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# IRS Provides Initial Guidance on New Tax Benefits Under Code Section 83(i)

December 13, 2018

The Tax Cuts and Jobs Act of 2017 amended Section 83 of the Internal Revenue Code by adding a new Section 83(i) (?ÃÂ£***Code Section 83(i)***?ÃÂ¥), which allows certain employees of privately-held corporations to defer the recognition of income (for up to five years) attributable to the vesting or receipt of certain qualified company stock transferred to such employees upon the exercise of stock options or the settlement of restricted stock units. On December 7, 2018, the IRS released Notice 2018-97, which provides initial guidance on certain aspects of Code Section 83(i). In particular, the notice provides guidance on (i) the application of the requirement in Code Section 83(i)(2)(C)(i)(II) that equity grants be made to at least 80 percent of all employees who provide services to the corporation in the United States, (ii) the application of tax withholdings on the deferred income related to the qualified company stock, and (iii) the ability of an employer to opt out of permitting employees to elect the deferred tax treatment even if the requirements under Code Section 83(i) are otherwise met. The IRS anticipates issuing further guidance on Code Section 83(i) in the form of proposed regulations, which are expected to incorporate the guidance provided in this notice. **View Notice 2018-97**.