading partners.

At this moment, President Trump appears to be warming to the House Blueprint, but that's not certain.

Employer-Based Retirement Plans

The House Blueprint: Current tax incentives will be maintained, but the House Ways and Means Committee is looking at ways to consolidate and reform retirement options "to provide effective and efficient incentives for savings and investments."

The employer-based retirement plan community has developed several ideas for simplification over the years, but the Committee's language may indicate that the flexibility now in the system and welcomed by employers could be diminished.

If the proposal lowering the tax rate on "active business income" for pass-through entities becomes law, then some modification on the tax rate for distributions from a retirement plan would be required to keep these plans viable from a tax perspective.

What about timing?

The devil is in the details. It's likely that as tax reform goes through Congress, the tax rates will end up higher and the deductions and credits will be reduced, and that's assuming the Republicans in Congress can unite around one plan. **GT**

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