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TAX CUTS AND JOBS ACT
SUMMARY OF IMPACT ON GOVERNMENTAL PLANS

PRIOR LAW	NEW LAW	ICE MILLER SUMMARY AND COMMENTS
RETIREMENT PLAN PROVISIONS		
Distributions from an eligible retirement plan that are contributed to a Roth IRA in a qualified rollover contribution and converted into Roth contributions may subsequently be recharacterized as traditional IRA contributions if contributed to a traditional IRA on or before the due date for tax returns for that taxable year.	**Section 13611 – Repeal of special rule permitting recharacterization of Roth conversions** Taxpayers no longer have the ability to unwind conversion contributions made to a Roth IRA. Distributions from a qualified retirement plan that are contributed to a Roth IRA in a qualified rollover contribution cannot be recharacterized as traditional IRA contributions. However, ordinary contributions to a Roth IRA can still be recharacterized as contributions to a traditional IRA before the due date for the individual's tax return for that year. **The provision applies to tax years beginning after 2017.**	**CHANGE:** *Taxpayers will not be allowed to recharacterize conversion contributions to a Roth IRA as traditional IRA contributions.* **COMMENT:** *IRA providers that allow recharacterization of Roth conversion contributions will need to amend plan and policy language.*
Plans that pay only length of service awards to volunteers who provide firefighting and prevention services, emergency medical services, or ambulance services are not treated as providing deferred compensation under Section 457 for annual awards of up to $3,000.	**Section 13612 – Modification of Rules Applicable to Length of Service Awards Plans** The annual dollar limit on length of service awards is increased from $3,000 to $6,000, with an annual adjustment for the cost of living. **The provision applies to tax years beginning after 2017.**	**CHANGE:** *The annual dollar limit for length of service awards will increase from $3,000 to $6,000.* **COMMENT:** *Volunteer firefighter plans will need to be reviewed.*

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When a plan is terminated or a participant terminates employment, outstanding loans must generally either be repaid to the plan or rolled to an IRA within 60 days to avoid immediate taxation.	**<u>Section 13613</u> – <u>Extended rollover period for the rollover of plan loan offset amounts in certain cases</u>** Upon plan termination or severance from employment, a loan will not be taxed as a distribution if repaid or rolled into an IRA by the due date for filing tax returns for that year (with extensions). **The provision applies to plan loan offset amounts treated as distributed in tax years beginning after 2017.**	**CHANGE:** *Participants who have an outstanding loan balance when a plan terminates or the participant terminates employment will have until their tax filing deadline to roll the loan balance to an IRA to avoid immediate taxation.* **COMMENT:** *Retirement systems that provide for loans will need to review their loan provisions to ensure compliance.*
INVESTMENTS		
Gains from the sale or exchange of capital assets qualify for long-term capital gains treatment if the asset has been held for more than one year.	**<u>Section 13309 – Recharacterization of certain gains in the case of partnership profits interests held in connection with performance of investment services</u>** In order to qualify for long-term capital gains treatment, interests in an investment or real estate business must be held for three years. **The provision applies to tax years beginning after 2017.**	**CHANGE:** *Interests in an investment or real estate business will need to be held three years (instead of one) to qualify for long-term capital gains treatment.* **COMMENT:** *Although most interests in investment or real estate business are held for a longer period of time, investors and investment officers should be aware of this change to plan around potential implications.*

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EXECUTIVE COMPENSATION		
Nothing comparable.	**Section 13602 – Tax on Excess Tax-Exempt Organization Executive Compensation** An excise tax is imposed on covered employees of a tax-exempt organization who receive remuneration in excess of $1,000,000 and/or any excess parachute payment. The tax is equal to 21% (the corporate income tax rate) of the sum of the amount of remuneration in excess of $1,000,000 and any excess parachute payment. **The provision applies to tax years beginning after 2017.**	**COMMENT:** *A "covered employee" is defined as an employee (including a former employee) who is one of the five highest compensated employees of the organization for the current tax year or was a covered employee for any tax year beginning after December 31, 2016.*

PRIOR LAW	NEW LAW	ICE MILLER SUMMARY AND COMMENTS
DISASTER RELIEF – RETIREMENT PLANS		
Nothing comparable.	**Section 11028** – **Relief for 2016 Disaster Areas** Individuals who during 2016 lived in an area that experienced a major disaster declared by the President and who sustained an economic loss on account of the disaster are given tax relief for some retirement plan distributions. For such individuals, distributions from a qualified retirement plan, 403(b) plan, governmental 457(b) plan, or an IRA between 1/1/16 and 12/31/17 receive the following special tax treatment: (1) The 10-percent tax on early distributions under Section 72(t) does not apply; (2) The distribution may be repaid or contributed to a plan that would accept it as a rollover distribution, at any time during the 3-year period following distribution; (3) The distribution is included in the recipient's income ratably over the 3-taxable-year period beginning with the year of receipt, unless the recipient elects otherwise; and (4) The 20-percent withholding requirement applicable to eligible rollover distributions under Section 3405 does not apply. Qualified distributions are limited to $100,000 for the entire two-year period.	**COMMENT:** *Tax relief is available to some participants who lived in disaster areas in 2016 and took distributions from qualified retirement plans, 403(b) plans, governmental 457(b) plans, or IRAs. It applies to distributions between 1/1/16 and 12/31/17. (This is similar to the relief provided to victims of Hurricanes Harvey, Irma, and Maria in 2017.)*

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