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# HIGHLIGHTS FROM THE TAXATION SECTION'S 2012 PRODUCT TAX SEMINAR

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This past September, the Taxation Section of the Society of Actuaries (SOA) sponsored a day-and-a-half-long seminar focused on taxation issues affecting products issued by life insurance companies. The Product Tax Seminar is held every two years in Washington, D.C. This year's seminar brought together industry experts, including representatives from the Internal Revenue Service (IRS), to discuss emerging product tax questions affecting life insurance, annuities and long-term care (LTC) insurance products.

Under the sponsorship of the SOA, the seminar brings together attendees from a variety of disciplines and backgrounds, including attorneys, compliance officers, policyholder administration system developers and other tax professionals. The diversity of backgrounds of those in attendance demonstrates the importance and reach of policyholder tax issues within insurance organizations.

**Day 1 Agenda.** The day 1 agenda focused on providing an update on current questions affecting the taxation of life insurance, annuities and long-term care products, with sessions addressing recent guidance and pronouncements issued by the IRS, including Notices, Revenue Procedures and private letter rulings (PLRs). Readers of *TAXING TIMES* will recognize the majority of these topics as most, if not all, have been addressed in recent issues of our publication. Items discussed on the first day of the seminar included the following.

## Life Insurance:

- Definition of cash value under section 7702
- “Material changes” under the Internal Revenue Code (IRC) and the complexities of administering life-policy changes under the requirements of sections 7702 and 7702A
- Recent PLRs:
  - o PLR 201230009—the loss of 1980 CSO “grandfathering” resulting from a policyholder-elected decrease in death benefit
  - o PLR 201137008—the application of the section 7702A(c)(3)(B)(i) necessary premium test
  - o PLR 201046008—the section 7702 implications of a

guaranteed distribution rider associated with a life insurance contract

- Revenue Procedure 2010-28 providing guidance on the application of sections 7702 and 7702A to life insurance contracts maturing beyond age 100
- Teaching session on the application of section 7702A(c)(3)(B)(i)'s necessary premium test

## Annuities:

- Proposed regulations defining qualified longevity annuities contracts, or QLACs
- PLR 201235001 addressing investor-control questions
- Update on the tax and regulatory status of contingent deferred annuities
- Recent guidance on partial exchanges and partial annuitizations

## LTC Insurance:

- Notice 2011-68 providing guidance on the taxation of LTC combination contracts
- Effect of the payment of LTC benefits on “investment in the contract”
- Exchange issues under section 1035
- Tax treatment of accelerated death benefits under sections 7702 and 7702A

Attendees at the seminar were fortunate to have Walter Welsh, executive vice president, Taxes & Retirement Security for the American Council of Life Insurers (ACLI), share his thoughts on the prospects for federal tax reform and ACLI's efforts to educate government officials on the important role played by life insurance and annuities in protecting the financial security of individuals and their families. Day 1 culminated with a networking reception hosted by Davis & Harman LLP, which allowed attendees to mingle with speakers and IRS representatives while enjoying the spectacular view overlooking the capital.

**Day 2 Agenda.** Day 2 of the seminar was focused on the broader concept of managing product tax risk. Maintaining qualification within the requirements of the IRC is essential

for the proper reporting of income to policyholders. Life insurers are keenly aware of the risks and challenges involved in administering insurance products within these requirements.

The morning session provided an overview of the IRC qualification rules for life insurance, annuities and LTC contracts; discussed sources of or instances in which noncompliance can arise; and highlighted the unfortunate implications for noncompliance. Further, panelists provided their insights on administrative practices that can mitigate the risk of qualification failures. The seminar concluded with an informative “Ask the Experts” session that provided an open forum for questions and answers that was led by Chris DesRochers and John Adney, along with IRS representatives Sheryl Flum and Don Drees.

**Product Tax Seminar 2014.** Several of the attendees have attended many of the past seminars, while some were attending their first. This provides an opportunity for those with product tax responsibilities to exchange views and learn the latest developments. We invite anyone who may be interested

to mark their calendars for the next seminar, which will be held in Washington, D.C. in September 2014.

**Sections 7702 and 7702A Boot Camp.** Several attendees inquired about the status of the sections 7702 and 7702A “boot camp,” which had been offered in conjunction with the Product Tax Seminar in prior years. In its continuing efforts to meet the demand for basic educational opportunities, the Taxation Section will be sponsoring a “Section 7702 & 7702A Boot Camp” at the SOA’s Life and Annuity Symposium in May 2013 in Toronto, Canada. This day-long teaching session will focus on the basic qualification requirements of IRC sections 7702 and 7702A, and will provide an opportunity for attendees from a variety of backgrounds (legal, actuarial, compliance, IT, tax and so forth) to increase their knowledge in this area. For more information on the boot camp, please visit the SOA website at [www.SOA.org](http://www.SOA.org). Hope to see you in Toronto. ◀

**Note:** *The views expressed are those of the author and do not necessarily reflect the views of Ernst & Young LLP.*

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