



# WASHINGTON REPORT

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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*.

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