TD Ameritrade

November 23, 2017

Open Letter to Members of Congress:

TD Ameritrade, Inc., on behalf of our 11 million client accounts holding $1.1 trillion in assets, is writing to note our strong opposition to a provision in the Senate Tax Cuts and Jobs Act that will harm retail investors by eliminating their freedom to decide when to take losses or gains on their investments, resulting in an increased tax burden.

Section 13533 of the Senate bill imposes a single cost basis methodology on investors when they sell or exchange securities.

- Today, when selling securities that were purchased at different times, investors may use various “tax lot ID methods” to calculate the taxes they owe. Investors can use such strategies as “first in-first out,” “last in-last out,” “highest cost,” “lowest cost,” or “average cost.” Importantly, investors today can choose which tax lot ID method makes the most sense to them based on their financial situation.

- The Senate bill, however, would impose a “first in-first out” (“FIFO”) cost basis methodology on all sales of securities (excluding only mutual fund companies from its reach). For the average investor, this means the Senate bill would mandate that they pay the highest capital gains taxes where a stock has appreciated over time. Such an approach inexplicably and unfairly discriminates against the typical Main Street investor using a buy and hold strategy.

- **An example of the impact of the Senate bill** – At TD Ameritrade, a significant percentage our clients use tax lot ID methods other than FIFO in managing their investments. Suppose a client has a large holding of company stock that was accumulated over a 20 year career. Now retired, the investor wants to sell some company stock to diversify their portfolio. Further assume the investor’s purchases over time ranged from $5 per share up to $90 per share, but the stock now is trading at $50. If the client sells at $50, rather than being able to choose to take losses on the stock purchased above $50, the Senate bill will require the client to pay capital gains taxes on the appreciation of the stock from $5 to $50. That is, **even if the investor has experienced sizeable losses on the purchases above $50**, the Senate bill will force the investor to pay taxes calculated on the largest gains possible. We do not believe this is a fair outcome for the typical Main Street retail investor.

- The mandating of a FIFO cost basis methodology also may have other consequences. For example, will investors not sell long held, appreciated stock to avoid paying high taxes and, as a result, forego proper diversification? Will they simply decide to pass on such investments to their heirs, who will enjoy a stepped up cost basis and avoid the capital gains tax entirely?

- Imposing a FIFO cost basis methodology also will impact financial professionals, who use strategies to reduce ***their client's*** taxes on capital gains and boost investment returns. In fact, retail investors increasingly are gaining access to such services through low-cost "robo-advisers." Again, under the Senate bill FIFO mandate, the retail investor loses.

TD Ameritrade respectfully requests that Congress reject mandating FIFO cost basis methodology on sales of securities for Main Street retail investors. We strongly believe that policies should incent investors to save and invest for their future, not impose restrictions that make investing more challenging and expensive.

Thank you for your consideration.

Very truly yours,

Joseph Kinahan
Managing Director, Client Advocacy and Market Structure
TD Ameritrade