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CLIENT ALERT

Tax Reform Impacts Trade Association Executive Compensation

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The tax reform bill passed by Congress in late December 2017 imposes a new 21 percent excise tax on certain executive compensation paid by tax-exempt entities, including "section 501(c)(6)" trade associations. Trade associations potentially subject to this new excise tax may want to review their projected compensation to top executives and any severance agreements, and to consider restructuring any impacted compensation.

The new 21 percent excise tax applies to executive compensation in excess of $1 million paid in a year to one of the organization's top five highest compensated employees or to a person that was one of the top five highest compensated in a previous year (but only going back to 2017) (collectively, "covered employees").

Wages paid by the tax-exempt organization itself or by a related organization (including organizations under common control) count toward the $1 million limit.

There is also a 21 percent excise tax generally imposed on separation payments that are contingent on a change of control of the organization and paid to a covered employee, if the aggregate contingent payments exceed three times the individual's average annual compensation for the preceding five years.

For more information, please contact the professional(s) listed below, or your regular Crowell & Moring contact.