

Client Alert

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IRS Simplifies Section 83(b) Election Process

By Ali Nardali and Rose Plato

Under Section 83(b) of the Internal Revenue Code ("Section 83(b)"), a taxpayer who receives certain property subject to vesting as compensation for services (for example, a restricted stock award granted by the taxpayer's employer) may elect to include in gross income the fair market value of the property at the time of the transfer over the amount (if any) paid for the property (an "83(b) election"). If an 83(b) election is made, the taxpayer recognizes income on the property in the year of the transfer, rather than in a potentially later year when the property becomes vested.

Section 83(b) requires the taxpayer to file an 83(b) election with the IRS no later than 30 days after the property is transferred. In the past, the taxpayer was also required to attach and submit a copy of the 83(b) election with the taxpayer's income tax return for the year in which the property is transferred.

However, recently issued final regulations under Section 83(b) eliminate the requirement that the taxpayer attach and submit a copy of the 83(b) election with the taxpayer's income tax return for the year in which the property is transferred. Removal of this requirement should make it easier for taxpayers to file income tax returns electronically.

The final regulations apply to property transferred on or after January 1, 2016, but taxpayers also may rely on the guidance in the identical proposed regulations for property transferred on or after Jan. 1, 2015.

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