

Client Alert

IRS Suspends 409A's Reporting and Wage Withholding Requirements for 2005

Good news for your company's payroll department -- the Internal Revenue Service has suspended reporting and wage withholding requirements for 2005 on deferred compensation subject to Internal Revenue Code Section 409A. This suspension provides welcome relief for payroll and benefits departments and for certain independent contractors who earn deferred compensation. In some cases, the IRS has agreed not to assert penalties against employees and independent contractors for failing to comply with the new requirements.

In addition to imposing strict new rules on deferrals and payments of deferred compensation arrangements, 409A imposes new reporting and wage withholding requirements for deferred compensation subject to 409A. These new reporting and wage withholding requirements are effective beginning in 2005. Although the Treasury Department and IRS recently issued comprehensive guidance on other aspects of 409A, no guidance has been issued on how to comply with 409A's reporting and wage withholding requirements.

Recognizing that the end of 2005 is just around the corner and that companies would have very little (if any) time to redesign their payroll systems to accommodate new requirements, the IRS has opted to suspend 409A's reporting and wage withholding requirements for 2005 rather than issue guidance now on how to comply with the new reporting and wage withholding requirements. The IRS expects to issue comprehensive guidance on 409A's reporting and wage withholding requirements in the first half of 2006. The IRS has cautioned that such future guidance may require companies and employees and independent contractors to file corrected returns or statements reporting previously unreported amounts under 409A.

Links to 409A Guidance

For a link to the IRS's notice suspending 409A's reporting and wage withholding requirements for 2005 and for our prior client alerts on 409A, click [here](#) or go to <http://www.chadbourne.com/409A>.

* * * * *

For Additional Information

This client alert can be found, together with other recent Chadbourne & Parke LLP client alerts, on our website at www.chadbourne.com/publications/sub_Publications.html. Our client alerts are for general informational purposes and should not be regarded as legal advice. If you have any questions regarding this alert, please contact any of the following:

New York

Edward P. Smith	+1 (212) 408-5371	esmith@chadbourne.com
William G. Cavanagh	+1 (212) 408-5388	wcavanagh@chadbourne.com
Marjorie M. Glover	+1 (212) 408-1016	mglover@chadbourne.com
Lauren D. Kelly	+1 (212) 408-5520	lkelly@chadbourne.com
David Gallai	+1 (212) 408-1033	dgallai@chadbourne.com

Chadbourne & Parke LLP

New York

30 Rockefeller Plaza
New York, New York 10112
Telephone: +1 (212) 408-5100
Facsimile: +1 (212) 541-5369

Los Angeles

350 South Grand Avenue, Suite 3300
Los Angeles, CA 90071
Telephone: +1 (213) 892-1000
Facsimile: +1 (213) 622-9865

London

Chadbourne & Parke (a multinational partnership)
Regis House
45 King William Street
London EC4R 9AN
Telephone: +44 (20) 7337-8000
Facsimile: +44 (20) 7337-8001

Warsaw

(through a Polish partnership)
ul. Emilii Plater 53
00-113 Warsaw, Poland
Telephone: +48 (22) 520-5000
Facsimile: +48 (22) 520-5001

Almaty

90 Shevchenko Street, 3rd Floor
Almaty, 050022, Kazakhstan
Telephone: +7 (3272) 585-088
Facsimile: +7 (3272) 588-084

Washington, D.C.

1200 New Hampshire Avenue, N.W.
Washington, D.C. 20036
Telephone: +1 (202) 974-5600
Facsimile: +1 (202) 974-5602

Houston

1100 Louisiana, Suite 3500
Houston, TX 77002
Telephone: +1 (713) 571-5900
Facsimile: +1 (713) 571-5970

Moscow

52/5 Kosmodamianskaya Naberezhnaya
Moscow 115054, Russian Federation
Telephone: +7 (495) 974-2424
Facsimile: +7 (495) 974-2425

Kyiv

11 Mykhailivska Street, 4th Floor
Kyiv 01001, Ukraine
Telephone: +380 (44) 230-2534
Facsimile: +380 (44) 230-2535

St. Petersburg

Italianskaya Str., office 56/57
St. Petersburg 191186 Russian Federation
Phone: +7 (812) 326-9300
Fax: +7 (812) 326-9341

Beijing

Room 902, Tower A, Beijing Fortune Centre
7 Dongsanhuan Zhonglu
Chaoyang District
Beijing 100020, China
Telephone: +86 (10) 6530-8846
Facsimile: +86 (10) 6530-8849

If you would like additional copies of this client alert, please contact Phillipa Yule, Director of Marketing and Creative Services, at +1 (212) 408-5240 or e-mail: pyule@chadbourne.com.