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Treasury, IRS Issue Final Regulations on Nonqualified Deferred Compensation

WASHINGTON, DC--The Treasury Department and the IRS today issued final regulations on the treatment of nonqualified deferred compensation plans and arrangements under section 409A of the Internal Revenue Code.

"Since the enactment of section 409A in 2004, Treasury and the IRS have worked hard to develop these regulations on the treatment of nonqualified deferred compensation plans," said Treasury Assistant Secretary for Tax Policy Eric Solomon. "These regulations comprehensively address how employers can identify nonqualified deferred compensation plans and arrangements subject to section 409A and provide rules to help employers and employees comply."

The regulations provide guidance regarding the requirements for deferral elections and payment timing under section 409A. Affected plans and arrangements are required to comply with documentation requirements established in the final regulations by December 31, 2007.

The final regulations generally implement the rules provided in the proposed regulations published on September 30, 2005, but include revisions reflecting numerous comments received from the public. The regulations are in response to legislation enacted by Congress in 2004 to address concerns involving reported abuses of nonqualified deferred compensation plans.

Published along with the regulations was Notice 2007-34, which includes additional guidance regarding the application of section 409A to split-dollar life insurance arrangements and provides that certain amendments of such arrangements to comply with section 409A will not be treated as a material modification.

A copy of the final section 409A regulations and a copy of Notice 2007-34 are attached.

REPORTS

- [Final Regulations on Nonqualified Deferred Compensation \(TD 9321.pdf\)](#)
- [Notice 2007-34](#)