

ALERT



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**NEW CORRECTION PROGRAM FOR NONQUALIFIED PLANS:
LIMITED OPPORTUNITY TO AVOID CODE § 409A PENALTIES.
PROMPT ACTION IS REQUIRED.**

February 19, 2010

The IRS has recently stepped up efforts to enforce Section 409A of the Internal Revenue Code. This is bad news for any employers that missed the January 1, 2009, IRS deadline to amend nonqualified deferred compensation plans and arrangements. It is even worse news for participants in those plans and arrangements, because the full force of any Code § 409A violations – including a 20% penalty tax – falls exclusively upon participants.

Fortunately, on January 5, 2010, the IRS released a document corrections program that allows employers to amend their nonqualified plan documents without incurring the extremely harsh penalties that may be triggered when Code § 409A is violated. *For employers who act before the end of 2010, complete avoidance of tax penalties on participants may be possible.*

More information is provided in this [Alert](#). *Because of the short time frame for avoiding Code § 409A penalties, it is important for you or someone in your organization to read our [Alert](#) and its accompanying memorandum.* If you have questions regarding the new IRS corrections program, please feel free to call Jim Spencer or Eric Namee at 316-267-2000.

To read previous Alerts, including our May 2008 Alert and Memorandum regarding the final Code § 409A regulations governing nonqualified deferred compensation plans, [click here](#).

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