

Publications

IRS Clarifies Numerous 409A Issues

ATTORNEYS & PROFESSIONALS

Jeffrey W. Kroh

jkroh@groom.com

202-861-5428

Louis T. Mazawey

lmazawey@groom.com

202-861-6608

Allison Ullman

aullman@groom.com

202-861-6336

Brigen Winters

bwinters@groom.com

202-861-6618

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Yesterday, the IRS issued proposed regulations clarifying 19 fairly narrow issues under existing Code section 409A regulations. Eighteen topics were addressed under the comprehensive final section 409A regulations issued in 2007, and one issue was addressed under the proposed section 409A regulations on the impact of 409A violations issued in 2008. The new IRS guidance generally formalizes informal guidance provided by IRS personnel in recent years and provides some helpful new flexibility in certain areas.

We briefly outline in the attached memo the contents of the proposed regulations in the likely order of importance to employers. Taxpayers may rely on this guidance immediately, and the IRS will not assert positions contrary to the guidance. Comments are due on these proposed regulations within 90 days after their publication. Please see the attached memo for further information.

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