



# WASHINGTON REPORT

*Premier analysis of federal legislative and regulatory developments for the nation's 2,000 most advanced life insurance planners, focusing on business, estate, qualified and nonqualified retirement planning.*

---

## Counsel

*Buchanan Ingersoll & Rooney PC*    *Federal Policy Group*  
Gerald H. Sherman                      Ken Kies  
Stuart M. Lewis                          Patrick J. Raffaniello  
Deborah M. Beers                        Timothy L. Hanford  
Keith A. Mong                              Jim Carlisle

*Ricchetti, Inc.*  
Steve Ricchetti  
Jeff Ricchetti

*PricewaterhouseCoopers*  
William Archer  
Donald Carlson

## AALU

David J. Stertz, *Chief Executive Officer*  
Tom Korb, *Vice President of Policy & Public Affairs*  
Marc R. Cadin, *Vice President of Legislative Affairs*

2901 Telestar Court, Falls Church, Virginia 22042  
Toll Free: 1-888-275-0092    Fax: 703-641-8119  
[www.aalu.org](http://www.aalu.org)

---

AALU Bulletin No: 07-96

October 23, 2007

Subject: **IRS Issues Notice on Reporting and Withholding Under Code Section 409A**

Major References: [Notice 2007-89](#)

Prior AALU Washington Reports: 07-83, 81, 66, 50, 48, 44, 41, 38, and 34; 06-131, 118, 114, 96, 70, 37, 16, and 02; and 04-173

MDRT Information Retrieval Index Nos.: 700.053; 5400.04

**SEE THE CIRCULAR 230 DISCLAIMERS APPENDED TO THE CONCLUSION OF THIS WASHINGTON REPORT.**

*Following the pattern established last year with Notice 2006-100 (see our Bulletin No. 06-143), the IRS has issued a Notice regarding the reporting and withholding guidelines under section 409A for 2007.*

*In general, the Notice exempts employers from having to report in 2007 the amount of deferrals (that are not subject to tax under section 409A) that occur in 2007. Under the statutory provisions of section 409A, employers will at some point be required to report (on Form W-2, for example), not only the taxable amounts in deferred compensation plans but also the (nontaxable) amounts that are deferred each year. Because the IRS has not issued sufficient guidance in this area, the IRS started (with Notice 2006-100) postponing these requirements and has continued to do so with Notice 2007-89.*

The Notice also provides additional detailed guidance on reporting and disclosure requirements applicable for 2007. A more detailed report on these requirements will be issued in a forthcoming Washington Report.

Any AALU member who wishes to obtain a copy of Notice 2007-89 may do so through the following means: (1) use hyperlink above next to “Major References,” (2) log onto the AALU website at [www.aalu.org](http://www.aalu.org) and enter the *Member Portal* and select *Current Washington Report* for linkage to source material or (3) email Erik Ruselowski at [ruselowski@aalu.org](mailto:ruselowski@aalu.org) and include a reference to this *Washington Report*.

In order to comply with requirements imposed by the IRS which may apply to the *Washington Report* as distributed or as re-circulated by our members, please be advised of the following:

**THE ABOVE ADVICE WAS NOT INTENDED OR WRITTEN TO BE USED, AND IT CANNOT BE USED, BY YOU FOR THE PURPOSES OF AVOIDING ANY PENALTY THAT MAY BE IMPOSED BY THE INTERNAL REVENUE SERVICE.**

In the event that this *Washington Report* is also considered to be a “marketed opinion” within the meaning of the IRS guidance, then, as required by the IRS, please be further advised of the following:

**THE ABOVE ADVICE WAS NOT WRITTEN TO SUPPORT THE PROMOTIONS OR MARKETING OF THE TRANSACTIONS OR MATTERS ADDRESSED BY THE WRITTEN ADVICE, AND, BASED ON THE PARTICULAR CIRCUMSTANCES, YOU SHOULD SEEK ADVICE FROM AN INDEPENDENT TAX ADVISOR.**



---

*The mission of AALU is to promote, preserve and protect advanced life insurance planning for the benefit of our members, their clients, the industry and the general public.*

**For more information about how AALU’s advocacy efforts help protect your business and the advanced life insurance marketplace, visit our website at [www.aalu.org](http://www.aalu.org), or call toll free 1-(888)-275-0092.**