



RUBERTO, ISRAEL & WEINER

## Client Alert

---

### ***FINAL NOTICE – LAST CHANCE TO FIX NON-CONFORMING COMPENSATION PLANS***

Companies with deferred compensation plans have until December 31, 2008 to bring their plans into conformity with new tax rules that impose stiff penalties for noncompliance. The new rules are in Section 409A of the Internal Revenue Code.

Any arrangement with an employee or contractor that calls for payment of compensation in a year after the year in which services are rendered could be subject to the new rules. Examples of such plans are employment agreements, bonus plans, severance plans, stock option plans and buy/sell agreements.

If any plan is not in compliance with Section 409A, the new rules require immediate payment of income taxes on all deferred amounts, plus a 20% penalty, plus interest. All of these amounts are the responsibility of the employee or contractor whose plan is in violation of Section 409A, even though the employer established and operates the plan.

Before December 31, 2008, each employer must identify and review all deferred compensation plans, amend the plans that are not in compliance with Section 409A, and discuss the changes with the employees who are affected. This process can take several weeks and must begin immediately in order to meet the deadline.

Contact Gary Bubb at 617-742-4200 or [gcb@riw.com](mailto:gcb@riw.com) if you have questions or need RIW's assistance in complying with Section 409A. [Due to the time constraints imposed by the year-end deadline, we ask you to contact Gary before November 1, 2008.](#)

*This material is intended for informational purposes only and is not meant to be construed as legal advice. For a comprehensive understanding of the issues raised in this material, please contact a qualified attorney of your choice.*

© 2008 Ruberto, Israel & Weiner, P.C.

100 N. Washington Street, Boston, MA 02114 • P (617) 742-4200 • F (617) 742-2355 • [www.riw.com](http://www.riw.com)