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### **EMPLOYERS GIVEN ADDITIONAL YEAR TO COMPLY WITH SECTION 409A**

On October 22, 2007, the Internal Revenue Service released Notice 2007-86 granting employers an additional year in which to bring their deferred compensation plans into compliance with the rules of Section 409A of the Internal Revenue Code. In general, the deadline for both documentary and operational compliance with the final regulations is now December 31, 2008.

Employers may utilize all available transition relief to comply with Section 409A by operating their deferred compensation plans in good faith compliance with Section 409A and relevant guidance through December 31, 2008. Previously, the transition relief period expired on December 31, 2007.

Notice 2007-86 supplements Notice 2007-78, issued in September 2007, which extended the deadline for employers to bring their plan documents into compliance with Section 409A. With the issuance of Notice 2007-86, employers generally have until December 31, 2008 to decide how to restructure their plans to comply with Section 409A and obtain any necessary consents and approvals.

We continue to recommend that employers focus on the impact of Section 409A on their compensation practices. Employers should carefully review all nonqualified deferred compensation plans, including traditional deferred compensation, incentive compensation and equity plans, employment, severance and change in control arrangements, as well as other arrangements, including split-dollar policies, and bring those plans, agreements and arrangements subject to Section 409A into compliance with these rules in early 2008.

The full text of Notice 2007-86 is available [here](#).

This Client Alert is intended for general informational purposes and should not be regarded as legal advice. If you have any questions about this Client Alert, please contact Anthony C. Ciriaco at (614) 464-6429, Wendy M. Swary at (614) 464-6495, Alan D. Duffy at (614) 464-5425, Amy E. Nawrocki at (614) 464-6272 or Amy Stuckey Swank at (614) 464-6461 or your Vorys relationship attorney.

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