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Employee Benefits Update

December 2017

TAX PLANNING

Six Tax Strategies to Accelerate Employee Benefit Deductions in 2017

With the corporate tax rate reduced to 21% effective for tax years or and after January 1, 2018, some companies have expressed interest in accelerating a deduction at a 35% tax rate. There are a number of possibilities and most will require action by tax year-end:

1. Pre-fund future severance pay. Severance benefits that are attributable to future involuntary terminations of employment can be pre-funded in a VEBA or a taxable trust. The severance costs can include the cost of any medical or other benefits payable to the severed employees. Certain limits apply, and there are tax consequences to the employee to consider.

2. Pre-fund LTD benefits. Self-insured long-term disability benefits can be pre-funded in a VEBA or a taxable trust. The LTD deduction limit is the amount necessary to fund the entire expected future stream of payments to the disabled person, subject to certain limits.

3. Pre-fund retiree health benefits. Retiree health benefits can be pre-funded under a VEBA or taxable trust up to the present value of the entire future liability for the already-retired participants, and ratably over the remaining working lives of the current employees.

4. Accelerate bonus accruals. Many 2017 performance-based bonuses require employment on a 2018 payout date, or they involve company discretion. These bonuses could be accrued in 2017 if the company announced that a fixed total amount will be paid to plan participants as a group, even though the liability with respect to any individual within the group is not fixed.

5. Contribute to the pension plan before the end of 2017. Pre-year end contributions are deductible under Code Section 404. Any additional contributions will be treated as 2017 contributions for minimum funding purposes.

6. Treat certain 2018 pension contributions as 2017 contributions. Under Code Section 404(a)(6), contributions as late as the extended due date of a corporation's income tax return (Oct. 15, 2018 for CY) could be deductible in 2017. However, Code Section 404(a)(6) raises some surprising issues that must be considered before going forward.

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IPB In The News

Kevin O'Brien and Spencer Walters interviewed by Tax Notes on 162(m) transition rule in Tax Cuts and Jobs Act (Dec. 20, 2017)

Carroll Savage profiled by D.C. Bar as 401(k) Plan pioneer, in member spotlight (Dec. 11, 2017)

Ivins selected as one of the Best Law Firms in America for 2018 by U.S. News & World Report (Nov. 2017)

Steve Witmer, Robin Solomon, Ben Grosz and Doug Andre taught an EBEC half-day seminar for the Tax Executives Institute, Los Angeles CA chapter (Nov. 3, 2017)

Robin Solomon and Jodi Epstein spoke on fiduciary best practices at "Best of" Plan Sponsor National Conferences in Chicago IL and New York NY (Oct. 24 & 26, 2017)

Ben Grosz shared insights at the 2017 Healthcare & Retirement Plan Summit in Baltimore MD (Oct. 24, 2017)

Doug Andre presented on global mobility at the Tax Executives Institute Annual Conference in Toronto Canada (Oct. 23, 2017)

Robin Solomon and Jodi Epstein led a panel on IRS/DOL Audits at fifth annual Women, Influence & Power Conference (WIPL) in Washington, DC (Oct. 12, 2017)

Jodi Epstein served as a panelist at the Pensions & Investments West Coast Defined Contribution Conference in San Diego CA (Oct. 9, 2017)

EB Update Archives