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One Minute Memo™

September 30, 2005

IRS Grants an Extra Year to Amend Deferred Compensation Plans

Proposed Regulations Clarify Jobs Act Rules

The IRS has extended until December 31, 2006, the deadline for amending deferred compensation plans to comply with the new rules enacted last year as part of the American Jobs Creation Act. The deadline extension is part of a comprehensive package of proposed regulations issued by the IRS on September 30.

In addition to extending the deadline for amending plans, the proposed regulations, among other things:

- Exempt certain – but not all - common types of severance arrangements from the new rules.
- Generally extend the exemption for stock-settled stock appreciation rights to cash-settled SARs, and to SARs of privately held companies.
- Provide rules that can be used by public companies to identify their key employees for purposes of the six month delay in payment following a termination of employment.
- Provide guidance to the circumstances in which an employee can make a mid-year deferral election
- Generally allow benefits under a nonqualified plan to be linked to a qualified plan, such as a SERP or 401(k) wrap plan, but subject to significant limitations.

The new proposed regulations are lengthy and complex, and will significantly affect the operation of virtually all nonqualified deferred compensation plans, as well as many employment agreements, severance plans and equity compensation arrangements.
On Thursday, October 6, 2005, at 1:00 p.m. Central Time, the Seyfarth Shaw Employee Benefits and Executive Compensation Practice Group will host a teleconference briefing on the new proposed regulations. To view this invitation, please click here or visit www.seyfarth.com/events for information and to register.

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