§ 1.409A–4 Calculation of income inclusion. [Reserved]

§ 1.409A–5 Funding. [Reserved]

§ 1.409A–6 Application of section 409A and effective dates.

(a) Statutory application and effective dates—(1) Application to amounts deferred—(i) In general. Except as otherwise provided in this section, section 409A applies with respect to amounts subject to the contributions restrictions under section 401(a)(30) or section 402(g), and after-tax contributions by the service provider to a qualified employer plan that provides for such contributions, that affects the amounts that are credited under one or more nonqualified deferred compensation plans as matching amounts or other similar amounts contingent on such elective deferrals, pre-tax contributions, or after-tax contributions, provided that the total of such matching or contingent amounts that would be provided under the qualified employer plan absent any plan-based restrictions that reflect limits on qualified plan contributions under the Internal Revenue Code.

(6) Changes in elections under a cafeteria plan. A change in an election under a cafeteria plan (as defined in section 125(d)) does not result in an accelerated payment of an amount deferred under a nonqualified deferred compensation plan to the extent that the change in the amount deferred under the nonqualified deferred compensation plan results solely from the application of the change in amount eligible to be treated as compensation under the terms of the nonqualified deferred compensation plan resulting from the election change under the cafeteria plan, to a benefit formula under the nonqualified deferred compensation plan based upon the service provider’s eligible compensation, and only to the extent that such change applies in the same manner as any other increase or decrease in compensation would apply to such benefit formula.

[T.D. 9321, 72 FR 19276, Apr. 17, 2007; 72 FR 41622, July 31, 2007]