

IRS Section 409A Audit Initiative

June 6, 2014

The IRS is currently conducting Section 409A audits of certain taxpayers that were selected initially for employment tax audits. To date, fewer than 50 taxpayers have been selected for the Section 409A audits, and those taxpayers were selected based on the probability that the taxpayers would have nonqualified deferred compensation plans. The audits are focusing on the deferred compensation paid during the year under examination and are limiting the review to deferral elections and payouts (including application of the six-month delay rule). Generally, the audits have been limited in scope to the top ten most highly-compensated employees.