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Deferred Compensation

Compensation Rules for State, Local Governments Need Tailoring

BNA Snapshot

- Attorneys ask for tweaks to deferred comp proposed rules during IRS hearing
- IRS shouldn't rush into finalizing the rules

By **Kristen Ricaurte Knebel**

Oct. 18 — Proposed rules on state and local government-deferred compensation plans may be getting some high marks from the tax community but still need a little work, attorneys told the IRS during a hearing.

The long-awaited regulation under tax code **Section 457** on how to tax deferred compensation plans for state and local governments, which were issued in June, showed a “softening” from the Internal Revenue Service on this topic, Kirk Sherman of Sherman & Patterson Ltd. in Maple Plain, Minn., told representatives of the IRS at an Oct. 18 hearing on the proposed rules.

Deferred compensation plans are employer-sponsored plans or arrangements in which a portion of an employee's current compensation is payable in a later tax year.

While Sherman had some good things to say about the rules, he said they still need some tailoring “on the margin” to help with “understanding and compliance.”

One area in the proposed rules that might need some clarification is the section addressing elective deferral plan rules, Sherman said.

“The elective deferral plan rules are clear when applied to a vanilla deferral. ‘I elect to defer X percent of my salary,’ but applying these rules to two other common plan designs is not as clear,” he said.

Don't Rush the Rules

Sherman's partner, James Patterson, asked the IRS not to rush into finalization of the rules and to give final rules an effective date of Jan. 1, 2018, only if they are issued before the end of March 2017. This would allow everyone time to get acquainted with the final rules and make any necessary changes before the effective date, he said.

“The industry has waited nine years to get this proposed guidance and the guidance is different” from what the IRS “anticipated giving, which we are very happy about,” Patterson said.

Because of the time it took to get the rules and the changes that were included in the guidance, there should be an “orderly and not rushed rollout of the rules,” he said.

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