

Publications

SEC's Proposed "Clawback" Rule Raises Section 409A and Other Tax Issues

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On July 1, 2015, the Securities and Exchange Commission (SEC) released a proposed rule that would require publicly-traded companies to adopt clawback policies for recovering erroneously awarded compensation from its executive officers. This long-awaited clawback rule is the third executive compensation rule proposed by the SEC this year under the Dodd-Frank Wall Street Reform and Consumer Protection Act (the Dodd-Frank Act).

With this rule, the SEC has now proposed or finalized all of the executive compensation rules required by the Dodd-Frank Act. The required clawback policies could give rise to significant tax issues, particularly if a clawback is applied to a covered executives deferred compensation arrangements. Please see the attached memo for further information.

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