

Director Contine,

Thank you for the opportunity to discuss with you the omission of non grantor personal trust in Section 4(2)(j) of the LCB Draft of the Revised Proposed Regulation R123-15 after the hearing conducted on February 23rd, 2016. To review our discussion, I requested consideration of a revised Section 4(2)(j) and (k) to read as follows (bracketed and highlighted language is my recommended addition):

(j) A natural person [or a non grantor personal trust] who is required to [report and] file with the Internal Revenue Service a:

- (1) Schedule C (Form 1040), Profit or Loss from Business, or its equivalent or successor form or successor form;*
- (2) Schedule E (Form 1040), Supplemental Income and Loss, or its equivalent or successor form, if the activity of the natural person [or non grantor personal trust] is reported on Part I of that Schedule; or*
- (3) Schedule F (Form 1040), Profit or Loss from Farming, or its equivalent or successor form.*

(k) Any other [type of] person engaging in a business in this State not otherwise described in Subsection 2 and not excluded in Subsection 3.

We would appreciate further consideration of the suggested language since a natural person and non grantor personal trust both for federal tax purposes file the same Form 1040 tax schedules which would avoid unnecessary discrimination between two similarly situated taxpayers without avoiding taxation of Nevada gross income.

A useful definition of a non grantor personal trust is: “a trust that is not a grantor trust (as defined in Subsection 2(g) of Section 4 of Senate Bill No. 483, chapter 487, Statutes of Nevada 2015, at page 2879) all of the beneficiaries of which are natural persons or charitable entities as described in section 501(c)(3) of the Internal Revenue Code, 26 U.S.C. § 501(c)(3), excluding a trust taxable as a business entity pursuant to 26 C.F.R. § 301.7701-4(b).

We also concur with Mr. Mowry’s comments of February 23, 2016 especially with respect to his comments contained in Paragraph 3 of his letter in order to avoid unintended, unnecessary and unreasonable discrimination between pass through entities such as electing Subchapter S corporations and partnerships versus limited liability companies.

Thank you again for considering our comments and I would welcome the opportunity to discuss these points with you and your staff at anytime convenient before the final proposed regulation is posted for adoption by the Nevada Tax Commission.

Sincerely yours,

Robert E. Armstrong | Partner

MCDONALD CARANO WILSON LLP

100 West Liberty Street, 10th Floor | Reno, NV 89501
phone (775) 788-2000 | facsimile (775) 788-2020

[BIO](#) | [WEBSITE](#) | [V-CARD](#)



PERSONAL AND CONFIDENTIAL: This message originates from the law firm of McDonald Carano Wilson LLP. This message and any file(s) or attachment(s) transmitted with it are confidential, intended only for the named recipient, and may contain information that is a trade secret, proprietary, protected by the attorney work product doctrine, subject to the attorney-client privilege, or is otherwise protected against unauthorized use or disclosure. This message and any file(s) or attachment(s) transmitted with it are transmitted based on a reasonable expectation of privacy consistent with ABA Formal Opinion No. 99-413. Any disclosure, distribution, copying, or use of this information by anyone other than the intended recipient, regardless of address or routing, is strictly prohibited. If you receive this message in error, please advise the sender by immediate reply and delete the original message. Personal messages express only the view of the sender and are not attributable to McDonald Carano Wilson LLP.

Internet communications are not assured to be secure or clear of inaccuracies as information could be intercepted, corrupted, lost, destroyed, arrive late or incomplete, or contain viruses. Therefore, we do not accept responsibility or any errors or omissions that are present in this email, or any attachment, that have arisen as a result of e-mail transmissions.