

## Deferred Compensation Reminder

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March 4, 2013

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Section 409A of the Internal Revenue Code, regulating deferred compensation arrangements, can create traps for employers in situations where the employer wants to offset against amounts owed to the employer, unpaid amounts owed by the employee. For instance, if an employee has an obligation to reimburse an employer for certain expenses, that obligation cannot provide that the employer can offset that obligation against amounts of deferred compensation the employee is entitled to receive in the future. These types of offsets are considered prohibited accelerations of the deferred compensation payments, in violation of Section 409A. There is a limited exception for an offset of future deferred compensation amounts so long as the offset does not exceed \$5,000. An employer also is not prohibited from making offsets from deferred compensation amounts at the time those amounts are otherwise payable.