

IRS Notice on Spreading Salary Payments Not Applicable to UC Faculty

A recent Internal Revenue Service (IRS) notice addressing teachers who work 9 months but are offered the option to be paid over 9 or 12 months does not apply to University of California faculty, according to a legal opinion from the University's outside tax counsel.

The IRS notice states that, beginning in 2008, if a university gives its teachers the option to spread salary payments for 9 months work over a 12-month period, the teachers must comply with certain written election rules or risk incurring additional tax under the deferred compensation rules of Internal Revenue Code Section 409A.

The IRS notice goes on to say, however, that if a school requires that the salary payments be spread over 12 months with no election provided to the faculty member, "the election rules discussed below do not apply, and no additional taxes would be imposed under section 409A."

According to UC legal counsel, the election rules set forth in the IRS notice do not apply to UC Academic-Year faculty whose salaries are paid over 12 months because UC faculty salary policy requires a 12-month payment schedule and does not allow faculty to choose between a 9 or 12 month schedule.

A copy of the IRS notice is available on the IRS website (<http://www.irs.gov/newsroom/article/0,,id=172883,00.html>).