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# ACLI Update Column

*by Bill Elwell*

In accordance with the American Council of Life Insurers' (ACLI's) commitment to reserve modernization, the ACLI continues its contact with the Treasury Department and the Internal Revenue Service (hereinafter referred to collectively as Treasury) relating to the National Association of Insurance Commissioners' (NAIC's) exposure draft of *"Actuarial Guideline VACARVM – CARVM for Variable Annuities Redefined"* (AG VACARVM), and the *Requirements for Principles-Based Reserves for Life Products,* section 20 of the proposed Valuation Manual that would be adopted pursuant to a proposed change to the Standard Valuation Law (Life PBR).

Because the Treasury is responsible for interpreting federal income tax laws, the ACLI is focusing substantial efforts to ensure that: (1) Life PBR and AG VACARVM are compatible with the current federal income tax laws applicable to life insurance companies and policyholders, and (2) the Treasury understands reserve modernization.

The ACLI's ongoing outreach to the Treasury is necessary to elicit its views on the compatibility of key aspects of these reserve modernization proposals with the existing tax laws. The Treasury does not ordinarily engage in hypothetical discussions, but the ACLI was able to open a dialogue on Life PBR and AG VACARVM to encourage the Treasury to consider the current proposals and offer suggestions, if needed, that could lead to refinements to these methodologies.

The Treasury has requested that the ACLI include all parties involved in Life PBR and AG VACARVM in these discussions. The ACLI's discussions with the Treasury have included: (1) an informal meeting in September 2006; (2) a formal meeting in January 2007; and (3) a June 6, 2007 letter outlining the AG VACARVM proposal. Most recently, on Sept. 6, 2007, the ACLI and representatives from the American Academy of Actuaries (Academy), the NAIC, and the Affordable Life Insurance Alliance (ALIA) met with representatives from the Treasury to discuss AG VACARVM and, to a lesser extent, Life PBR. The ACLI approached the Treasury on AG VACARVM first because: (1) AG VACARVM may be implemented before Life PBR; (2) AG VACARVM raises fewer tax issues than Life PBR; and (3) decisions the Treasury makes on AG VACARVM could facilitate similar decisions it must make when considering the broader issues of Life PBR.

The Treasury anticipates issuing a Notice in the near future that will: (1) identify the tax issues raised by Life PBR and AG VACARVM; (2) outline potential positions that the Treasury is likely to take on Life PBR and AG VACARVM; (3) offer alternative interpretations to the tax issues raised by Life PBR and AG VACARVM; and (4) request comments or support for other interpretations.

Even with this guidance, however, the ACLI does not anticipate receiving comprehensive guidance from the Treasury until: (1) the NAIC finalizes the Life PBR and AG VACARVM proposals, or (2) the states adopt the proposals.

The ACLI would like to work closely with the Academy, the NAIC and the ALIA to respond to the anticipated Notice, and anticipates participating in additional meetings with the Treasury on these reserve modernization efforts. If necessary, the ACLI will continue to work with the Treasury in an open forum to further refine the current reserve modernization proposals to accommodate federal income tax laws.

***Note from the Editor:*** After this Update Column was written, the IRS released Notice 2008-18 (Jan. 14, 2008.) The Notice was issued to alert life insurance companies to federal income tax issues that may arise should the NAIC adopt the proposed Actuarial Guideline VACARVM (AG VACARVM) and/or a proposed principles-based approach for calculating statutory reserves for life insurance contracts (PBR). A supplemental issue of *Taxing Times,* to be distributed to Taxation Section members in late February or early March, will feature a dialogue between Christian DesRochers, Edward Robbins and Peter Winslow addressing a number of questions the IRS raised in the notice relating to the proposed Actuarial Guidelines. Comments on the notice are to be submitted in writing to the IRS by May 5, 2008.

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