

The **Tax
Information
Reporter**

Handling Payments to Directors and Executive Compensation

Section 409A Deferred Compensation: Why it's Time to Get Compliant

The Form 1099-MISC is legendary for the reporting problems created by its numerous boxes and for confounding even experienced Accounts Payable professionals. In recent years, with the 2005 addition of boxes 15a and 15b, it has made the year-end reporting process even more difficult than ever. However, if, during the year, you are proactive in your compliance efforts then dealing with deferred compensation issues does not have to be such a time for dread in the accounts payable world – at least when it comes to the all-too often confusing box 15a and 15b reporting requirements created by the Internal Revenue Code and Section 409A. Before we cover Section 409A in detail, and for those who are new to the issue, 409A addresses income under certain nonqualified deferred compensation plans (to be defined for you in a moment) where the plan provides a payee a legally binding right in one tax year to compensation that is, or may be, payable in a later tax year.

Now many of you may say why should I care about documenting payments so strictly defined and/or reporting on boxes as exotic as 15a and 15b of the Form 1099-MISC when my staff is having enough trouble figuring out more commonly used boxes such as box 3. There are actually two very practical and important answers to that question.

First, though you may not realize it, in today's regulatory climate you are much more likely to have a potential 409A issue crop up and lead to a negative interaction with the IRS than at any other time since 409A became law. This is because it is extraordinarily likely that your department is making the very payments 409A is meant to address. For instance, if you have a board of directors and if those board members

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