

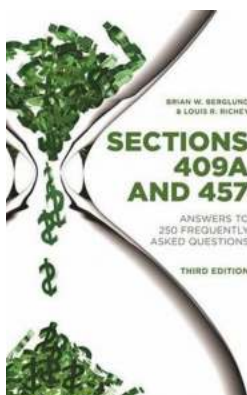
Sections 409a And 457: Answers To 250 Frequently Asked Questions

In the world of financial planning and compensation, two important sections that you should be familiar with are 409a and 457. These sections of the Internal Revenue Code (IRC) provide guidelines for the valuation and taxation of certain types of deferred compensation plans. Whether you are an employer offering these plans or an employee participating in them, it is crucial to understand how sections 409a and 457 work to ensure compliance and make informed decisions.

What is section 409a?

Section 409a was introduced in 2004 as part of the American Jobs Creation Act. It primarily focuses on nonqualified deferred compensation plans, which are arrangements that allow employees to defer receiving income to a future date. Examples of such plans include executive and employee stock options, certain retirement plans, and severance agreements.

One of the key aspects of section 409a is its regulations on the timing of deferrals and distributions. It sets strict rules to prevent participants from manipulating the payment timing to gain unfair tax advantages. Failure to comply with section 409a may result in severe penalties and taxes for both the employer and employee.



Sections 409A and 457: Answers to 250 Frequently Asked Questions by Cindy Hatchett (3rd Edition, Kindle Edition)

★★★★★ 5 out of 5

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Screen Reader : Supported

Enhanced typesetting : Enabled



What is section 457?

Section 457 of the IRC deals with deferred compensation plans for state and local governments and tax-exempt organizations. It applies to government employees, public school teachers, firefighters, police officers, and other individuals working in similar roles.

Section 457 plans are often divided into two categories: 457(b) plans and 457(f) plans. 457(b) plans are tax-advantaged retirement savings plans similar to 401(k) plans offered by private employers. On the other hand, 457(f) plans are nonqualified deferred compensation plans where contributions and earnings are generally not subject to income tax until they are distributed.

Common Questions about Sections 409a and 457

1. Are section 409a and section 457 applicable to all compensation plans?

No, section 409a is specifically focused on nonqualified deferred compensation plans, while section 457 applies to deferred compensation plans for state and local governments and tax-exempt organizations.

2. Can section 409a and section 457 be applied together in a compensation plan?

Yes, it is possible to have a compensation plan that falls under both section 409a and section 457. However, it can create additional complexities in terms of compliance and administration.

3. What are the penalties for non-compliance with section 409a and section 457?

Failure to comply with section 409a can result in a 20% additional tax on the deferred compensation, along with interest charges. Additionally, if the plan is considered as a taxable nonqualified deferred compensation plan, the employee may face income tax and payroll tax obligations.

In the case of section 457, penalties vary depending on the type of plan and the violation committed. Generally, non-compliance may result in taxation of the deferred compensation when it becomes vested, along with potential penalties and interest.

4. Can changes be made to a compensation plan governed by section 409a and section 457?

While it is possible to make changes to compensation plans, it must be done in compliance with the regulations under section 409a and section 457. Failure to adhere to the rules could result in unintended tax consequences and penalties.

5. Are there any exceptions or exclusions to section 409a and section 457?

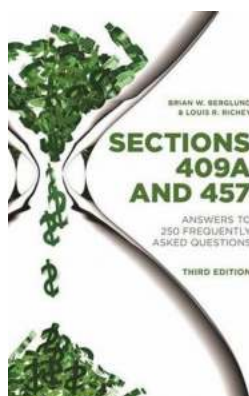
Yes, both sections have certain exceptions and exclusions. It is important to consult with a qualified tax professional or legal counsel to determine if your particular plan qualifies for any exemptions.

6. How can employers ensure compliance with section 409a and section 457?

Employers should establish comprehensive policies and procedures to ensure compliance with section 409a and section 457. It is highly recommended to work

with experienced professionals who specialize in these areas to navigate the complex rules and regulations.

In , understanding sections 409a and 457 is crucial for both employers and employees participating in deferred compensation plans. Failure to comply with these sections can lead to substantial penalties and tax liabilities. Therefore, it is essential to stay informed, seek professional guidance, and make informed decisions when it comes to compensating employees and planning for retirement.



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New and important developments have emerged in the form of IRS guidance and case law since the first edition was published in 2011. This edition provides significantly more guidance on questions regarding procedures for correcting errors in documentation that resulted from the release of IRS Notices 2010–6 and 2010–80 and questions regarding administrative error corrections arising from the operation of nonqualified deferred compensation plans under the complex and often confusing guidance under Section 409A.



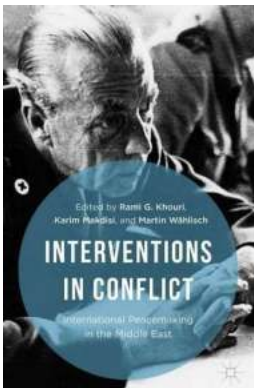
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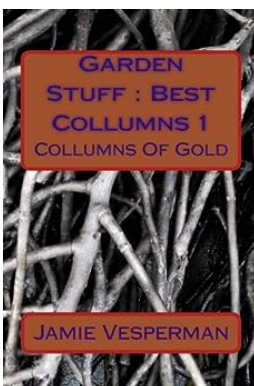
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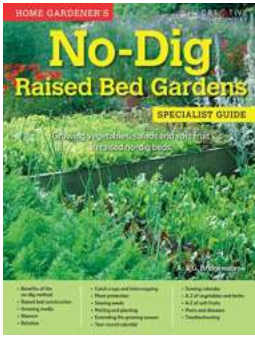
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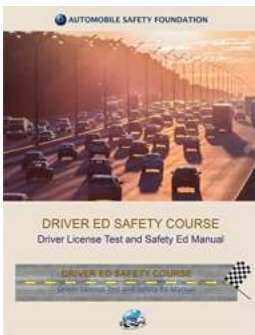
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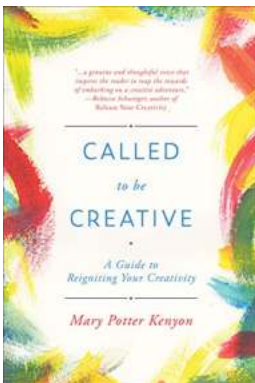
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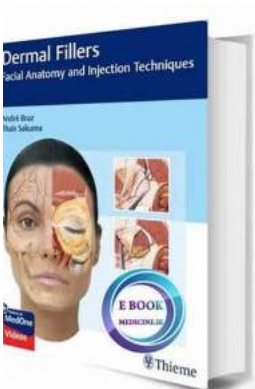
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