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OIRA review of proposed regulations: Guidance under section 451(c)

OMB's Office of Information and Regulatory Affairs (OIRA) has received for review from the U.S. Treasury Department proposed regulations as guidance under new section 451(c).

Pub. L. No. 115-97 (December 22, 2017)—the legislation that is often referred to as the “Tax Cuts and Jobs Act” (TCJA)—added section 451(c) to permit accrual method taxpayers to elect to defer amounts received for goods and services to be provided in the future to the extent that the advance payment is not recognized as revenue in a financial statement for the year when the payment is received.

The proposed regulations are listed on the OIRA website as:

- [RIN: 1545-BO78](#): *Guidance on new section 451(c) [TCJA]*

The proposed regulations are described on the OIRA website as follows:

Section 451 generally governs the timing of income and provides that any item of gross income shall be included in the gross income for the taxable year in which received by the taxpayer, unless, under the method of accounting used in computing taxable income, such amount is to be properly accounted for as of a different period. In general, amounts received by an accrual method taxpayer for goods or services to be provided in the future (advance payments) must be included in gross income in the taxable year of receipt. See 451; Schlude v. Commissioner, 372 U.S. 128 (1963); Rev. Rul. 84-31, 1984-1 C.B. 127.

Generally, under 451(c), for an accrual method taxpayer, deferral is permitted to the extent that an advance payment received is not recognized as revenue in an applicable financial statement in the year the payment is received. Any remaining portion of such advance payment is recognized in gross income in the taxable year following the taxable year in which such payment is received. Section 451(c) also codifies much of the treatment of advance payments under Rev. Proc. 2004-34 and permits the allocation of the transaction price to performance obligations if consistent with applicable financial statements.

Treasury regulations that are identified as “major” regulations are subject to review by OMB’s OIRA before being issued, pursuant to Executive Order 13771.

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