

## Additional Relief for Correction of 409A Operational and Document Failures

---

December 7, 2010

---

---

The IRS issued additional relief allowing nonqualified deferred compensation plans to correct operational and document failures to comply with Internal Revenue Code section 409A. With respect to correction of plan document failures, the additional relief provides: (1) that the types of plans eligible for relief include (a) a nonqualified plan linked to a qualified plan or another nonqualified plan, provided that the linkage does not affect the time and form of payments under the plans and (b) certain stock rights (stock options and stock appreciation rights) that were intended to be subject to, and compliant with, 409A but that have a plan document failure; (2) an additional method of correction for certain failures involving payments at separation from service subject to the requirement to submit a release of claims or similar document, and transition relief through December 31, 2012 to correct such failures that were in effect on or before December 31, 2010 (including relief from the requirement to report information to the service provider); and (3) relief from the requirement to report information to the service provider for any document corrections made under the transition relief ending December 31, 2010. With respect to correction of operational failures, the additional relief provides relief from the requirement that service recipients provide certain information to service providers for corrections made in the same taxable year that the failure occurs. Notice 2010-80 can be found [here](#).