

NY State Bar Association Issues Report on Section 457A and Deferred Compensation Paid by Investment Funds and Other Service Recipients

Earlier today, October 5, 2009, the Tax Section of the New York State Bar Association (NYSBA) filed with the U.S. Department of the Treasury, the Internal Revenue Service, and Congress a comprehensive Report on Section 457A, which highlights a number of issues, interpretive matters, pitfalls, and other matters relating to the statute. The Report may become a primary point of reference for many tax advisors dealing with Section 457A.

[\[Read the Report's Cover Letter\]](#) | [\[Access the Full Report\]](#)

Section 457A was enacted last year as a part of the Emergency Economic Stabilization Act of 2008 (commonly referred to as the “recovery” or “bailout” legislation, enacted on October 3, 2008). Section 457A follows Section 409A, enacted several years ago, which became the first comprehensive codification of the rules governing the federal income taxation of nonqualified deferred compensation.

Although initially aimed at reining in substantial deferrals of compensation paid to managers of hedge funds (and other funds), Section 457A as ultimately enacted has grown in scope, potentially covering certain non-U.S. operating companies and domestic investment funds, among others. (See Ropes & Gray's previously issued alerts regarding Section 457A, including [IRS Releases Further Guidance Affecting Offshore Hedge Fund And Other Pooled Investment Vehicle Deferrals](#), [Bailout Bill Contains Many Tax-Related Provisions](#), and [Congress Blocks Offshore Hedge Fund Deferrals](#).)

Reflecting our commitment to items of such critical importance to the investment community as well as our other clients, Ropes & Gray partner Andrew Oringer is one of the two co-authors of this Report. In connection with the activities relating to the preparation of the Report, he also chaired the NYSBA Tax Section's recent full-day educational seminar on Section 457A, *The “A” List Grows: The Impact of Code Section 457A on Deferred Compensation*, at which four key Treasury officials and a broad array of private practitioners participated.

Please contact [Andrew Oringer](#) or your regular Ropes & Gray contact if you would like any information regarding Section 457A and how it may affect your investment structures and compensation programs.