



Startup Law Blog

Insights for founders of and investors in emerging and startup companies

[Startup America Suggestion of the Day: Repeal Section 409A \(Installment 5\)](#)

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Many of us here in startup land are hoping that the President's Startup America Initiative is for real. For me, success means that the initiative will meaningfully simplify the legal and regulatory landscape in which startups operate.

I even have hopes that somehow the government will make it easier for companies to go public.

There are [many reasons](#) to be positive.

I have been writing about the suggestions I have for the Startup America Team pretty much daily. In response to Bill Carleton's question on Quora.com, I put together a list of 14 specific ideas that I think if implemented would substantially improve life for startups.

If you want to see my quora post on these items, see [here](#).

Many of my ideas are simple and essentially amount to: repeal bad law.

My suggestion for today—repeal Internal Revenue Code Section 409A (at least as it applies to equity grants of startup companies).

If you are not familiar, Section 409A requires startups to issue stock options at fair market value, and the regulatory guidance pushes many companies toward obtaining expensive third party appraisals. Not only are the appraisals expensive, they are time consuming for management and slow down how quickly startups can act in granting equity awards to employees and consultants. For a recent helpful piece on VentureBeat on the complexities of Section 409A, see [here](#).

Why does 409A exist in the first place? Because some very highly compensated executives at large corporations were managing to defer in some cases hundreds of millions of dollars of salary income into the far future, costing the government tens of millions of dollars in current taxes. Is this a threat posed by startups? No! Startups don't have much to pay their executive teams, generally, and so massive deferrals like this simply don't happen with startups.

Dear Startup Team America—Please make life easier for startups. Please push to repeal Section 409A, at least as it applies to small companies. Thank you.

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