



NYLEX News

News and Events in the Executive Benefit Program Marketplace

IRS Provides Limited Relief ***Section 409A Alert***

TO OUR CLIENTS AND FRIENDS

THIS ISSUE OF NYLEX NEWS DISCUSSES RECENTLY ISSUED NOTICE 2007-78, PROVIDING ADDITIONAL GUIDANCE ON THE APPLICATION OF SECTION 409A OF THE INTERNAL REVENUE CODE.

- THE IRS HAS EXTENDED TO DECEMBER 31, 2008 THE DEADLINE FOR BRINGING PLAN DOCUMENTS INTO COMPLIANCE
- HOWEVER, THE IRS HAS NOT EXTENDED BEYOND JANUARY 1, 2008 THE DEADLINE FOR PLANS TO OPERATE IN COMPLIANCE WITH THE FINAL REGULATIONS.

PLEASE SEND COMMENTS ABOUT THIS NEWSLETTER, AS WELL AS SUGGESTIONS FOR FUTURE ISSUES, TO OUR STAMFORD, CT OFFICE.

In response to many requests, on September 10, 2007 the Internal Revenue Service issued Notice 2007-78, extending the Section 409A deferred compensation documentation deadline until December 31, 2008. The Notice does not extend the effective date of the final regulations, which remains January 1, 2008.

Thus, although generally there will be additional time

for amending plan documents, the need to bring plans operationally into compliance remains unchanged. In addition, most transitional provisions no longer apply after December 31, 2007.

The IRS and Treasury also anticipate issuing a limited voluntary compliance program permitting taxpayers to correct certain uninten-

tional violations of Section 409A.

Since the final regulations will be effective at the end of 2007 and affected plans must be operated in compliance with these rules, it seems clear that plan sponsors should continue diligently to identify and change plan features that do not comply with the new rules.

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