

2008 Section 409A Corrections Program
OMB Control Number 1545-2086
Explanation of Changes

The Treasury Department and the IRS recognize that in certain cases, unintentional operational errors in complying with § 409A may occur which would result in income inclusion and additional tax for the service provider. This Notice provides guidance on correcting certain unintentional operational errors. This Notice sets forth the information needed by the IRS to ensure that the affected service providers and service recipients have complied with the terms of the Notice.

This notice expands upon, and supersedes, the guidance provided in Notice 2007-100, generally by expanding the types of unintentional operational errors that may be corrected and are eligible for relief. The notice continues the relief provided in Notice 2007-100 allowing corrections during the service provider's same taxable year in which the failure occurred. The notice also makes permanent the relief provided in Notice 2007-100 providing limited relief for failures that involve only limited amounts. The notice expands upon Notice 2007-100 by permitting taxpayers that are not insiders with respect to the service recipient (as defined in the notice) to correct a failure during the year immediately following the year of the failure. The notice also expands upon Notice 2007-100 by providing limited relief for failures that are not corrected by the applicable deadline and involve amounts greater than the prescribed limited amounts, but are corrected before the end of the second taxable year following the year of the failure.

Although the relief provided has been expanded, it has been concluded that the estimated burden of information collection contained in Notice 2007-100 was excessively high, and that the new estimated burden of information collection for the

expanded corrections program in this notice will not exceed the original estimated burden for Notice 2007-100.