

HRS Insight

Human Resource Services

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September 13, 2011

Failure to attach the statement to the original tax return could void the correction and potentially subject the affected participants to an additional 20% tax on the value of vested deferred compensation.

September 15, 2011 deadline for filing section 409A correction statements for calendar tax year companies that made deferred compensation plan corrections in 2010

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To successfully correct deferred compensation *plan document* failures under section 409A during 2010, a statement containing information regarding the correction must be attached to a timely filed (with extensions) original corporate tax return for 2010. See Notice 2010-6. The applicable tax return filing deadline (with extensions) for calendar year taxpayers is September 15, 2011. Failure to attach the statement to the original tax return could void the correction and potentially subject the affected participants to an additional

20% tax on the value of vested deferred compensation.

Further, the correction of section 409A *operational* failures under Notice 2008-113 generally requires that a statement be attached to the original corporate tax return for the year of correction. Thus, if correction was made for 2010, the statement should be attached to the 2010 tax return which is due on September 15, 2011 (with extension) for calendar year taxpayers.



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