

Andrew Shapiro Quoted in "The Biggest Benefits Policy Developments Of 2019"

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Andrew E. Shapiro, Member of the Firm in the Employee Benefits and Executive Compensation practice, in the firm's New York office, was quoted in *Law360*, in "The Biggest Benefits Policy Developments Of 2019," by Emily Brill. (*Read the full version - subscription required.*)

Following is an excerpt:

The biggest benefits policy developments of 2019 arrived in the second half of the year, with lawmakers greenlighting a new type of retirement plan and repealing a tax on blue-chip health plans, and the U.S. Department of Labor taking steps toward allowing employers to send all retirement plan disclosures electronically.

The biggest executive compensation policy development also skidded in right before the year's end, arriving Dec. 16 when the IRS issued proposed regulations clarifying which companies must limit the amount of executive pay they write off during tax season.

Here, *Law360* breaks down 2019's most exciting regulatory and legislative developments in the world of employee benefits and executive compensation. ...

IRS Releases Proposed 162(m) Regs

2019 was a relatively slow year for executive compensation policy — that is, until its final weeks, attorneys say.

People



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In mid-December, the IRS took the first step toward clarifying which corporations must limit their tax write-offs of executives' pay to the first \$1 million of C-suite salaries.

Companies used to be able to write off their executives' entire salaries for tax purposes, as long as the compensation was classified as performance-based. Congress forbade that practice in 2017 through the Tax Cuts and Jobs Act, but a grandfathering provision allowed certain companies to keep doing it.

The IRS was tasked with interpreting the grandfathering provision, but it didn't issue regulations on the subject until now. Instead, it had issued a piece of initial guidance, which carries less weight than a regulation, in 2018.

"The prior guidance under the tax reform was a notice — 2018-68 — and now it's a proposed regulation," said Andrew E. Shapiro, a member of Epstein Becker Green's employee benefits and executive compensation practice. "It definitely goes into more detail on the rules and requirements of the new [Internal Revenue Code] Section 162(m). It will supersede the notice once the proposed regulations are finalized, and clarify who's a covered employee and which corporations are subject to the requirement."