

Section 409A Proposed Rules Issued; Compliance Deadline Extended

September 30, 2005

On September 29, 2005, the IRS issued proposed rules (REG-158080-04) on the application of tax Code Section 409A to nonqualified deferred compensation plans. The proposed rules extend the deadline for documentary compliance with Code Section 409A until December 31, 2006. Good faith compliance, however, is expected effective January 1, 2005. Further, the opportunity to amend plans to permit participants to cancel deferral elections or to terminate plan participation has not been extended, and thus expires on December 31, 2005. Accordingly, plan administrators should generally understand how their plans will be affected by the new rules so they can determine whether to maintain such plans into 2006.

If you have further questions about this alert you may contact our Federal Tax and Employee Benefits Group; Michael A. Indenbaum at (313) 496-7679, email: indenbaum@millercanfield.com; Orin D. Brustad at (313) 496-7605, email: brustad@millercanfield.com; Deborah W. Thompson at (313) 496-7671, email: thompson@millercanfield.com; or Marianna J. Perakis at (313) 496-7558, email: perakis@millercanfield.com. This message is for general information only and should not be used as a basis for specific action without obtaining further legal advice.