



WASHINGTON REPORT

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. *PricewaterhouseCoopers*
Steve Ricchetti William Archer
Jeff Ricchetti 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

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Subject: *IRS Notice 2007-86 Extension of 409A Deadline*

Major References: [Notice 2007-86](#)

Prior 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

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As previously reported, the IRS extended part of the deadline for complying with the 409A regulations. See our Bulletins No. 2007-83 and 81. That extension only applied to documenting compliance with the final regulations on deferred compensation. At the urging of AALU and other organizations, the IRS has now generally extended the deadline for full compliance with these regulations until the end of 2008. After a more thorough review of Notice 2007-86, AALU will provide a detailed analysis of the guidance in a future Washington Report.

The general extension of the effective date of the regulations under §409A resulted from the efforts of AALU and a number of other trade associations, as well as submissions by law firms and other organizations. While the previous extension for document compliance was useful, practitioners generally felt that loss of the many transition rules under §409A would still make it extremely difficult to fully comply with the rules by the end of this year. The IRS apparently recognized the validity of this problem and has now moved to provide a general extension of the effective date of §409A through the end of next year. This means generally that the changes in the time and form of payout for a deferred compensation plan can be made at any time until the end of next year in accordance with the general transition rules that have been in place.

A more detailed analysis of Notice 2007-86 will be provided at a later time.

Any AALU member who wishes to obtain a copy of Notice 2007-86 may do so through the following means: (1) use hyperlink above next to "Major References," (2) log onto the AALU website at

AALU.org, enter the *Member Portal* and select *Current Washington Report* for linkage to source material or (3) email Erik Ruselowski at ruselowski@aalu.org and include a reference to this *Washington Report*.

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