
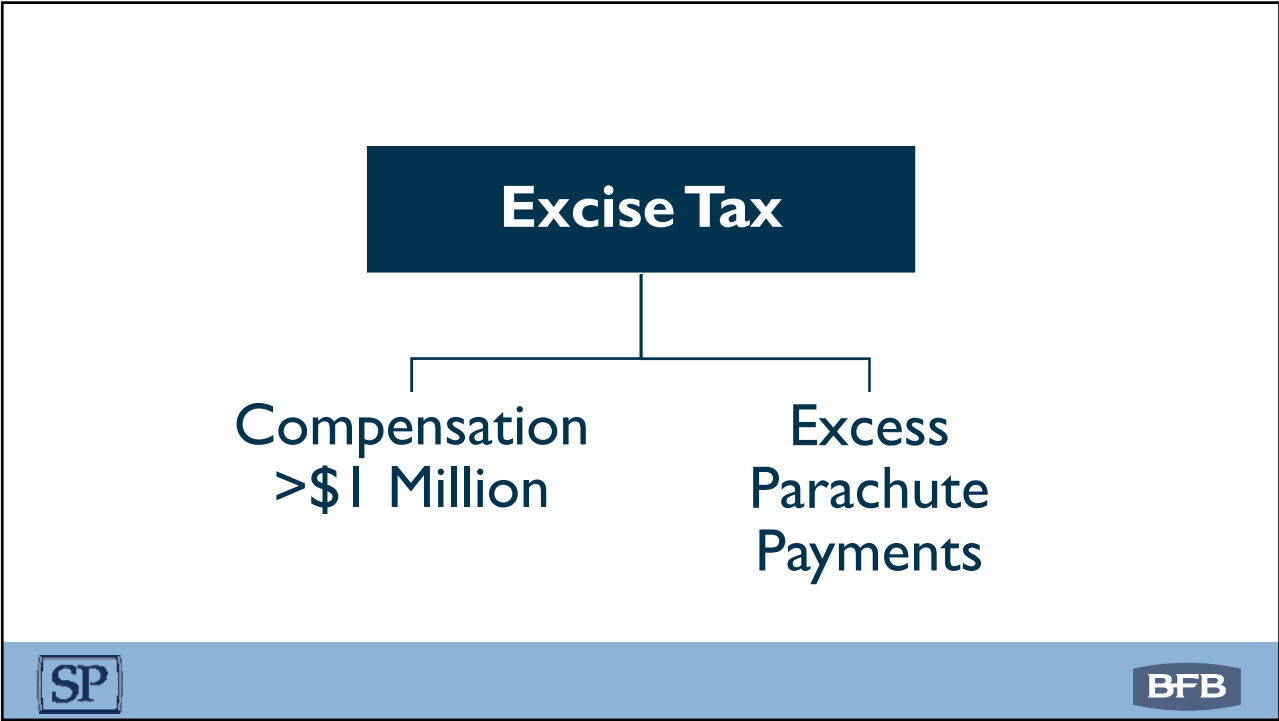


Tax Cuts and Jobs Act: Impact on Credit Union Executive Compensation

January 2018
Jeremy DeBruin, BFB Gallagher
Kirk Sherman, Partner, Sherman & Patterson, Ltd.

 A DIVISION OF
Gallagher Benefit Services, Inc.



Taxable Employers

Revenue \$1,100,000

Compensation

Taxable Income

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Taxable Employers

Revenue \$1,100,000

Compensation **(\$1,100,000)**

Taxable Income

SP

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Taxable Employers

Revenue	\$1,100,000
Compensation	<u>(\$1,100,000)</u>
Taxable Income	\$0

SP

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Taxable Employers

Revenue	\$1,100,000
Compensation	<u> </u>
Taxable Income	

SP

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Taxable Employers

Revenue	\$1,100,000
Compensation	<u>(\$1,000,000)</u>
Taxable Income	

SP

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Taxable Employers

Revenue	\$1,100,000
Compensation	<u>(\$1,000,000)</u>
Taxable Income	\$100,000

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Taxable Employers

Revenue	\$1,100,000
Compensation	<u>(\$1,000,000)</u>
Taxable Income	\$100,000
Tax @ 21%	\$21,000

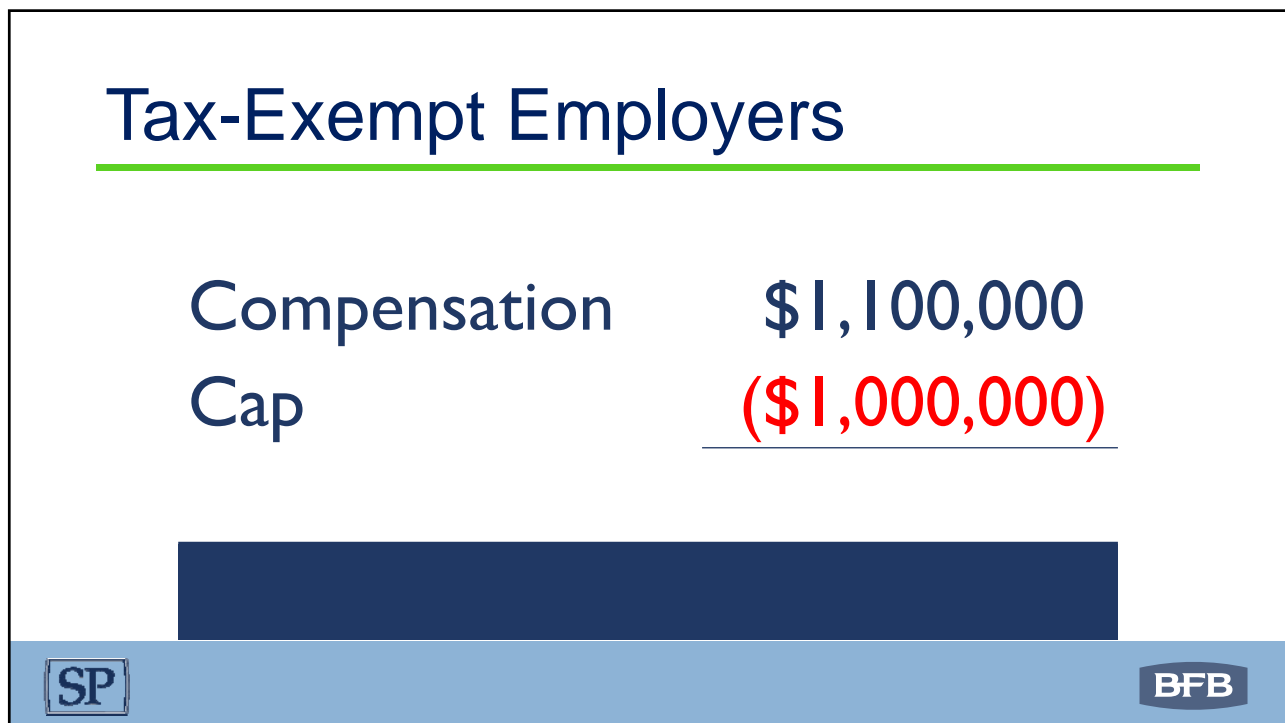
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Tax-Exempt Employers

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Tax-Exempt Employers

Compensation	\$1,100,000
Cap	<u>(\$1,000,000)</u>
Excess	\$100,000

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Tax-Exempt Employers

Compensation	\$1,100,000
Cap	<u>(\$1,000,000)</u>
Excess	\$100,000
21% Excise Tax	\$21,000

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Top-5 Group

Top-5 highest compensated

- In the current year
- In any prior year (2017 or later)
- Current or former employee

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2018**2019**

- Exec A
- Exec B
- Exec C
- Exec D
- Exec E
- Exec F
- Exec G
- Exec H

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2018	2019
<ul style="list-style-type: none">• Exec A• Exec B• Exec C• Exec D• Exec E	
<hr/> <ul style="list-style-type: none">• Exec F• Exec G• Exec H	

SP BFB

2018	2019
<ul style="list-style-type: none">• Exec A• Exec B• Exec C• Exec D• Exec E	<ul style="list-style-type: none">• Exec A• Exec B• Exec C• Exec E• Exec F
<hr/> <ul style="list-style-type: none">• Exec F• Exec G• Exec H	<ul style="list-style-type: none">• Exec G• Exec H• Exec D

SP BFB

2018	2019
• Exec A	• Exec A
• Exec B	• Exec B
• Exec C	• Exec C
• Exec D	• Exec E
• Exec E	• Exec F
<hr/>	
• Exec F	• Exec G
• Exec G	• Exec H
• Exec H	• Exec D

SP BFB

2018	2019
• Exec A	• Exec A
• Exec B	• Exec B
• Exec C	• Exec C
• Exec D	• Exec E
• Exec E	• Exec F
<hr/>	
• Exec F	• Exec G
• Exec G	• Exec H
• Exec H	• Exec D

SP BFB

2018	2019
• Exec A	• Exec A
• Exec B	• Exec B
• Exec C	• Exec C
• Exec D	• Exec E
• Exec E	• Exec F
• Exec F	• Exec G
• Exec G	• Exec H
• Exec H	• Exec D

Compensation

W-2 Box I Gross Wages

- Salary and bonus
- Taxable insurance coverage

Compensation

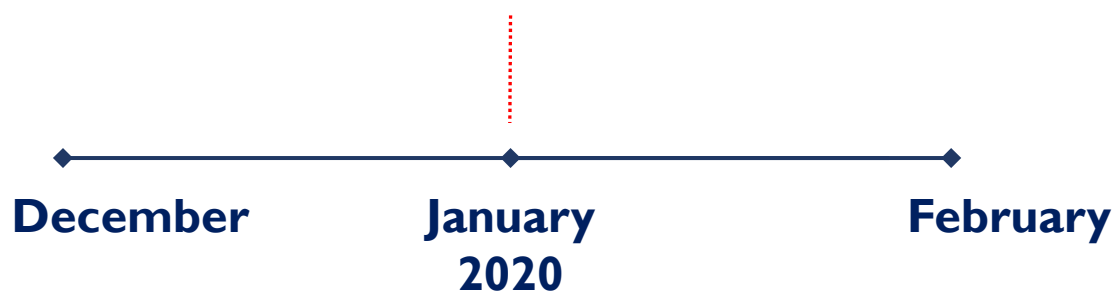
Special Rules

- Control group aggregation
- Include compensation when no “substantial risk of forfeiture”

SP

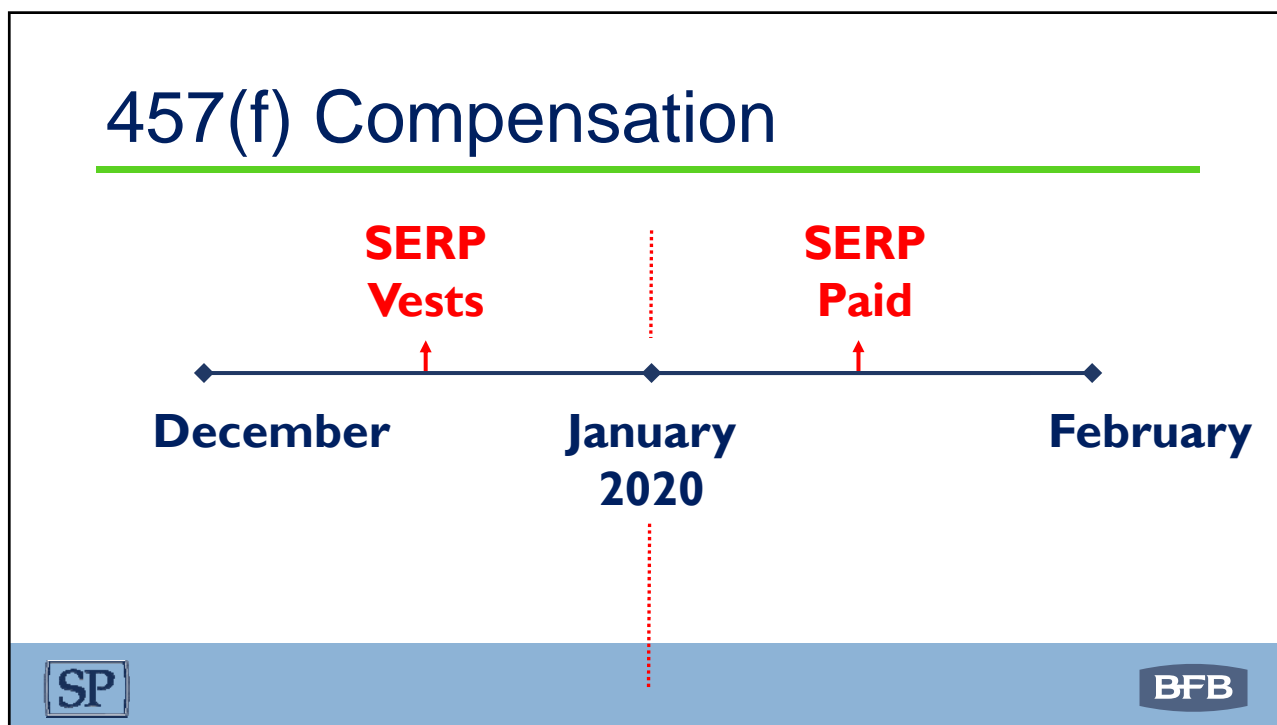
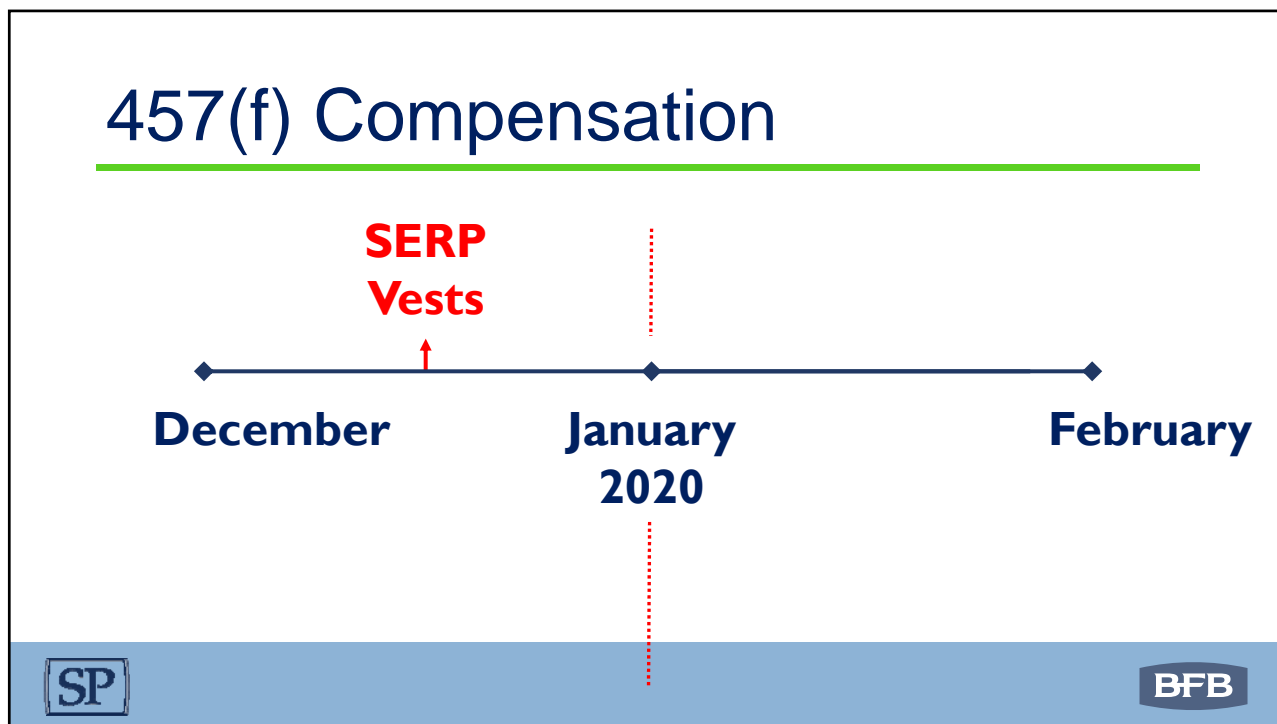
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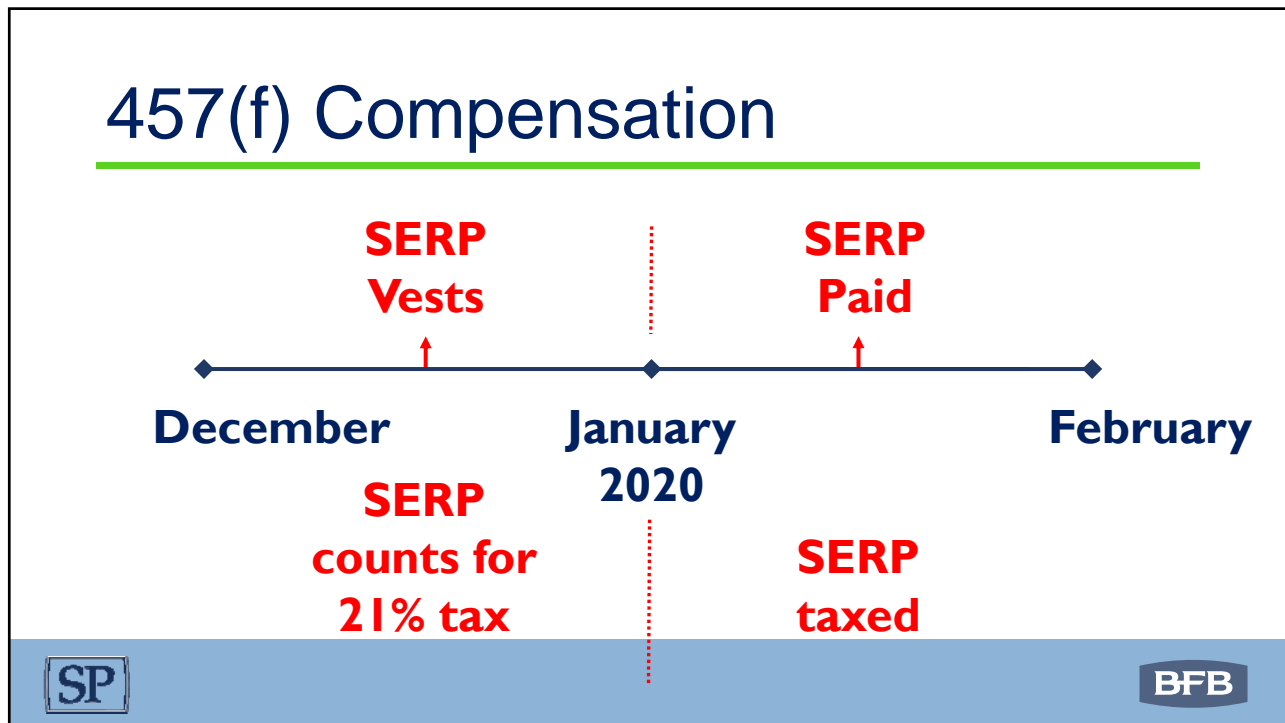
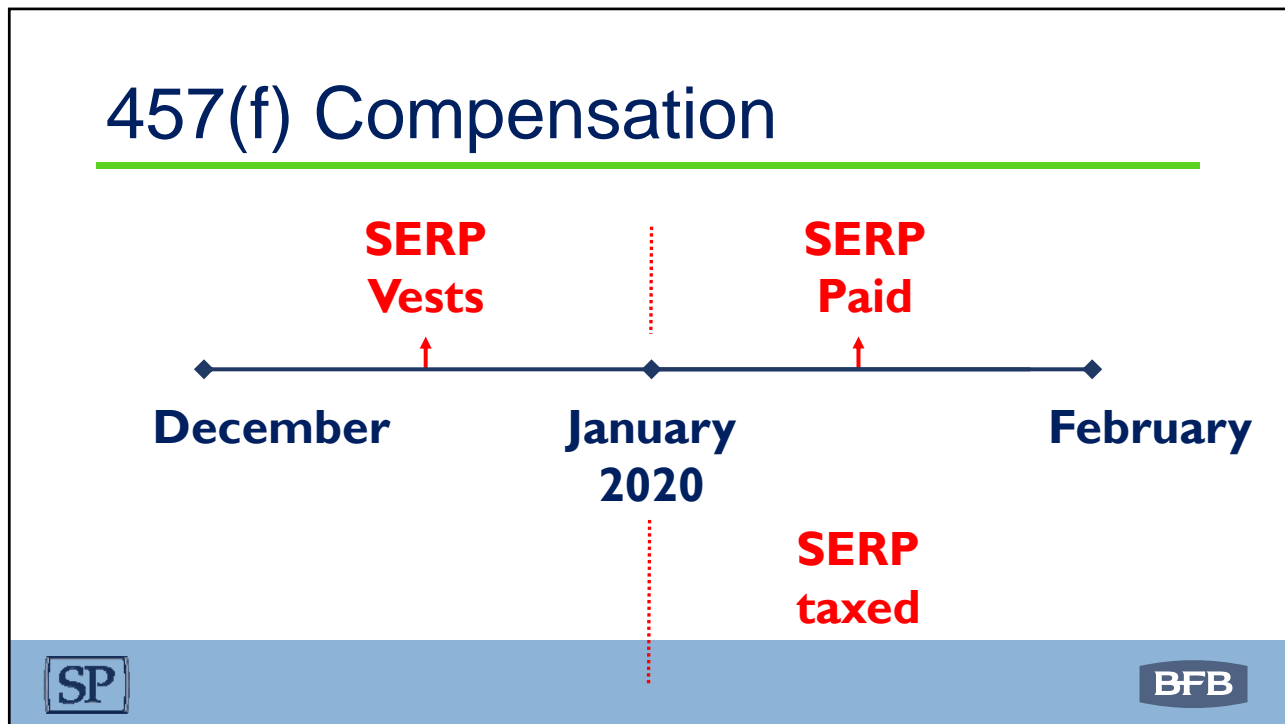
457(f) Compensation



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457(f) Compensation

Earnings on after-tax SERP

- Income taxation – when received
- Excise tax – in year it accrues





	2018	2019	2020	2021	2022	2023
Salary	\$500,000	\$520,000	\$540,000	\$560,000	\$580,000	\$600,000
Bonus	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
Cash	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$720,000



	2018	2019	2020	2021	2022	2023
Salary	\$500,000	\$520,000	\$540,000	\$560,000	\$580,000	\$600,000
Bonus	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
Cash	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$720,000
SERP	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000




	2018	2019	2020	2021	2022	2023
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SERP	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
62 Cliff						\$660,000





	2018	2019	2020	2021	2022	2023
Cash	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$720,000
SERP	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
62 Cliff						\$660,000
Total W-2	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$1,380,000



	2018	2019	2020	2021	2022	2023
Cash	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$720,000
SERP	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
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Total W-2	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$1,380,000
21% Tax	--	--	--	--	--	\$79,800





	2018	2019	2020	2021	2022	2023
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21% Tax	--	--	--	--	--	\$79,800
Cash	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
Total W-2	\$700,000	\$728,000	\$756,000	\$784,000	\$812,000	\$840,000






	2018	2019	2020	2021	2022	2023
Cash	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$720,000
SERP	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
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21% Tax	--	--	--	--	--	--


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Total W-2	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$1,380,000
21% Tax	--	--	--	--	--	\$79,800
Spread	\$0	\$204,000	\$0	\$220,000	\$0	\$236,000

	2018	2019	2020	2021	2022	2023
Cash	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$720,000
SERP	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
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Total W-2	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$1,380,000
21% Tax	--	--	--	--	--	\$79,800
Spread	\$0	\$204,000	\$0	\$220,000	\$0	\$236,000
Total W-2	\$600,000	\$828,000	\$648,000	\$892,000	\$696,000	\$956,000

	2018	2019	2020	2021	2022	2023
Cash	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$720,000
SERP	\$100,000	\$104,000	\$108,000	\$112,000	\$116,000	\$120,000
62 Cliff						\$660,000
Total W-2	\$600,000	\$624,000	\$648,000	\$672,000	\$696,000	\$1,380,000
21% Tax	--	--	--	--	--	\$79,800
Spread	\$0	\$204,000	\$0	\$220,000	\$0	\$236,000
Total W-2	\$600,000	\$828,000	\$648,000	\$892,000	\$696,000	\$956,000
21% Tax	--	--	--	--	--	--




409A Warning

Short-Term
Deferral
Exemption

=

Change SERP
Vesting
and
Payment Date

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409A Warning

~~Short-Term
Deferral
Exemption~~

=

Change SERP
Vesting
and
Payment Date

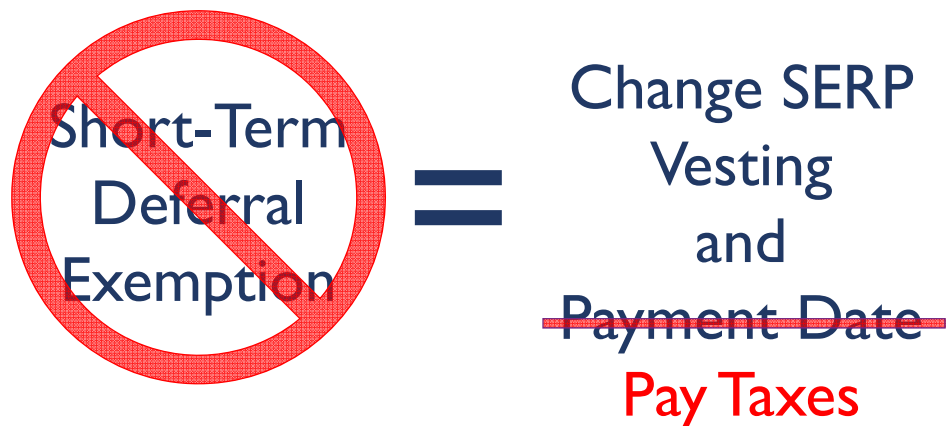
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409A Warning



409A Warning



SERP Substitute

Loan Regime Split Dollar

- If no taxable income
- Then no excise tax

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Excess Parachute Payments

- Top-5 group
 - Only if HCE (\$120,000)
- With or w/o Change of Control

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Excess Parachute Payments

If severance pay is
3 or more x Base Amount
Then severance pay
exceeding 1 x Base Amount
= Excess Parachute Payment

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Base Amount

5-year average W-2

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Parachute Payments

	Executive A	Executive B
Base Amount	\$500,000	\$500,000
Severance Pay		
Excess Para Pay		
Excise Tax		

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Parachute Payments

	Executive A	Executive B
Base Amount	\$500,000	\$500,000
Severance Pay	\$1,500,000	
Excess Para Pay	\$1,000,000	
Excise Tax	\$210,000	

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Parachute Payments

	Executive A	Executive B
Base Amount	\$500,000	\$500,000
Severance Pay	\$1,500,000	\$1,499,999
Excess Para Pay	\$1,000,000	\$0
Excise Tax	\$210,000	\$0

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Severance Pay

- Excludes 457(b) and QPP
- Accelerated vesting?
 - 280G includes accelerated vesting (1% per month)

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Poll

What best reflects how your board would approach the >\$1 million excise tax:

- Long vesting dates for retention outweigh the cost of the excise tax
- Short vesting dates to avoid excise tax outweighs retention concerns
- We will be paying excise tax in any case, so long vesting dates are fine
- Not sure



Next Steps

- Evaluate 457(f) vesting
- Consider alternatives (e.g., LRSD)
- Evaluate severance arrangements
- Watch for regulations



Thank you!



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A DIVISION OF
Gallagher Benefit Services, Inc.



Sherman & Patterson
Attorneys at Law



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