

Offshore insurance update



ITB 09-68:H.R. 3399: Proposal to allow life insurance companies to consolidate with other companies

August 18, 2009

Alert 09-05

House Ways and Means Committee member, John B. Larson (D-CT), recently introduced legislation (H.R. 3399). If passed, the bill would permit life insurance companies to fully consolidate with non-life companies and offset income with losses to the same extent as other corporations.

Specifically, the bill would do the following:

- Allow affiliated life and non-life insurance companies to file consolidated tax returns;
- Phase in the full application of losses of affiliated non-life insurance companies against the taxable income of an affiliated life insurance company; and
- Automatically waive the five-year waiting period applicable to affiliated non-life insurance companies for offset of their losses against life insurance company income.

Under the proposed legislation, if an affiliated group includes members which are and which are not taxed under section 801, all items of the members of such group which are not taxed under section 801 shall not be taken into account in determining the amount of the tentative LICTI of members of such group, taxed under section 801.

The proposed legislation also provides that if an affiliated group includes one or more domestic insurance companies subject to tax under section 801, and the consolidated taxable income of the members of the group not taxed under such section 801 results in a consolidated net operating loss for the taxable year, then the amount of such loss, which cannot be absorbed in the applicable carryback periods against the taxable income of its members not taxed under section 801, shall be taken into account in determining the consolidated taxable income of the affiliated group, with certain limitations. The unused portion of the loss will be available as a carryover, subject to the same limitations, in applicable carryover years. To the extent that a consolidated net operating loss is allowed or increased by reason of amendments made by the Act, the loss (or increase in such loss) may not be carried back to a taxable year beginning before the first taxable year of the affiliated group to which the amendments apply.

PwC Observations

This bill, in one form or another, has been introduced many times before, with no success.

Please consult your PricewaterhouseCoopers tax adviser or Rick Irvine at (441) 299-7136 and Laurie Bailey at (441) 299-7104 for further information or guidance.

ANY TAX ADVICE IN THIS COMMUNICATION IS NOT INTENDED OR WRITTEN BY PWC TO BE USED, AND CANNOT BE USED, BY A CLIENT OR ANY OTHER PERSON OR ENTITY FOR THE PURPOSE OF (i) AVOIDING PENALTIES THAT MAY BE IMPOSED ON ANY TAXPAYER OR (ii) PROMOTING, MARKETING OR RECOMMENDING TO ANOTHER PARTY ANY MATTERS ADDRESSED HEREIN.

This publication has been prepared for general guidance on matters of interest only, and does not constitute professional advice. You should not act upon the information contained in this publication without obtaining specific professional advice. No representation or warranty (express or implied) is given as to the accuracy or completeness of the information contained in this publication, and, to the extent permitted by law, PricewaterhouseCoopers, its members, employees and agents accept no liability, and disclaim all responsibility, for the consequences of you or anyone else acting, or refraining to act, in reliance on the information contained in this publication or for any decision based on it.

© 2009 PricewaterhouseCoopers. All rights reserved. "PricewaterhouseCoopers" refers to PricewaterhouseCoopers (a Bermuda partnership) or, as the context requires, the PricewaterhouseCoopers global network or other member firms of the network, each of which is a separate and independent legal entity.