



M Benefit Solutions®

LEGISLATIVE UPDATE

NOTICE REGARDING PROPOSED TAX LEGISLATION

NOVEMBER 2017

As has been frequently reported, Republicans in the Senate, House of Representatives, and White House hope to pass a tax bill to drastically cut corporate tax rates and to make other significant changes in current tax law. The House of Representatives released their draft tax bill on November 2nd. The bill, H.R. 1, contains a provision, §3801, which would significantly alter the taxation of deferred compensation.

Under the provision, deferred compensation attributable to services performed after December 31, 2017 would be taxed at the time the compensation is no longer subject to a substantial risk of forfeiture, regardless of when paid. In addition, deferred compensation amounts attributable to services performed prior to January 1, 2018 would be subject to taxation at the later of the lapse of substantial risk of forfeiture or December 31, 2025.

A great deal of uncertainty surrounds the draft bill. For example, House Ways and Means Committee Chairman Kevin Brady (R-Texas) has said he will offer an additional amendment making “more substantive improvements to the bill” before being considered by the Ways and Means Committee the week of November 6. In addition, whatever bill the House decides upon, the Senate Finance Committee is working on its own bill, which is expected to be published later this month.

As a result of the various committees and negotiations to which this legislation will be submitted, it is uncertain whether this deferred compensation provision will survive to be part of any final House bill, be part of any Senate bill, or be part of any bill that might be enacted and signed into law. M Benefit Solutions will be closely monitoring the progress of the various tax bills as they work their way through the legislative process.

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