B. Summary of Proposals

In general, each of the mark-to-market proposals would impose a mark-to-market income tax on unrealized gains when an individual relinquishes citizenship or terminates residency, regardless of the taxpayer's subjective motivation for citizenship relinquishment or residency termination. In this regard, individuals who relinquish citizenship and long-term residents who terminate residency would be treated as having sold all their property at fair market value immediately prior to the citizenship relinquishment or residency termination. In general, the deemed sale rule applies to all property interests held by the individual on the date of citizenship relinquishment or residency termination. The proposals would generally exempt the first $600,000 worth of deemed gain. The proposals also provide various exemptions of certain types of property interests from the deemed sale rule (e.g., interests in U.S. real property).

There are variations among the proposals. For example, some proposals would subject all U.S. citizens who renounce citizenship and long-term residents who terminate U.S. residency to the mark-to-market regime, while other proposals would also require the individual's average tax liability or net worth to exceed certain specified levels. In addition, some proposals would replace the existing regime for taxing former citizens and former residents with the mark-to-market regime on a prospective basis, while other proposals would appear to retain both regimes (present law and the mark-to-market regime) without clear coordination rules.

The proposals generally would permit an individual to elect to defer payment of the mark-to-market tax imposed on the deemed sale of property. However, in order to elect deferral of the mark-to-market tax, the individual would be required to provide adequate security to ensure that the deferred tax and interest will be paid. The proposals contain some variations with respect to the manner in which adequate security may be provided.

The proposals would tax U.S. recipients of gifts or bequests made by a former citizen or former long-term resident subject to the mark-to-market rules. The manner of taxing the recipient varies to some degree among the proposals. For example, some proposals would tax the recipient on the full value of the property received as taxable gross income, while other proposals would tax the recipient on the full value of the property based on the applicable transfer tax rates. In addition, some proposals provide exceptions from the tax to the recipient, for example, in cases in which the property is taxable and shown on a timely filed gift or estate tax return of the former citizen or former resident.

Some proposals also contain provisions which coordinate the mark-to-market tax rules with immigration rules that apply to former citizens. For example, some proposals would eliminate the present-law immigration requirement that an individual's citizenship relinquishment be tax-motivated, and instead deny former citizens reentry into the United States unless he or she complies with applicable U.S. Federal tax obligations.

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