Tax Insights

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President Donald Trump Signs Executive Order on Multiple Employer Plans

President Trump, on Aug. 31, signed a new executive order (https://www.whitehouse.gov/presidential-actions/executive-order-strengthening-retirement-security-america/) on multiple employer plans (MEPs). The order directs the Treasury and Labor departments to consider issuing regulations and guidance to make it easier for small businesses to join forces to offer MEPs (sometimes referred to as association retirement plans). The order also directs Treasury to consider issuing guidance within 180 days on the so-called one-bad-apple rule, which puts a plan at risk of disqualification when one of the participating employers fails to follow the tax qualification requirements.

ABA Section of Taxation Comments on TCJA Provisions Impacting Exempt Organizations

The American Bar Association (ABA) Section of Taxation has issued a letter (https://www.americanbar.org/content/dam/aba/administrative/taxation/policy/082818comments.authcheckdam.pdf) urging Treasury to issue guidance to exempt organizations on provisions under the Tax Cuts and Jobs Act (TCJA) addressing the transportation fringe benefit tax and unrelated business taxable income (UBTI) and on Section 4960's excise tax on executive compensation for exempt organizations. (Section references are to the Internal Revenue Code of 1986, as amended (the Code).)

Regarding Section 512(a)(7), the ABA Section of Taxation suggests ways to mitigate the burden on organizations that are subject to the tax and Form 990-T filing and asks Treasury and the IRS to clarify that Section 512(a)(7) applies only to amounts paid or incurred for qualified transportation fringes for which a deduction is not allowable because of Section 274(a)(4) and thus, for example, does not apply separately to a parking facility used in connection with qualified parking, or an on-premises athletic facility.

With respect to Section 4960, the ABA Section of Taxation requests that the Code section not apply to remuneration or parachute payments that would have been taken into account in a prior tax year if Section 4960 had applied to the prior tax year, based on a reasonable, consistent, good-faith interpretation of Section 4960, even if, in the case of remuneration, it did not exceed $1 million, or, in the case of a parachute payment, it was not considered "excess."

AICPA Requests Guidance for FASB Accounting Standards Update on Pensions

The American Institute of Certified Public Accountants (AICPA) has requested guidance (https://www.aicpa.org/content/dam/aicpa/advocacy/tax/downloadabledocuments/20180829-aicpa-comment-letter-on-asu-2017-07.pdf) providing for an automatic method change for any accounting method change that is needed to comply with the implementation of Financial Accounting Standards Board (FASB) Accounting Standards Update Topic 715, "Compensation – Retirement Benefits."

For more information, contact Christopher C. Scarpa at 215.564.8106 or cscarpa@stradley.com or Jacquelyn Gordon at 215.564.8176 or jgordon@stradley.com.