

Guidance under §§ 36B, 5000A, and 6011 on the suspension of personal exemption deductions

Notice 2018-84

PURPOSE

Section 11041 of the Tax Cuts and Jobs Act, Pub. L. No. 115-97, 131 Stat. 2054, 2082 (the Act), added § 151(d)(5) to the Internal Revenue Code (Code). Section 151(d)(5) reduces the amount of the personal exemption deduction to zero for taxable years beginning after December 31, 2017, and before January 1, 2026. This notice provides interim guidance clarifying how the reduction of the personal exemption deduction to zero in § 151(d)(5) applies for purposes of certain rules under §§ 36B and 6011 relating to the premium tax credit and under § 5000A relating to the individual shared responsibility provision. This notice also announces that the Department of the Treasury (Treasury Department) and the Internal Revenue Service (IRS) intend to amend the regulations under §§ 36B and 6011 to clarify the application of § 151(d)(5). Until further guidance is issued, the interim guidance described in this notice applies for purposes of the regulations under §§ 36B and 5000A and for purposes of § 1.6011-8(a).

BACKGROUND

Section 151 generally allows a taxpayer to claim a personal exemption deduction for the taxpayer, the taxpayer's spouse, and any dependents, based on the exemption amount defined in § 151(d). For tax years prior to 2018, a taxpayer claimed a personal exemption deduction for an individual by putting the individual's name and taxpayer identification number (TIN) on the taxpayer's income tax return, multiplying the number of allowed exemptions by the exemption amount, and entering that amount on the tax return.

Section 11041 of the Act added § 151(d)(5) to the Code. Section 151(d)(5)(A) provides that, for taxable years beginning after December 31, 2017, and before January 1, 2026, the term "exemption amount" means zero. Section 151(d)(5)(B) provides that the reduction of the exemption amount to zero "shall not be taken into account in determining whether a [personal exemption] deduction is allowed or allowable, or whether a taxpayer is entitled to a deduction under this section." Thus, even though the amount of the personal exemption deduction is reduced to zero, taxpayers are still allowed personal exemption deductions under § 151 for purposes of other provisions of the Code. See H.R. Rep. No. 115-466 at 203 n.16 (Conf. Rep.) (2017) ("The provision [amendments to § 151] also clarifies that, for purposes of taxable years in which the personal exemption is reduced to zero, this should not alter the operation of those provisions of the Code which refer to a taxpayer allowed a deduction (or an individual with respect to whom a taxpayer is allowed a deduction) under section 151.").

Section 36B allows a premium tax credit to eligible individuals who enroll themselves, their spouse, or any dependent (as defined in § 152) in a qualified health

plan through an Exchange, and § 6011 provides general rules related to income tax return filing requirements. The regulations under §§ 36B and 6011 include rules that apply based on whether a taxpayer claims or claimed a personal exemption deduction under § 151 for an individual. These rules affect eligibility for the premium tax credit, computation of the premium tax credit, reconciliation of advance payments of the premium tax credit, and income tax return filing requirements related to the premium tax credit. Specifically, references such as “claim a personal exemption deduction,” “claims a personal exemption deduction,” or “claimed as a personal exemption deduction,” are included in §§ 1.36B-1(d); 1.36B-2(c)(4); 1.36B-4(a)(1)(ii)(B)(1), (a)(1)(ii)(B)(2), (a)(1)(ii)(C), and (a)(4); and § 1.6011-8(a). The Treasury Department and the IRS intend to amend the regulations under §§ 36B and 6011 to clarify the meaning of claiming a personal exemption deduction for the taxable years for which the exemption amount is reduced to zero.

Section 5000A provides that if a taxpayer, or dependent of the taxpayer who is an applicable individual for whom the taxpayer is liable, is without minimum essential coverage or a coverage exemption for one or more months in a taxable year, the taxpayer must include an individual shared responsibility payment when filing his or her federal income tax return. The regulations under § 5000A include rules that apply based on whether a taxpayer claims or claimed a personal exemption deduction under § 151 for an individual. Specifically, § 1.5000A-1(d)(4) refers to a taxpayer who “claims a deduction for a personal exemption,” and § 1.5000A-3(e)(3)(ii)(B) refers to “an individual for whom a personal exemption deduction ... is claimed.”

Section 11081 of the Act reduced the amount of the shared responsibility payment to zero for months beginning after December 31, 2018. Accordingly, although this notice provides interim guidance related to § 5000A, the Treasury Department and the IRS do not intend to propose regulations under § 5000A.

INTERIM GUIDANCE

Because the Act reduces the exemption amount to zero, taxpayers will no longer claim a personal exemption deduction on their individual income tax returns by listing an individual's name and TIN, multiplying the number of allowed exemptions by the exemption amount, and entering that amount on their tax return. Accordingly, taxpayers may have questions about what it means to claim a personal exemption deduction for purposes of the premium tax credit and the individual shared responsibility provision. Until further guidance is issued, the following rules apply for purposes of the regulations under §§ 36B and 5000A and for purposes of § 1.6011-8(a):

- (1) A taxpayer is considered to have claimed a personal exemption deduction for himself or herself for a taxable year if the taxpayer files an income tax return for the year and does not qualify as a dependent of another taxpayer under § 152 for the year;
- (2) A taxpayer is considered to have claimed a personal exemption deduction for an individual other than the taxpayer if the taxpayer is allowed a personal exemption deduction for the individual (taking into account § 151(d)(5)(B)) and lists the individual's name and TIN on the Form 1040, U.S. Individual Income Tax Return, or Form 1040NR, U.S. Nonresident Alien Income Tax Return, the taxpayer files for the year.

INFERENCE

No inference should be drawn from any provision of this notice concerning any other provision of the Act or any other section of the Code.

EFFECTIVE/APPLICABILITY DATE

This notice applies to taxable years beginning in 2018.

DRAFTING INFORMATION

The principal author of this notice is Lisa Mojiri-Azad of the Office of Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Ms. Mojiri-Azad or Steve Toomey at 202-317-4718 (not a toll-free number).