

Not Quite as Bad as It Seems But Almost: IRS Notice 2018-68 Provides Tax Act Section 162(m) Change Guidance

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Winston & Strawn [Employee Benefits & Executive Compensation](#) Partner Ruth Wimer addresses the changes made by the 2017 Tax Cut and Jobs Act (2017 tax act), the IRS has at long last released its much-anticipated guidance with respect to the significant and unfavorable amendments related to the deductibility of executive compensation under tax code Section 162(m). The 2017 tax act eliminated the exceptions for compensation over \$1 million per year for performance and commission-based pay and also expanded the definition of covered employee dramatically. The Internal Revenue Service Notice 2018-68 initially appears very harsh on several interpretations of this new law, but careful analysis, strategizing, and solid record-keeping, will allow affected companies to obtain deductions to the maximum extent possible on a go-forward basis.

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