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# ***Financial Services - Insurance Tax Bulletin***

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## *IRS deems change to insurance contract a 'new' contract*

In a recent private letter ruling, the IRS stated that a reduction in the face amount of a life insurance contract was not an alteration under the terms of the contract. Instead, the contract was treated as a new contract as of the date of alteration. This is important for insurance companies because the contract issue date determines which Commissioners Standard Ordinary mortality and morbidity tables (CSO tables) will be used to decide whether mortality charges are reasonable.

PLR 201230009 involves life insurance contracts, which for all intents and purposes are life insurance contracts under Sec. 7702. Specifically, this ruling addresses the reasonable mortality charge requirements of Sec. 7702(c)(3)(B)(i). Under certain circumstances, contract owners want to decrease the amount of death benefit under the contract; however the contracts at issue do not include a provision that explicitly states that the owner can request a decrease in coverage. What the contracts do contain is a provision allowing the owner to request a modification, and requiring the taxpayer's consent to the modification.

Under existing guidance (Notice 2006-95) certain alterations to a life insurance contract may cause the contract to be considered 'newly issued' as of the date of alteration. Although the 2001 CSO tables generally apply to life insurance policies issued after 2008, Notice 2006-95 requires that changes to policies issued prior to 2009 must also be based on the 2001 CSO table. The notice provides a safe harbor exception, but only "if the change, modification, or exercise of a right to modify, add or delete benefits is pursuant to the terms of the contract."

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In this case, the decrease was not pursuant to the terms of the contracts. As a result, the IRS concluded that the reduction must be treated as a newly issued contract.

***PwC Observation***

Although this ruling is subjective, taxpayers should think about whether any changes made by their policyholders to life insurance contracts issued prior to 2009 would cause the contracts to be considered newly issued contracts. If so, taxpayers should consult with their tax professional. In addition, taxpayers should note that the caveat to this ruling indicates that it may be modified or revoked by the adoption of temporary or final regulations in the near future.

***For further information***, please feel free to contact Anthony DiGilio at (703) 918-4812 or contact your local insurance tax professional.

Please visit us at: <http://www.pwc.com/us/insurance/tax>

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