



A Law Firm in the People Business

Partial Extension of Relief from 409A Reporting Requirements

In addition to imposing numerous new operational rules on nonqualified deferred compensation arrangements, new Section 409A of the Internal Revenue Code also creates new tax reporting and withholding obligations with respect to amounts that are deferred. Specifically, nonqualified plan deferrals must be reported on the deferring employee's Form W-2, and amounts that are subject to accelerated taxation under 409A are both reportable on the employee's Form W-2 and subject to income tax withholding.

For 2005, the IRS provided relief from both of these requirements, and, for 2006, it has extended the relief for reporting amounts deferred. However, any amounts that are subject to accelerated taxation in 2006 are both reportable on Form W-2 and subject to withholding.



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Health Savings Account Changes for 2007

On December 20, 2006, President Bush signed the Tax Relief and Health Care Act of 2006. Effective January 1, 2007, this Act improves Health Savings Accounts ("HSAs") in various ways.

Increase in Contribution Limit. Previously, the maximum HSA contribution was the lesser of (i) the deductible under the applicable high-deductible health plan (the "HDHP"), or (ii) a statutory maximum. Under the new rules, the limit is the statutory maximum (indexed for inflation), regardless of the HDHP's deductible. For 2007, the maximum HSA contribution for an eligible individual with self-only coverage is **\$2,850**, and the maximum HSA contribution for an eligible individual with family coverage is **\$5,650**.

Rollovers and Transfers to HSAs. The new legislation allows rollovers from existing health Flexible Spending Accounts ("FSAs") and Health Reimbursement Arrangements ("HRAs") into HSAs through 2011. Rollovers to HSAs are available once for each type of account and are limited to the balances of these accounts on September 21, 2006. These rollovers are permitted over and above the annual contribution limit. One-time rollovers from Individual Retirement Arrangements ("IRAs") are also permitted, but these transfers are subject to the annual contribution limit.

Interaction with FSA Grace Periods. Previously, if a health FSA had a grace period allowing participants to incur additional reimbursable expenses following the end of the calendar year, participants were disqualified from making HSA contributions during that period. Now, so long as the individual's health FSA balance is zero (or is transferred to the HSA) at the end of the calendar year, he or she will be permitted to make a full HSA contribution for that particular year.

Full Contribution During Years of Partial Eligibility. A common barrier to switching to HSA-eligible coverage mid-year has been eliminated. In the past, the HSA contribution was pro-rated based on the number of months that an individual was eligible for the HSA. Now, an individual who becomes eligible mid-year can make the full HSA contribution for that year without tax penalties so long as he or she maintains eligibility to make HSA contributions through at least November of the next year.

For further information on these new HSA rules, please contact Laura Andrew at 404-888-8842 or Beth Alcalde at 404-888-8872.

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