

New Section 451 Guidance

Federal Bar Association breakfast briefing



**Federal Bar
Association**

Section on Taxation

Join the FBA Section on Taxation and speakers from Eversheds Sutherland, RSM, IRS and Treasury as they discuss the recently proposed regulations under section 451 of the Internal Revenue Code.

The 2017 Tax Cuts and Jobs Act amended section 451, which involves the recognition of income for tax purposes. With these amendments, the historic rules of income recognition were changed significantly. Section 451(b) was revised to provide that for accrual method taxpayers, the All Events Test for any item of income is satisfied no later than when such income is recognized for financial accounting purposes. Additionally, section 451(c) was added to the Code and allows a taxpayer to elect to defer the recognition of advance payments to the taxable year following the taxable year of receipt to the extent such income is deferred for financial accounting purposes, except any portion of such payment which is required under section 451(b) to be included in gross income in the taxable year in which the payment is received. Section 451(c) essentially codified the Deferral Method under Rev. Proc. 2004-34. Under the Deferral Method, an advance payment is included in gross income for the taxable year of receipt to the extent recognized for financial accounting purposes for that taxable year, and the

remaining amount of the advance payments are included in the next succeeding taxable year after the taxable year in which the payment is received, i.e., a one-year deferral.

Two sets of proposed Treasury regulations and a revenue procedure addressing accounting method changes were issued last week. One set of proposed regulations address section 451(b) (RIN 1545-BO68), which requires taxpayers that use the accrual method and have an applicable financial statement (AFS) to recognize income at the earlier of when the all-events test is met or when the item of income is included in revenue for financial accounting purposes. The second set of proposed regulations (RIN 1545-BO78) addresses the timing of income inclusion under Sec. 451(c) with respect to advance payments received for goods, services, and other items. The IRS also issued a revenue procedure, Rev. Proc. 2019-37, which set forth procedures for obtaining automatic consent to change an accounting method to comply with sections 451(b) and (c).

Date: Thursday, September 19, 2019

Time: 7:30 a.m. Breakfast; Program from 8:00–9:30 a.m.

Location: Eversheds Sutherland, 700 Sixth Street, NW, Suite 700, Washington, DC 20001

Register: Contact Kathleen Waddell (kathleenwaddell@eversheds-sutherland.com)

CLE Credit: Pending

Speakers:

- **Ellen McElroy**, Eversheds Sutherland
- **Ryan Corcoran**, RSM
- **Mike Resnick**, Eversheds Sutherland
- **Ellen Martin**, Tax Policy Advisor, Office of Tax Policy, US Department of Treasury
- **Peter Ford**, Senior Counsel, Branch 1, IRS Office of Chief Counsel (IT&A)
- **Karla Meola**, IRS Office of Chief Counsel, Special Counsel to Associate Chief Counsel (IT&A)

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