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ACLI Update

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TAX REFORM

No one expects tax reform in 2016, but the tax writing committees in Congress have indicated they intend to brainstorm toward developing a comprehensive plan in the longer term.

REPRESENTATIVE DEVIN NUNES TAX REFORM BILL

On January 13, Rep. Nunes, R-Calif., a member of the House Ways & Means Committee (W&M), introduced the American Business Competitiveness (ABC) Act (HR4377). HR 4377 proposes a systemic change to a new basis for taxation of business income. It is referred to as a cash flow system where taxable receipts exclude investment income and business expenses are 100 percent currently deductible. To achieve this, the bill would place all taxpayers on a cash accounting basis. Section 3(b)(1) of HR4377 imposes a tax “for each taxable year on the net business income of every corporation.” Section 4(a) of the bill defines “the term ‘net business income’ . . . [as] the amount by which the taxable receipts of the business entity for the taxable year exceed the deductible amounts for the business entity for the taxable year.”

Taxation of transactions involving financial institutions is addressed in a separate section of the bill. Insurance companies are specifically included as financial institutions. Transactions between financial institutions and any entity or individual not engaged in a business activity are “covered transactions,” the proceeds of which are taxable receipts. Of particular concern is that premiums from life insurance, annuity, disability income and long-term care insurance policies sold to individuals for non-business purposes would be taxable receipts; however, deductions would be allowed only when benefits to policyholders are paid. This would mean that without a life insurance reserve deduction, a life insurer’s income would be accelerated and taxed prematurely.

ACLI and member companies have shared with Rep. Nunes’ staff the need for the proposal to provide for a life insurance reserve deduction so that life insurers’ ordinary and necessary business expenses are put on an even footing with the expenses of taxpayers in other businesses.



Kevin Brady, R-Texas, Chair of W&M Committee has encouraged members of his committee and the Republican caucus to develop and present ideas for tax reform. On March 23, the W&M Tax Policy Subcommittee held a tax reform hearing, with a particular focus on cash-flow and consumption-based approaches to taxation. Among the topics discussed during the hearing was Rep. Nunes’ ABC proposal, and the congressman appeared before the panel to promote his bill. ACLI submitted written testimony for the hearing record to emphasize the need for an insurance reserve deduction in the proposal.

ACLI staff, working with member company representatives, will continue to provide Rep. Nunes’ staff with feedback on the bill’s potential impact on life insurers.

POSSIBLE CORPORATE INTEGRATION PROPOSAL FROM SENATE FINANCE COMMITTEE

Late last year, we learned that Senate Finance Committee (SFC) staff is working, at the behest of SFC Chair Orrin Hatch, R-Utah, on a business tax reform proposal that would eliminate the double taxation on corporate income by providing a dividends paid deduction, potentially paired with a withholding tax on dividends and possibly interest paid. Under current law, corporate earnings are taxed twice, once at the corporate level and again when dividends are paid to shareholders.

Since then, ACLI has engaged member company representatives to assess how such a system would affect life insurers. ACLI staff and member company representatives have had a few meetings with SFC staff to learn more details about the proposal being developed and share industry concerns, and in particular, concerns about any proposal that might include a non-refundable withholding tax on interest and dividends.

In our most recent meeting, we explained the basics of our business model, system of regulation and investment strategy and addressed the effects of the proposal—as we understood it—on:

- The financial markets, and particularly the bond market; and
- The regulatory capital of life insurance companies.

Chairman Hatch and his staff have thanked us for our engagement and acknowledged our concerns.

PBR GUIDANCE UPDATE

Last September, ACLI submitted a letter to the IRS about its Priority Guidance Plan project concerning Life Principle-Based Reserves (PBR). The letter identified three categories of issues for guidance: (1) product qualification guidance, (2) reserve transition guidance, and (3) substantive reserve guidance. ACLI singled out product qualification guidance as the most time-sensitive set of issues due to the lead time needed to design products, secure state approvals, and design systems, and committed to follow up quickly with detailed written communication on that topic. In early November, ACLI submitted a detailed letter requesting administrative guidance by no later than the first half of 2016 on the issues relating to product guidance. ACLI and

member company representatives met with Treasury and IRS officials on March 1 to discuss the contents of the product qualification guidance request and have continued their outreach to the IRS regarding the scope of product guidance.

ACLI has begun work on a detailed letter requesting guidance on reserve transition issues as well as tax issues surrounding the statutory exemption from the requirements of Life PBR. That guidance request will be submitted during the second quarter of 2016 at which time the ACLI will begin work on the substantive reserve guidance request. ■

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