Baker McKenzie.

Food and Beverage

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What does the Trump administration have in store for the consumer goods and retail sector?

With Trump taking office, we look at what policies this administration is likely to adopt and how this may impact food and beverage companies in the CG&R sector.

Tariffs

President Trump has clearly indicated a preference to use tariffs as a negotiation tool. He has promised to increase tariffs on imports from Mexico, Canada and China, in particular, with tariff rates of 25% anticipated for Canada and Mexico, and higher rates for China, possibly up to triple digits but most often cited at an added 60%. There are also numerous proposals to target Chinese goods through other trade actions, including for example, those designed to target China's recent maritime infrastructure investments with the same Chinese tariff rate applied to imports shipped through "Chinese ports" across Latin America, irrespective of the goods' place of origin.

The impact of such a move will make imported goods caught by the tariffs more expensive for the US market and will inevitably lead to US manufacturers re-evaluating current supply chains and potentially onshoring manufacturing facilities. Any brands shipping goods to the US may also want to examine shipping routes to ensure they are not caught by the "Chinese port" tariffs, if imposed.

The increase in tariffs is also likely to lead to retaliation policies being introduced from those countries impacted; making the current trade and tariff landscape one to closely monitor.

The US imports around 17% of its food supply, with Mexico and Canada accounting for 42% of total US food and beverage imports. The introduction of such tariffs will be seen as a further boost to the US agriculture and food production sectors, making it harder for foreign food importers to be competitive. Any costs are likely to be passed on to the consumers.

Taxes

President Trump will first focus on preventing his Tax Cuts and Jobs Act (TCJA) tax cuts from expiring at the end of the year. He will likely put significant pressure on Congressional Republicans throughout the reconciliation process, which though requiring only a simple majority of votes to pass legislation in the Senate will be difficult with such narrow majorities and concerns about an increased deficit. Because the 21% corporate tax rate is a permanent provision, that will not change. However, small and mid-size businesses within the supply chain could be affected if the 20% pass-through business income deduction is allowed to expire. Further, some of the business-friendly provisions in the TCJA have already lapsed, but there has been bipartisan support for reinstating certain items (i.e., immediate R&D expensing).

During his campaign, Trump suggested exempting certain types of pay from tax and reducing the base corporate rate of tax to 20% with an additional cut to 15% for companies that produce goods in the United States. Given the budget restrictions of the reconciliation process, it is unclear which, if any, additional campaign positions will be added to the over USD 4 trillion cost of extending the expiring TCJA provisions. Steep cuts to the corporate tax rate are less likely given their cost, but not impossible given Republican discussions of suspending the debt limit and using alternatives for scoring the bill's costs.

Many jurisdictions have already implemented Pillar Two's global minimum tax, including top-up taxes. United States multinationals are subject to a safe-harbor until the end of 2026. It is unlikely that the Trump administration will adopt Pillar Two unless more favorable terms are provided for the US R&D credit in the Pillar Two tax calculation.

For those in the food service industry, early in the campaign Trump proposed no taxes on tips or overtime. It is unclear whether any resulting legislation would apply both to income taxes and payroll taxes, which fund Medicare and Social Security.

M&A

Following recent high-profile court decisions under former President Biden blocking merger activity in the consumer goods and retail sector, it is anticipated that the Trump administration will create a more merger friendly regulatory environment.

The US agriculture and food production sectors could see a boost as a result of trade tariffs on foreign imports and a general reduction in food regulation. This may result in increased investment in the US F&B sector. But all added investment is subject to tariff risks – including restrictions on US imports and potential effects from global retaliatory tariffs driven by US action. With the sectoral reliance on key ingredient inputs (often imported or subject to supply chain considerations), the tariff actions pose significant risk.

ESG

An increasingly critical area for consumer goods and retail businesses is the impact on the environment and general ESG credentials. With the EU and UK being particularly active in developing the ESG landscape it is anticipated that, under the Trump administration, the US will adopt a less aggressive approach, and halt or reverse some pro-ESG policies currently planned.

The consumer goods and retail sector has made great strides in ESG in recent times, and as the driver for more ESG transparency is coming from consumers, as well as other jurisdictions - most notably the EU - the need to continue to invest in ESG initiatives, reporting and accountability is unlikely to diminish for those multinationals operating in global markets.

How can we help?

Our consumer goods and retail experts in trade, tax, M&A and ESG are here to help advise you and your business on reviewing the potential impact of these policies and advising on next steps.

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