Not Just Right, Right for You.

The Tax-Exempt Million Dollar Compensation Limit

The 2017 tax reform reconciliation act (the Act) significantly affects tax-exempt organizations in numerous ways. The Act creates a new ‘excise tax on excess tax-exempt organization executive compensation’ effective for tax years beginning after December 31, 2017.

The Act creates Section 4960 of the Internal Revenue Code, which imposes a 21-percent excise tax on (i) annual remuneration in excess of $1 million paid by an applicable tax-exempt organization to a covered employee, and (ii) certain separation payments deemed excessive in relation to historic compensation (excess parachute payments) to a covered employee. Employers, not the covered employees, are liable for the excise tax. Section 4960 is effective for taxable years beginning after December 31, 2017.

An ‘applicable tax-exempt organization’ includes any organization exempt from tax under Section 501(a) as well as certain other types of tax-exempt entities.

A 'covered employee' is one of the top five most highly compensated employees of an applicable tax-exempt organization for the taxable year, plus any person who was a covered employee in any preceding taxable year beginning after December 31, 2016.

In adding Section 4960 Congress attempts to create parity between tax-exempt organizations and certain taxable corporations. Section 162(m) disallows a deduction by certain taxable corporations for compensation over $1 million paid to certain top executives and the highest compensated officers. Section 4960 imposes on tax-exempt organizations an excise tax equal to the corporate tax rate of 21 percent on similar compensation payments. Section 280G generally imposes a loss of tax deduction for excess parachute payments resulting from a change in control.

The excise tax on compensation over $1 million and the excise tax on excess parachute payments operate independently. One may apply even if the other does not. However, no more than one 21percent excise tax may apply to a particular payment.

Rick Wagner, JD

Rick has over 30 years of experience custom designing human resource solutions. He has deep technical expertise in areas such as employee stock ownership plans, equity-based long-term incentive plans, deferred compensation structuring, retirement and welfare plans, and compensation benchmarking/ reasonable compensation analyses in both the for-profit and not-for-profit sectors. These skills enable Rick to help his clients pursue their strategic objectives by aligning owner and employee interests, while navigating the myriad of tax, accounting, and regulatory challenges.

rick@customizedHRsolutions.com
Phone: 303-489-0141

Brook Bise, CPA

Brook has nearly 20 years of experience in accounting, consulting, and large corporate human resource departments, primarily focused on employee benefits. Brook provides insightful consulting on all aspects of employee benefit plans, including on-site internal human resource department support, with the goal of assisting companies in ensuring their plans are both technically compliant, and are operating efficiently and effectively in support of the company’s strategic objectives.

brook@customizedhrsolutions.com
Phone: 303-597-6801