



eBenefits Alert: Good News! IRS Offers Relief for Code Section 409A Compliance

October 1, 2007

On October 22, 2007, the IRS issued Notice 2007-86, which provides a general extension of the transition relief that was scheduled to expire on December 31, 2007. The transition relief has been extended to December 31, 2008, to provide more adequate time to review existing arrangements and make informed and well-reasoned decisions regarding the necessary changes to bring them into compliance with the final regulations.

Generally, during 2008, taxpayers are required to operate deferred compensation plans in compliance with the plan's terms to the extent that those terms are consistent with Internal Revenue Code Section 409A and the applicable guidance. While taxpayers are not required to fully follow the final regulations prior to January 1, 2009, reliance upon those regulations will be treated as reasonable, good faith compliance.

This means that employers have an extra year (until December 31, 2008) to comply with the Code Section 409A documentation requirements. They also have an extra year of transition relief, and in particular, an extra year to modified plan payment provisions (subject to the current restrictions on those modifications).

All deferred compensation arrangements must be reviewed and amended to ensure compliance with Code Section 409A by December 31, 2008. If you would like assistance with Code Section 409A compliance, please contact a member of the Gray Plant Mooty Employee Benefits and Executive Compensation group.

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