eBenefits Alert: Impact of the New Tax Law on Qualified Retirement Plans – Plan Loans

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The new tax act, known as the Tax Cuts and Jobs Act (TCJA) signed into law on December 22, 2017 made significant changes to the tax code. Mostly it does not affect qualified retirement plans, but there are noteworthy exceptions: plan loans, definition of compensation, and hardship withdrawals.

Here's an explanation of the first one - plan loans:

- **Plan Loans.** The TCJA extended the date by which participants must repay plan loans to avoid taxation of the loan. Now participants have until the due date (including extensions) of their tax return. Most plans give the participant a limited period—usually 30 to 90 days—after termination of employment to repay the loan. If the participant doesn't repay within this time period, the outstanding loan balance is treated as a taxable distribution (a loan offset). The participant can avoid the tax if he or she is able to make a rollover of the loan balance to another qualified retirement plan or an IRA within 60 days. The hard part is that an IRA will require cash for the rollover and won't accept the promissory note. This is the case for many qualified retirement plans as well. That left the participant in a position of having only 60 days to find enough cash. TCJA extends this 60-day period—now it doesn't expire until the due date (including extensions) of the participant's tax return for the year the distribution (offset) occurs. This gives the participant more time to find the money to fulfill the loan obligation and avoid taxation. The new law applies to distributions (offsets) that occur starting in 2018.

What should you do? Review your loan procedures and talk to your plan administrator to make sure the information you provide participants is consistent with the new rules.

For more information or questions, contact your attorney in the Employee Benefits & Executive Compensation Practice Group at Gray Plant Mooty.

Read about definition of compensation here and hardship withdrawals here.