



# 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: 07-72

August 3, 2007

Subject: **Technical Corrections to Section 409A Regulations**

Major References: [\*\*Section 409A Regulations Technical Corrections \(RIN 1545-BE79\)\*\*](#)

Prior AALU Washington Reports: 07-38

MDRT Information Retrieval Index Nos.: 2400.07

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

*The Internal Revenue Service recently released the correcting amendments to the final regulations under section 409A of the Revenue Code. A few weeks ago the IRS had released correcting amendments to the preamble to those regulations.*

On April 17, 2007 the IRS issued the final regulations under section 409A. (See our Bulletin No. 07-38.) The Service had indicated over the last few months that it intended to make technical modifications to those regulations to further clarify their original meaning and intent. Those clarifications were recently issued.

In a procedure that is highly unusual, the IRS clarifications were actually issued in two stages even though the Revenue Service drafted the technical corrections as a unit. The first part was issued several weeks ago, but (as stated above) only applied to the preamble of the regulations. Recently the government published the second part -- the technical corrections to the regulations' text itself.

Those corrections are intended to clarify the rules without modifying the original intent. One of the regulations' principal drafters (the Treasury Department's Dan Hogans) was recently quoted as saying that the technical corrections are "clarifications of what was intended to begin with."

The IRS does not intend to republish separately the section 409A regulations in their entirety (i.e., with the corrections). As a consequence, any practitioner dealing with issues under section 409A will have to refer to the regulations as issued on April 17, 2007, as to well as the separate technical corrections in

order to be certain he is utilizing a fully corrected version of the regulations. This will be true at least until such time as the regulations are republished, inclusive of these corrections, by a private publisher.

Any AALU member who wishes to obtain a copy of the technical corrections 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.**