



Special points of interest:

- ◆ Learn about recent changes to non-qualified plans
- ◆ Find ways to maintain control over your plan
- ◆ Discover innovative solutions to gain your control back
- ◆ Realize you can have a review of existing plans for free

FICC

*Our People, Our Commitment,
Our Difference -*

*We're Planning Your Financial
Future Now!*

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Maintain Control of Your Deferred Compensation Plans

Are you aware that recent legislation affects your ability to control your retirement benefits from a non-qualified plan?

When Section 409A of the Internal Revenue Code (26 USCS § 409A) was created by The American Jobs Creation Act and signed into law last October, it profoundly changed the rules governing non-qualified deferred compensation plans. Section 409A places new limits on methods of distribution, prohibits early payment of retirement benefits, and places severe restrictions on changes in the time and the form of distribution. Your plan must now conform to a strict pre-determined schedule, and you no longer enjoy the flexibility to make changes as your circumstances dictate. Moreover, if you are found to be non-compliant, all compensation deferred that year and all previous years will be includable in your current gross income and the tax owed will be increased by 20% of the includable compensation plus interest.

Tax laws and accounting standards related to non-qualified plans are constantly changing. How can you be sure that your plan is in compliance? The professionals at Financial Institution Consulting Corporation (FICC) stay on the cutting edge of these changes to ensure that our client's plans are always in compliance. FICC's staff of attorneys and CPA's focus exclusively on deferred compensation plans for the financial institution market. Often, when analyzing new laws and regulations we discover innovative strategies that benefit our clients. In this case, secular trust arrangements, which FICC has employed for years, provide an innovative solution to securing benefits and retaining flexibility.

Secular trusts are a prudent response to § 409A. Deferred compensation contributions to the secular trusts are currently taxable to the participant (although the participant does not pay any out of pocket expenses) and the IRS treats these contributions as constructively received and thus outside the reach of § 409A. Plans designed with secular trusts allow participants to retain flexibility and freedom to meet their changing circumstances and still achieve their plan objectives. The participant under a plan with a secular trust, has total control, significantly increased asset protection, separate death benefit coverage, and avoids the onerous restrictions of § 409A. The bank under a plan with a secular trust is able to increase its internal rate of return, reduce expenses, take a current tax deduction, and not effect the bank's current BOLI capital concentration.

Would you like more information on how FICC can help your organization and your participants benefit from the use of secular trusts? Do you want to be sure your non-qualified plan is in compliance with the new tax laws? Please call Steve Ebbers General Counsel for FICC at (800) 873-0089. **Our review of your existing plan is offered at no charge.**