

IRS ADMINISTRATIVE PROVISIONS IN THE "PROTECTING AMERICANS FROM TAX HIKES" ACT

Late on December 18, Congress passed and the President signed into law a bipartisan, bicameral agreement was reached on tax extenders - i.e., the 50 or so temporary tax provisions that are routinely extended by Congress on a one- or two-year basis and numerous other tax provisions in the "Protecting Americans from Tax Hikes (PATH) Act of 2015" (the Act). The agreement, which makes permanent many of the individual and business extenders and contains provisions on Real Estate Investment Trusts (REITs), IRS administration and the Tax Courts and miscellaneous other provisions, was quickly passed by Congress and signed into law by the President. As explained in this *Hot Topic*, the PATH Act provides a number of measures that modify how IRS and its employees works.

The IRS-and-its-employee provisions would:

- Require the IRS Commissioner to ensure that IRS employees are familiar with and act in accordance with the taxpayer bill of rights, effective on the date of enactment.
- Prohibit IRS employees from using personal email accounts for official business (codifying IRS current policy), effective on the date of enactment.
- In the case of an investigation involving the return or return information of an individual alleging a violation of the Code Section dealing with unauthorized disclosure of return information, the Code Section dealing with unauthorized inspection of returns or return information or the Code Section dealing with offenses by U.S. officers and employees, the IRS may disclose to the complainant whether an investigation has been initiated, is open or is closed, effective for disclosures made on or after the date of enactment.
- Require IRS to create procedures under which a Code Section 501(c) organization facing an adverse determination may request administrative appeal to the IRS' Office of Appeals. Such adverse determinations include determinations relating to the initial or continuing classification of an organization as tax-exempt, a private foundation or a private operating foundation. This is effective for determinations made after May 19, 2014.
- Provide for a streamlined recognition process for organizations seeking tax exemption under Code Section 501(c)(4). Instead of the current process, Code Section 501(c)(4) organizations must file a simple one-page notice of registration with IRS within 60 days of the organization's formation. Within 60 days after an application is submitted, IRS must provide a letter of acknowledgment of the registration, which the organization can use to demonstrate its exempt status, typically with state and local tax authorities. This is generally effective after the date of enactment (transition rules apply for certain existing organizations).
- Allow Code Section 501(c)(4) organizations and other exempt organizations to seek review in Federal court of any revocation of exempt status by IRS, effective for pleadings filed after date of enactment.

- Provide for the termination of employment for IRS employees for taking official actions for political purposes. Grounds for termination of an IRS employee are expanded to include performing, delaying or failing to perform any official action (including an audit) by an IRS employee for the purpose of extracting personal gain or benefit for a political purpose. Effective on date of enactment.
- Provide that the gift tax doesn't apply to contributions to certain tax exempt organizations. The organizations are: (a) nonprofit civic organizations operated exclusively for social welfare and local employees' associations whose net earnings are used solely for charitable, educational or recreational purposes that are exempt under the Code; and (b) labor, agricultural or horticultural organizations that are exempt under the Code and chambers of commerce, business leagues, real estate boards, boards of trade or professional football leagues not organized for profit or private benefit that are exempt under the Code. Effective for transfers after date of enactment.
- Require employers to include an "identifying number" for each employee, rather than an employee's Social Security Number, on Form W-2. Effective on date of enactment.
- Allow enrolled agents approved by IRS to use the designation "enrolled agent," "EA", or "E.A.", effective on date of enactment.
- Correct and clarify certain technical issues in the partnership audit rules enacted in the Bipartisan Budget Act of 2015.

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