

CORRECTING 409A ERRORS IN DEFERRED COMPENSATION PLAN

Client Type: Privately held

The complex rules of Internal Revenue Code Section 409A (409A) commonly result in operational or documentary errors in employers' nonqualified deferred compensation plans, so it was no surprise when a large corporation suspected it had made several operational errors in connection with its supplemental executive retirement plan (SERP). We assisted our client in identifying and correcting the operational errors, correcting them in accordance with IRS Notice 2010-113 to minimize penalties and ensure continued compliance. Our work included analyzing the errors to determine the best correction method for each error, assisting with calculating the amounts payable for each year in which errors were made, drafting the required IRS statements and participant notices, drafting explanatory letters to participants, and assisting with responses to a threatened legal action for reimbursement in connection with the errors. We have also assisted other clients in correcting 409A documentary errors under IRS Notices 2010-6 and 2010-80.

Practices & Industries

Employee Benefits