

House Tax Reform Proposal Affecting Colleges and Universities

The U.S. House of Representatives issued its proposed income tax reform legislation, entitled “Tax Cut and Jobs Act”, on November 2, 2017. The bill would provide for a significant overhaul of the Internal Revenue Code with respect to both individual and business income taxes.

Of particular interest to educational institutions, the proposed legislation would potentially reduce the exclusion for employer-provided housing for college and university employees. Under current law, the value of lodging provided by an employer to an employee is excluded from the employee’s income if the lodging is provided for the employer’s convenience and acceptance of the lodging is a condition of employment. Housing provided by colleges and universities to their employees is excluded under Section 119(d) of the Internal Revenue Code to the extent that the lodging (i) is located on or in proximity to campus, (ii) is provided for use as a residence by the employee and (iii) the rent paid by the employee is equal to at least the lesser of five percent of the lodging’s appraised value or the average of the rent paid by individuals (other than employees or students of the educational institution) for comparable lodging provided by the educational institution.

Under the House’s proposed bill, the excludable amount under Section 119(d) would be capped at \$50,000 per year (\$25,000 for married taxpayers filing a separate return). The exclusion would be further phased out for “highly compensated employees,” those employees whose wages exceed a threshold amount (\$120,000 for 2017). For such individuals, the exclusion would be reduced (but not below zero) by an amount equal to fifty percent of such excess.

For colleges and university employees in the New York City metropolitan area where both property values and salaries are high, this proposed change in the law could have significant adverse income tax impacts. Congress’s attempt at enacting tax reform is still in the very early stages with many changes and compromises to come before new tax legislation is finally enacted. Cullen and Dykman will continue to monitor the proposed changes in the tax law and advise our higher education clients on the changes that may impact them. If you have any questions or concerns regarding the proposed legislation, please contact Deirdre Mitacek dmitacek@cullenanddykman.com, Dina Vespia dvespia@cullenanddykman.com or Kevin McDonough kmcdonough@cullenanddykman.com.

Practices

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