AdvisorFacts

NEWPORT GROUP™

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Potential Implications to COLI/BOLI Policies Inherited Through an Acquisition

Included in the tax reform legislation passed last December were changes to the previously existing transfer for value rules. These changes were designed to address perceived abuses in the stranger-owned life insurance (STOLI) market, whereby entities are formed for no other reason than to acquire, own and be the beneficiary of insurance policies.

Our industry provided input to ensure that traditional corporate-owned and bank-owned life insurance (COLI and BOLI) would not be impacted in this legislation. However, the bill was modified during the last days in Congress without consideration of the potential impact to BOLI and COLI, and subsequently passed into law.

The language as written is potentially problematic for BOLI and COLI in that it taxes death benefits for policies acquired through an acquisition (reportable policy sale) whereby the new owner does not have a continued economic interest in the life of the insured other than the life insurance policy itself.

Policies on insureds who are actively employed at the time of the acquisition, and those insureds who are due an insurance benefit or some other ongoing financial relationship should meet the standard of continued economic interest in the life of the insured, and continue to enjoy the same tax status as prior to the acquisition. BOLI policies acquired through an acquisition, whereby the policies were originally purchased to fund ongoing aggregate employee benefit cost (as allowed under banking regulations) could also meet the ongoing economic interest standard if the acquirer can demonstrate the aggregate employee benefit funding need is still applicable.

Based on feedback our contacts in Washington, D.C. have received from congressional tax staff, the potential negative implications to COLI and BOLI was inadvertent, and our industry has been working for a positive resolution. The Treasury Department is writing regulations related to the new law, and recently asked for public comment. The American Council of Life Insurance provided a comment letter—to which Newport Group provided input—seeking a positive resolution. There is no definite timetable set for the release of these new regulations, but we believe it will be within a number of months.

We are also working through our partners in Washington to seek positive resolution through a technical corrections bill. Although we believe any bill is likely to positively address this issue, the prospects for a bill are uncertain given the current political climate.

Newport Group will keep you updated with any new developments.

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