



Employee Benefit Newsletter: Section 162(m) Deduction Limit

ATTORNEYS

Jodi H. Epstein

Jon Holbrook

Laurie E. Keenan

Kevin P. O'Brien

Kevin P. O'Brien

Carroll J. Savage

Spencer F. Walters

PRACTICE AREAS

Executive Compensation

Employee Benefits Insider

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Many of our clients have begun considering how Tax Reform's 162(m) changes will impact compensation arrangements for their top executive officers. We are writing to share some general resources, linked below, to aid in these efforts.

Government Invites Comments about Existing Arrangements that Should be Grandfathered

Key officials have made clear that there is currently an opportunity to inform Joint Committee staff, Treasury and IRS about arrangements that deserve protection under the proposed 162(m) transition relief. This could provide an important opportunity for companies to shape favorable outcomes. Preserved deductions could be valuable, in the short-term, for incentive pay and, in the long-term, for golden parachutes and payments under deferred compensation plans (such as SERPs and Excess Plans). Unfortunately, because the transition relief apparently will require state law and contract analysis, the availability of relief will be unique to each taxpayer and will depend on the specific terms of any applicable plan, award agreement, or employment agreement. We have already been in close contact with the key officials and invite you to reach out to us for more information.

Briefing on 162(m) Changes and Issues

One of the items below is a slide presentation. Although it delves into some of the technical issues, we have highlighted key points that should be of interest to your executives. We are happy to walk through this presentation with you and your team.

Resources

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- Employee Benefits In Focus Newsletter re: 162(m) Changes
 - QuickChart: Who is a Covered Employee Under 162(m)?
 - What Transition Relief is Available?
 - QuickChart: What Pay Exceeding \$1 million is Limited by 162(m)?
- Presentation re 162(m) Changes and Potential Issues
- Redlined version of IRC 162(m), showing 2017 tax act changes