



**THOMPSON
HINE**

December 2008

**REMINDER: SECTION 409A
COMPLIANCE DEADLINE**

Employers have until December 31, 2008 to make changes to their deferred compensation plans and arrangements so that they are either exempt from or comply with Section 409A of the Internal Revenue Code.

In 2004, in response to the Enron collapse, the IRS introduced sweeping legislation that governs deferred compensation plans under Section 409A. Section 409A imposes significant limitations on these plans and often applies to compensation arrangements that are not typically viewed as deferred compensation plans.

Following is a list of common arrangements that may be subject to Section 409A:

- Short-term and long-term bonus or incentive plans
- Individual agreements, such as employment, retention, commission, severance and change-in-control agreements
- Salary and bonus deferral plans
- Certain medical or other reimbursement plans related to termination of employment
- Supplemental retirement plans and other types of nonqualified defined benefit plans
- Deferred compensation plans or arrangements
- Phantom stock, performance shares and restricted stock unit awards
- Stock options and appreciation rights

If you maintain any of these types of plans and you are not sure if they comply with Section 409A, you may want to consult with your employee benefits counsel. If other departments in your organization (e.g., finance, legal or tax) are responsible for maintaining any of these plans, feel free to forward this bulletin for their review.

FOR MORE INFORMATION

For more information, please contact:

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