

FEDERAL TAX REFORM

How Will the New Federal Tax Laws Impact You?



Changes to Compensation Deductions for Excessive Employee Remuneration

The Tax Cuts and Jobs Act (TCJA) has made changes to the tax treatment of compensation for certain highly paid employees. These changes take effect for tax years starting January 1, 2018. However, there are transition rules that “grandfather” in arrangements that are written binding contracts in effect on November 2, 2017, which are not modified in any material respect on or after November 2, 2017.

Current Rules:

Under the current rules, there is an annual limit (cap) on the deduction taken by publicly traded corporations for compensation in excess of one million dollars (\$1,000,000.00) paid to a covered employee. The deduction limit does not apply to commissions or performance-based compensation, such as stock options. A covered employee includes the principal executive officer and the three highest paid officers, determined as of the last day of the tax year.

TCJA Rules:

Under the TCJA rules, the deduction limit includes commissions and performance-based compensation in the \$1 million cap. It also extends the definition of a “covered employee” to look more like the definition used by the Securities and Exchange Commission, which defines the CEO, CFO and three highest paid employees serving as executive officers. Once an employee qualifies as a covered employee, the \$1 million deduction cap would continue to apply to that person for any period during which the employer pays that person (or his/her beneficiaries). The determination of whether a person is a covered employee can occur at any point during a tax year, not just at the close of the year. The rule also expands the applicability of the deduction cap to not just domestic publicly traded companies, but also to foreign companies who trade via U.S. deposit receipts.

Disclaimer

These materials are presented with the understanding that the information provided is not legal advice. Due to the rapidly changing nature of the law, information contained in this publication may become outdated. Anyone using these materials should always research original sources of authority and update this information to ensure accuracy when dealing with a specific matter. No person should act or rely upon the information contained in this publication without seeking the advice of an attorney.

Circular 230 Notice

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Questions?

If you wish to discuss the impact of these rules on your particular situation, please contact a member of the Bowles Rice Tax Team.

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