

## **409A Salary Deferrals**

Faculty at the University of Pittsburgh with contracts for 8, 9, or 10 month appointments may elect to have their contract salary evenly distributed over a 12-month period provided they fall within Section 409A of the Internal Revenue Code.

Section 409A applies to compensation earned in one year but deferred until a future year. This amount is referred to as non-qualified deferred compensation and cannot exceed the federally established limit, which for 2019 is \$19,000. For faculty with less than annual contracts, the difference between the amount of pay earned but deferred from September through December cannot exceed \$19,000 for 2019.

### **How do I know if I am eligible under Section 409A to elect the 12 month distribution of my pay?**

If your contract is 8-months (September – April), and you elect to receive your pay over 12 months, your contract salary cannot exceed \$114,000.

$$114,000/8 = \$14,250 \quad 114,000/12 = \$9,500$$

For the months of September through December, you will have earned \$57,000 ( $\$14,250 \times 4$ ) but have been paid \$38,000 ( $\$9,500 \times 4$ ). Therefore, you will have deferred \$19,000.

If your contract is 9-months (September – May) and you elect to receive your pay over 12 months, your contract salary cannot exceed \$171,000.

$$171,000/9 = \$19,000 \quad 171,000/12 = \$14,250$$

For the months of September through December, you will have earned \$76,000 ( $\$19,000 \times 4$ ) but have been paid \$57,000 ( $\$14,250 \times 4$ ). Therefore, you will have deferred \$19,000.

If your contract is 10-months (September – June) and you elect to receive your pay over 12 months, your contract salary cannot exceed \$285,000.

$$285,000/10 = \$28,500 \quad 285,000/12 = \$23,750$$

For the months of September through December, you will have earned \$114,000 ( $\$28,500 \times 4$ ) but have been paid \$95,000 ( $\$23,750 \times 4$ ). Therefore, you will have deferred \$19,000.

**What does section 409A require if I am eligible and want to make this election?**

- The faculty member must make a written election to the department to annualize the contract salary. For example, a faculty member with an 8 month contract would elect to spread the 8 months over 12 months, known as 8/12 pay year type.
- The election must be made before the start of the academic year.
- The election is irrevocable and cannot be changed after the academic year begins.
- The portion deferred must not exceed the federally established maximum. For 2019, the limit is \$19,000.
- No form is necessary for the election and it does not have to be filed with the IRS.

In the event the federally established limit is exceeded at the onset or in anticipation that the limit will be exceeded, the faculty member must elect to be paid as worked, such as 8/8, 9/9, or 10/10.