

## Section 120 Q & A

### **1. What is Section 120?**

Section 120 is an expired provision of the Internal Revenue Code which previously excluded from an employee's taxable income the value of employer contributions to nondiscriminatory group legal services plans and the value of benefits provided under such plans. The exclusion was quite limited, with a cap of \$70 per employee per year. The provision did not originally contain a cap on the amount that an employer could contribute on a non-taxable basis. The cap was added in 1988 as part of the Technical and Miscellaneous Revenue Act of 1988. We are seeking to reinstate Section 120 without a cap to level the playing field with other employee benefits.

### **2. When was Section 120 first enacted?**

The exemption was passed as part of the Tax Reform Act of 1976. Originally enacted for a period of five years, it was extended -- with bipartisan support -- on seven separate occasions between 1981 and 1991 (1981, 1984, 1986, 1988, 1989, 1990 and 1991). The last of these extensions expired on June 30, 1992.

### **3. The exemption created under Section 120 expired years ago; why does it need to be reinstated now?**

There are a variety of reasons that justify reinstatement of the exemption. First, the expiration of the exemption in 1992 triggered a tax increase for millions of working Americans, whose employers contribute toward the cost of this benefit. These individuals are taxed on the benefit regardless of whether they use the available legal services. Especially hard hit are retired workers, more often than not living on fixed incomes, who retain employer provided benefits.

Additionally, the expiration of Section 120 has not resulted in additional revenue for the treasury. Instead, employers have shifted financial resources to other, tax exempt benefits. Therefore, by reinstating this provision of the Internal Revenue Code, Congress will level the playing field for employer provided legal benefits.

Because legal services plans promote preventive law and tackle problems that would otherwise involve the use of governmental resources, the resulting gains outweigh any costs associated with the tax exemption.

Small business owners have disproportionately large administrative expenses associated with the non-preferred status of legal services benefits. Because the benefit has a low annual cost, generally less than \$150.00 per employee per year, administrative costs associated with creating W-2's or 1099's and then answering the inevitable questions, make group legal a less desirable benefit.

Many plans cover retirees who are on a fixed income and have to pay taxes on the benefit, whether they use it or not. Over several years, this tax on imputed income can add up for retirees.

### **4. What benefits result from employer sponsored legal plans?**

Legal plans help employees deal with issues that directly impact their families by providing representation in connection with child support enforcement, custody issues, and domestic violence. Generally, plans cover services for wills, probate, real estate, consumer problems, and other typical legal needs of working families. Preventive legal service, which allows legal problems to be treated while they are still at a manageable stage, is a salient characteristic of all group legal service plans. Employer sponsored plans also meet the needs of older Americans -- those still in the workforce, as well as retirees -- by furnishing advice regarding issues of incapacity, medical intervention, access to nursing home and other health care services, guardianship and conservatorship, and the transfer of property upon death.