

IRS Updates Nonqualified Deferred Compensation Audit Technique Guide

August 1, 2021

The IRS recently updated its Nonqualified Deferred Compensation Audit Technique Guide (the "**Updated Guide**"), which replaces the previous version published in June 2015. The Updated Guide provides more detailed guidance on the legal standards applicable to deferred compensation arrangements, including the addition of specific citations to relevant regulations and revenue rulings. Notably, the Updated Guide also includes significantly expanded discussions about Code Section 409A and its application to deferred compensation arrangements. Code Section 409A, and other regulations impacting deferred compensation, are very complicated and can carry substantial penalties and taxes for noncompliance. As Congress and the Biden Administration look for additional sources of funding for their initiatives, heightened IRS audit activity may be on the horizon. The Updated Guide is a good reminder to employers that they should periodically review their nonqualified deferred compensation arrangements, not only for documentary compliance but operational compliance as well.

The Updated Guide is available [here](#).