

as the trust was (1) substantially similar to the example in *Rev. Proc. 2003-42, 2003-1 C.B. 993 Sec. 4*, (2) the trust operated in a manner consistent with the terms of the trust instrument; and (3) the trust was valid under applicable local law, the zero-value rule generally applicable to retained interests under I.R.C. § 2702 was not applied to the taxpayer's trust. **Ltr. Rul. 200848003, Aug. 18, 2008.**

**WITHHOLDING TAXES.** The IRS has issued a notice which provides guidance to employers and payers on their reporting and wage withholding requirements for calendar year 2008 with respect to amounts includible in gross income under I.R.C. § 409A for non-qualified deferred compensation plans. The notice also provides guidance to employers and payers on their reporting requirements with respect to all deferrals of compensation under I.R.C. § 409A for 2008. This notice does not affect the application of I.R.C. § 3121(v)(2) or an employer's reporting obligations under Treas. Reg. § 31.3121(v)(2)-1. In

addition, the notice provides guidance to service providers on their income tax reporting and tax payment requirements with respect to amounts includible in gross income under I.R.C. § 409A for 2008. Generally, these requirements for 2008 reflect an extension to 2008 tax years of the guidance provided in *Notice 2006-100, 2006-2 C.B. 1109* and *Notice 2007-89, 2007-2 C.B. 988* applicable to 2005, 2006 and 2007 tax years. The IRS stated that the guidance will continue to be effective for subsequent tax years until the IRS issues further guidance. **Notice 2008-115, I.R.B. 2008-52.**

The IRS has issued proposed regulations relating to withholding under I.R.C. § 3402(t) to reflect changes in the law made by the Tax Increase Prevention and Reconciliation Act of 2005 that require federal, state, and local government entities to withhold income tax when making payments to persons providing property or services. **73 Fed. Reg. 74082 (Dec. 5, 2008).**

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