



REGULATORY UPDATE

As a service to our healthcare clients, the following information is provided as a brief summary of regulations which may be applicable to your practice. This Update is provided for informational purposes only and the reader is urged to review the entire text of the regulations. Further, this Update represents only selected portions of the regulations that may affect the healthcare community. As such, please be aware that there are many other regulations that may affect the healthcare community that are not mentioned in this Update.

Internal Revenue Code Section 409A ("Section 409A") has been adopted by the Federal government and establishes federal tax rules that apply to compensation which is deferred under a "nonqualified deferred compensation plan." Noncompliance with Section 409A can result in the imposition of substantial taxes and penalties. Section 409A becomes effective on January 1, 2009.

Section 409A may be relevant to your physician, chiropractic or dental practice. Often a buy-out of the owners is comprised, in whole or in part, of "deferred compensation." The use of the term "deferred compensation" in the practice's organizational documents does not necessarily implicate Section 409A, however, it may draw more scrutiny from the IRS. We therefore are suggesting to our clients that the practice's organizational documents be reviewed to determine the extent to which Section 409A is implicated (if at all), and in any event, the term "termination pay" be used in the practice's organizational documents in place of the term "deferred compensation."

If you have any questions relating to Section 409A or this Update, please feel free to contact Michael F. Schaff, Esq. of the law firm of Wilentz, Goldman & Spitzer, P.A. at (732) 855-6047 or via e-mail at mschaff@wilentz.com; or Peter Greenbaum, Esq. of the law firm of Wilentz, Goldman & Spitzer, P.A. at (732) 855-6426 or via e-mail at pgreenbaum@wilentz.com.

The information provided in this Update is for discussion purposes only and shall not be considered legal advice or legal opinion on any specific facts or circumstances. The contents of this Update and any related information and/or materials are intended solely for general information purposes only. You are urged to consult your own attorney concerning your own situation and any specific legal questions that you may have.