Special bulletin: Legislative and regulatory update

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Tax reform: Retirement plan changes in the Tax Cuts and Jobs Act

The Tax Cuts and Jobs Act appears to be headed to President Trump for signature in the next few days. While a number of retirement plan changes had been included in the separate bills passed by the House of Representatives and the Senate, only a few survived the committee of House and Senate members that was convened to hammer out the differences between the two versions of the bill. And while the Act makes significant changes to both individual and corporate taxation, it only makes modest changes to retirement plans.

Here is a brief summary:

Elimination of IRA "re-characterization" for Traditional to Roth IRA conversions

Today, an individual can convert an amount in a Traditional IRA to a Roth IRA and then undo the conversion by transferring it back to a Traditional IRA by his or her tax return due date. Effective for taxable years beginning after 2017, re-characterization of conversion contributions will no longer be permitted. However, re-characterization will still be available for "regular" (vs. previously converted) contributions.

Extension of time to roll over plan loan offsets

Today, if an employee has an outstanding retirement plan loan when he or she leaves an employer, the employer typically offsets the employee's account balance by the unpaid loan balance, resulting in a potentially taxable event. The employee can avoid taxation by contributing the amount of the loan balance to an IRA within 60 days of leaving. Effective for taxable years beginning after 2017, the rollover deadline is extended to the due date of the employee's tax return.

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Relief for victims of 2016 federally declared disasters

This waives the 10% pre-59 ½ penalty on distributions from qualified retirement plans, 403(b) plans and IRAs for individuals whose principal residence is in an area that was declared a disaster area in 2016. This waiver applies to distributions of up to $100,000 made in 2016 or 2017. The recipient can elect to pay tax over three years and/or roll the amount distributed back into a plan or IRA within three years. Earlier in 2017, Congress passed a law that provided similar relief to victims of 2017's hurricanes.

NEXT STEPS

Even though the Tax Cuts and Jobs Act was relatively light on retirement plan changes, a number of retirement plan bills have been introduced in the past few weeks, including proposals to permit open multiple employer plans (MEPs) and to change the required minimum distribution rules. Many of these proposals enjoy bipartisan support.

We will monitor these bills and keep you apprised of any significant developments.

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