



NYLEX News

News and Events in the Executive Benefit Program Marketplace

IRS Waives W-2 Reporting of Deferred Amounts for 2008 ***W-2 Reporting Alert***

TO OUR CLIENTS AND FRIENDS

THIS ISSUE OF NYLEX NEWS RELATES TO RECENT REPORTS THAT THE IRS WILL WAIVE W-2 REPORTING OF DEFERRAL AMOUNTS FOR 2008.

Treasury Deputy Benefits Tax Counsel Helen H. Morrison said on October 24th “The Internal Revenue Service will issue a notice waiving the requirements for Code Y reporting in 2008 of amounts deferred under tax code Section 409A....Currently, you should not be concerned about having to report nonqualified deferred compensation in Box 12 of Form W-2 using Code Y”, Morrison said.

In 2007, the IRS waived reporting for Code Y amounts reportable on 2007 W-2 forms. The IRS expects to issue a similar notice before the end of 2008 that will waive the requirement for reporting this year “and until such time as we have issued regulations on how to calculate the amount that would be included in income,” Morrison said.

Although the reporting for Code Y is waived for 2008, Morrison said that the IRS will not waive the requirement that amounts includ-

able in income because of a failure to comply with Section 409A of the Internal Revenue Code be reported for 2008. This amount must be reported on Form W-2 in Box 12, using Code Z. In the case of plan failure, the employee would be subject to immediate income inclusion and penalties, including an additional 20 percent tax and interest.

Year-End Issues

Addressing other year-end issues, Morrison said all nonqualified deferral plan documents must be completed and reduced to writing by the end of this year. If you have not yet amended your plans to conform to Section 409A, the December 31 deadline is fast approaching!

We will issue a NYLEX News once the IRS officially publishes a notice on the Code Y deferral reporting waiver.

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