Product Tax and Company Tax Update

Session 10A - October 29, 2020
Today’s Speakers

Product Tax Update –
• Phil Ferrari, ASA, MAAA, Managing Director, Ernst & Young LLP
• Brian King, FSA, MAAA, Managing Director, Ernst & Young LLP
• Craig Springfield, ESQ., Partner, Davis & Harman LLP

Company Tax Update –
• Jean Baxley, Managing Director, Deloitte Tax LLP
• Sheryl Flum, Managing Director, KPMG LLP
SOCIETY OF ACTUARIES
Antitrust Compliance Guidelines

Active participation in the Society of Actuaries is an important aspect of membership. While the positive contributions of professional societies and associations are well-recognized and encouraged, association activities are vulnerable to close antitrust scrutiny. By their very nature, associations bring together industry competitors and other market participants.

The United States antitrust laws aim to protect consumers by preserving the free economy and prohibiting anti-competitive business practices; they promote competition. There are both state and federal antitrust laws, although state antitrust laws closely follow federal law. The Sherman Act, is the primary U.S. antitrust law pertaining to association activities. The Sherman Act prohibits every contract, combination or conspiracy that places an unreasonable restraint on trade. There are, however, some activities that are illegal under all circumstances, such as price fixing, market allocation and collusive bidding.

There is no safe harbor under the antitrust law for professional association activities. Therefore, association meeting participants should refrain from discussing any activity that could potentially be construed as having an anti-competitive effect. Discussions relating to product or service pricing, market allocations, membership restrictions, product standardization or other conditions on trade could arguably be perceived as a restraint on trade and may expose the SOA and its members to antitrust enforcement procedures.

While participating in all SOA in person meetings, webinars, teleconferences or side discussions, you should avoid discussing competitively sensitive information with competitors and follow these guidelines:

- **Do not** discuss prices for services or products or anything else that might affect prices
- **Do not** discuss what you or other entities plan to do in a particular geographic or product markets or with particular customers.
- **Do not** speak on behalf of the SOA or any of its committees unless specifically authorized to do so.
- **Do** leave a meeting where any anticompetitive pricing or market allocation discussion occurs.
- **Do** alert SOA staff and/or legal counsel to any concerning discussions
- **Do** consult with legal counsel before raising any matter or making a statement that may involve competitively sensitive information.

Adherence to these guidelines involves not only avoidance of antitrust violations, but avoidance of behavior which might be so construed. These guidelines only provide an overview of prohibited activities. SOA legal counsel reviews meeting agenda and materials as deemed appropriate and any discussion that departs from the formal agenda should be scrutinized carefully. Antitrust compliance is everyone’s responsibility; however, please seek legal counsel if you have any questions or concerns.
Presentation Disclaimer

Presentations are intended for educational purposes only and do not replace independent professional judgment. Statements of fact and opinions expressed are those of the participants individually and, unless expressly stated to the contrary, are not the opinion or position of the Society of Actuaries, its cosponsors or its committees. The Society of Actuaries does not endorse or approve, and assumes no responsibility for, the content, accuracy or completeness of the information presented. Attendees should note that the sessions are audio-recorded and may be published in various media, including print, audio and video formats without further notice.
Additional Disclaimer

The views expressed by the presenters are not necessarily those of Davis & Harman LLP, KPMG LLP, Deloitte Tax LLP, Ernst & Young LLP, or other members of the global EY organization.

These slides are for educational purposes only and are not intended to be relied upon as accounting, tax or other professional advice. Please refer to your advisors for specific advice.
Product Tax Update

Phil Ferrari, ASA, MAAA, Managing Director, Ernst & Young LLP
Brian King, FSA, MAAA, Managing Director, Ernst & Young LLP
Craig Springfield, ESQ., Partner, Davis & Harman LLP

October 29, 2020
Product Tax Update - Overview

• HEROES Act
  • Why the change is needed
  • Overview of proposed changes to Section 7702
  • Implementation of the proposed changes
  • Observations and concluding thoughts
• Update on tax reporting requirements under Section 6050Y
• IRS Revenue Ruling 2020-5
HEROES Act

Why the change is needed

- In response to the low interest rate environment, the HEROES Act proposes changes to the prescribed interest rate structure in section 7702 for newly issued contracts starting in 2021.
  - Currently, the statutory minimum interest rates in section 7702 are fixed at:
    - 6% for the guideline single premium (GSP).
    - 4% for the guideline level premium (GLP) and the cash value accumulation test’s (CVAT) net single premium (NSP).
  - Under the proposal, a dynamic interest rate structure would be adopted where the statutory minimum interest rates would be redetermined whenever there is a change to the statutory valuation interest rate.
  - Since 1984, interest rates have declined significantly, yet the statutory minimum interest rates in Section 7702 have remained unchanged.

<table>
<thead>
<tr>
<th>Interest Rate Type</th>
<th>1984</th>
<th>2021</th>
</tr>
</thead>
<tbody>
<tr>
<td>Statutory Valuation Interest Rate</td>
<td>6.0%</td>
<td>3.0%</td>
</tr>
<tr>
<td>Standard Nonforfeiture Law Interest Rate</td>
<td>7.5%</td>
<td>4.0%</td>
</tr>
<tr>
<td>Moody’s Corporate Bond</td>
<td>12.9%</td>
<td>0.35%* estimated</td>
</tr>
<tr>
<td>GSP</td>
<td></td>
<td>6.0%</td>
</tr>
<tr>
<td>GLP and NSP</td>
<td></td>
<td>4.0%</td>
</tr>
</tbody>
</table>
HEROES Act
Why the change is needed (cont.)

• Whole life insurance
  • Starting in 2021, CVAT maximum cash values will be based on the same interest rate as the Standard Nonforfeiture Law (SNFL) minimum cash values.
    • Limits flexibility for designing whole life products.
    • Investments returns may lag the earnings implicitly assumed in cash values.

• Universal life insurance
  • Interest crediting rates are significantly below the GSP and GLP interest rates, creating funding challenges for policyholders seeking cash value growth.
**HEROES Act**

*Overview of proposed changes to Section 7702*

The HEROES Act includes a provision to update Section 7702 to allow for prescribed interest rate assumptions to vary by defining new terms to represent the prescribed rates.

<table>
<thead>
<tr>
<th>Code Section</th>
<th>Current Provisions</th>
<th>HEROES Act Proposed Changes</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSP</td>
<td>Section 7702(b)(2)(A)</td>
<td>Greater of: - 4% - Rate or rates guaranteed upon issuance</td>
</tr>
<tr>
<td>GLP</td>
<td>Section 7702(c)(4)</td>
<td>Same as NSP</td>
</tr>
<tr>
<td>GSP</td>
<td>Section 7702(c)(3)(B)(iii)</td>
<td>Greater of: - 6% - Rate or rates guaranteed upon issuance</td>
</tr>
</tbody>
</table>

**Section 7702A's 7-pay Premium**

*Note: Although the HEROES Act proposal would not change IRC Section 7702A, the cross reference in Section 7702A(c)(1)(B) to Section 7702(b)(2) would result in the *Applicable Accumulation Test Minimum Rate* applying to the calculation of the 7-pay premium.*
HEROES Act
Applicable Accumulation Test Minimum Rate

• Used to define the interest rate used in the calculation of the NSP, GLP and 7-pay premium, and is the lesser of a) and b):
  a) 4%
  b) The Insurance Interest Rate, defined as the lessor of:
     • The Section 7702 valuation interest rate
       • The prescribed US valuation interest rate for life insurance with guaranteed durations of more than 20 years.
     • The Section 7702 applicable Federal interest rate (AFIR)
       • The 60-month average of the applicable federal midterm rates (rounded to the nearest whole percentage point) effective as of the beginning of each of the calendar month.
HEROES Act

**Applicable Guideline Premium Minimum Rate**

- Used to define the interest rate in the calculation of the GSP and is the sum of a) and b):
  
  a) 2%
  
  b) The *Applicable Accumulation Test Minimum Rate*

- Maintains a 2% spread with the GLP interest rate.
HEROES Act

Implementation of the proposed changes

- Transition Rule: If passed in 2020 as currently drafted, the Insurance Interest Rate would be set at 2% for contracts issued in 2021 and remain at 2% until the next Adjustment Year.
  - The Applicable Accumulation Test Minimum Rate would be set at 2%.
  - The Applicable Guideline Test Minimum Rate would be set at 4%.

- Future changes to the Insurance Interest Rate:
  - The Insurance Interest Rate is redetermined each Adjustment Year.
  - An Adjustment Year is defined as the calendar year following any calendar year that includes the effective date of a change in the Section 7702 valuation interest rate.
  - For example, the Section 7702 valuation interest rate will change on 1/1/2021.
    - The Insurance Interest Rate would be recalculated, resulting in a potential change to the Applicable Accumulation Test Minimum Rate and the Applicable Guideline Test Minimum Rate for contracts issued in 2022, with those rates remaining in effect until the next Adjustment Year.

<table>
<thead>
<tr>
<th></th>
<th>2020 – Section 7702 Currently</th>
<th>2021 – HEROES Act</th>
</tr>
</thead>
<tbody>
<tr>
<td>NSP</td>
<td>4%</td>
<td>2%</td>
</tr>
<tr>
<td>GLP</td>
<td>4%</td>
<td>2%</td>
</tr>
<tr>
<td>GSP</td>
<td>6%</td>
<td>4%</td>
</tr>
</tbody>
</table>
HEROES Act

Observations

• If operative starting in 1984, the HEROES Act proposal would have created 5 Adjustment Years where Section 7702 interest rates could have potentially changed.

• Only 1 Adjustment Year (2014) would have changed the Applicable Accumulation Test Minimum Rate and the Applicable Guideline Premium Minimum Rate.

<table>
<thead>
<tr>
<th>Adjustment Year</th>
<th>Prescribed U.S. val. int. rate for Li with Guar dur. &gt; 20 yrs.</th>
<th>Sec. 7702 Val. Int. Rate</th>
<th>Sec. 7702 AFIR</th>
<th>Insurance Int. Rate</th>
<th>Applicable AT Minimum Rate</th>
<th>Applicable GP Minimum Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1988</td>
<td>5.50%</td>
<td>5.50%</td>
<td>n/a</td>
<td>5.50%</td>
<td>4.00%</td>
<td>6.00%</td>
</tr>
<tr>
<td>1994</td>
<td>5.00%</td>
<td>5.00%</td>
<td>8.00%</td>
<td>5.00%</td>
<td>4.00%</td>
<td>6.00%</td>
</tr>
<tr>
<td>1996</td>
<td>4.50%</td>
<td>4.50%</td>
<td>7.00%</td>
<td>4.50%</td>
<td>4.00%</td>
<td>6.00%</td>
</tr>
<tr>
<td>2007</td>
<td>4.00%</td>
<td>4.00%</td>
<td>4.00%</td>
<td>4.00%</td>
<td>4.00%</td>
<td>6.00%</td>
</tr>
<tr>
<td>2014</td>
<td>3.50%</td>
<td>3.50%</td>
<td>2.00%</td>
<td>2.00%</td>
<td>2.00%</td>
<td>4.00%</td>
</tr>
<tr>
<td>2022</td>
<td>3.00%</td>
<td>3.00%</td>
<td>2.00%</td>
<td>2.00%</td>
<td>2.00%</td>
<td>4.00%</td>
</tr>
</tbody>
</table>
• Impact on females is generally consistent with males, with marginally higher percentage increases due to lower overall mortality.
HEROES Act
Concluding thoughts

• Changes to the interest rate structure in Section 7702 would address current challenges for both policyholders and insurance companies in today’s low interest rate environment.
  • Whole life: The proposal will create a spread between the CVAT interest rate used to define maximum cash values and the SNFL interest rate used to define minimum cash values, which should provide pricing and design flexibility.
    • The 2021 SNFL maximum interest rate would have been 3.75% absent a provision in VM-21 to floor the SNFL interest rate at 4% to align with the Section 7702 interest rate requirements for CVAT.
  • Universal life: Funding limits under the guideline premium and 7-pay test would increase considerably, and will better align with interest crediting rates, providing more funding flexibility for policyholders.
    • Policies could be funded so that there may be less need to rely upon no-lapse guarantees.
    • Also potentially less need to rely upon the special funding rule of Section 7702(f)(6).

• Implementation considerations if the proposal is enacted.
  • Companies may want to start to think about the changes needed to support the administration of the proposed changes, including updates to both policyholder administration and illustration systems. Also, what are the implications of the proposed changes on:
    • Product design?
    • Identification of whether (and when) policies become modified endowment contracts (MECs) and application of tax reporting requirements that vary depending on whether a policy is a MEC?
    • Treatment of post-issuance changes, especially those made other than pursuant to a contractual right?
HEROES Act

Concluding thoughts (cont.)

• January 1, 2021 effective date in proposal.

• May be prudent to do your homework now as time frames under any potential transition rule may be short.

• While these interest rate changes are generally welcomed, the proposal is just that ... a proposal.
  • Any future changes to Section 7702:
    • May or may not follow the interest rate methodology set forth in the HEROES Act.
    • May or may not be limited to the proposed changes in the HEROES Act.
Final Regulations on Transfers-for-Value and Related Reporting Requirements
Final Regulations on Transfers-for-Value and Related Reporting Requirements

• Transfer-for-value rule – Section 101(a)(2) and (3).
  • These rules limit the exclusion for death benefits provided by Section 101(a).
  • Traditional exceptions were available where there is a carry-over basis or a transfer to the insured (or certain parties related to the insured).
  • 2017 tax law change – eliminated use of exceptions for “reportable policy sales” (RPSs).
  • RPSs are acquisitions of an interest in a life insurance contract, directly or indirectly (such as through a partnership or trust), if the acquirer has no other substantial family, business, or financial relationship with the insured.

• Section 6050Y reporting requirements for RPSs.
  • By acquirer at time of a RPS.
  • By insurer at time of a RPS and for transfers to foreign persons.
  • By payors of reportable death benefits.

• Final regulations elaborate upon these requirements.
  • For example, the regulations define the “substantial” family, business, and financial relationships for purposes of the definition of an RPS.
  • The regulations also provide other exceptions to RPS treatment.
  • The regulations set forth time requirements for the various reporting rules under Section 6050Y.
  • Separately, the IRS has created forms 1099-LS and 1099-SB, and it has amended form 1099-R, to accommodate various aspects of reporting under Section 6050Y.
Rev. Rul. 2020-5
Rev. Rul. 2020-05

• 2017 tax law amended Section 1016(a)(1)(B) to clarify that adjusted basis is not reduced by mortality, expense, and other reasonable charges incurred under an annuity or life insurance contract.
  • This reversed, retroactively, the IRS’s position for certain fact patterns described in Rev. Rul. 2009-13 and Rev. Rul. 2009-14.

• Rev. Rul. 2020-05 reevaluated certain fact patterns of the 2009 rulings to reflect the 2017 tax law change and modified those earlier rulings
  • Situation 2 of Rev. Rul. 2009-13: Owner/insured paid $64,000 in premiums and in year 8 sold the contract for $80,000; the policy had a cash value of $78,000 at that time, and $10,000 in cost of insurance (COI) charges had been previously assessed. While Rev. Rul. 2009-13 concluded that the owner must reduce “adjusted basis” by the COI charges, Rev. Rul. 2005-05 reversed this conclusion. Thus, the owner had only $16,000 of income (i.e., $80,000 - $64,000) from the sale of the policy.
    • Similar to the earlier ruling, however, the owner continued to have ordinary income to the extent of the income on the contract under section 72(e) at the time of the sale under the “substitute for ordinary income” doctrine.
  • Situation 3 of Rev. Rul. 2009-13: Owner/insured paid $45,000 in premiums ($500 per month) for a 15-year term life insurance policy without cash value and sold the policy for $20,000 after 89.5 months (when half of the last premium was not yet earned). In determining whether the owner has gain or loss, Rev. Rul. 2020-05 similarly concludes that no reduction in “adjusted basis” for COI charges should be made.
  • Situation 2 of Rev. Rul. 2009-14: A taxpayer, B, purchased a 15-year term life insurance policy from the original owner/insured for $20,000. B subsequently paid $9,000 in premiums and then sold the policy to a third party for $30,000. In the 2009 ruling, no reduction in adjusted basis was made due to B’s status as an unrelated person who purchased the policy solely with a view to profit. Rev. Rul. 2020-05 reaches the same conclusion but bases its rationale instead on the 2017 tax law change.
Company Tax Update

Jean Baxley, Managing Director, Deloitte Tax LLP
Sheryl Flum, Managing Director, KPMG LLP

October 29, 2020
Agenda

- Section 807 Campaigns
- Section 807 Final Regulations
- Revenue Ruling 2020-19, Changes in Basis
- Other Recent Developments
Section 807 Campaigns
Life Reserves News: Two LB&I Campaigns Announced under Section 807

- Section 807(d)(4)(A)(ii) elections to update AFR for pre-TCJA life reserves
  - Amended returns for 2017; 2018 returns
  - IRS will assert doctrine of election
  - 5 year maximum reach-back under CCA 201939003
- Implementation of TCJA
  - Transition Rule (TCJA section 13517(c)(3))
  - 2017 and 2018
  - Other technical issues to identify?
Section 807 Final Regulations
Background re 807 Regulations

- Treasury and the IRS published proposed regulations (REG-132529-17) in the Federal Register on April 2, 2020
- A correction to the proposed regulations was published in the Federal Register on April 16, 2020
- Treasury and the IRS received six public comments
- The IRS released final regulations (TD 9911) on September 9, which will be published in the Federal Register at a later date
- Contemporaneously, IRS released Rev. Rul. 2020-19, which addresses changes in basis
Treas. Reg. § 1.807-1

• Treas. Reg. § 1.807-1(a) describes the tax reserve method applicable to a contract
• Section 1.807-1(b) provides that no asset adequacy reserve may be included in the amount of life insurance reserves under section 807(d)
• The final regulations remove the language that includes within the definition of “asset adequacy reserve” any reserve that is not held with respect to a particular contract
• The final regulations define an asset adequacy reserve as any “additional” reserve that is based on an analysis of the adequacy of reserves that would otherwise be established under the NAIC Valuation Manual, e.g., CRVM or CARVM, or “any similar reserve”
• Labels not determinative
• Reserve pursuant to asset adequacy analysis under VM-30 as of 12/22/2017 is *per se* asset adequacy reserve
Treas. Reg. § 1.807-3

- IRS authorized under section 807(e)(6) to require reporting of information on Form 1120-L regarding opening balances, closing balances, and methods of computing section 807(c) reserves
- Separate account reporting may be prescribed
- No change from proposed regulations
- Implementation through Form 1120-L and accompanying instructions
- Applicable to taxable years beginning on or after date regulations published in Federal Register
- IRS expects to consult with the life insurance industry before making any changes to reporting requirements
Treas. Reg. § 1.807-4

- Regulations expressly state that except as provided in § 1.446-1(e), a change in basis of computing an item referred to in section 807(c) is a change in method of accounting for purposes of § 1.446-1(e)
- Requires a taxpayer to get consent from the IRS to change the basis of computing reserves
- Provides how the section 481(a) adjustment is determined
Treas. Reg. § 1.807-4 (cont’d)

• The final regulations delete Examples 1 and 2 of the proposed regulations
• The preamble to TD 9911 states that the principles illustrated in these examples are sufficiently illustrated in the remaining examples
• Rev. Rul. 2020-19, released contemporaneously with TD 9911, gives examples of what does and does not constitute a change in basis
• Applicable to taxable years beginning on or after date published in Federal Register
• Option to apply beginning in first post-TCJA year, e.g., 2018 for calendar year taxpayers
Example 1: involves life insurance contract reserves; TP basis of computing reserves is consistent with CRVM for 2020 and 2021

For life contracts issued prior to 2021, reserves as of 12/31/2021 under new basis were 120; reserves under old basis were 110, i.e., reserve increase of 10

Section 481(a) adjustment is 10, negative adjustment/reduction to income

For life contracts issued in 2021, reserves were 15 under new basis

For purposes of section 807(a) and (b), use old basis, i.e., 110, for 2021YE for pre-2021 issues, use new basis, i.e., 15, for 2021 issues

For 2022, opening balance is computed on new basis, i.e., 120+15

Example 2 involves a nonlife insurance company, describes result under section 832(b)(4) with same numbers
Except as provided in section 816(h), a reserve that meets the requirements of section 816(b)(1) and (2) will not be disqualified as a life insurance reserve solely because the method used to compute the reserve takes into account other factors, provided that the method used to compute the reserve is a tax reserve method as defined in section 807(d)(3) and such reserve is not an asset adequacy reserve as described in §1.807-1(b).

Applicable to taxable years beginning on or after date regulations published in Federal Register;
Option to apply beginning in first post-TCJA tax year, e.g., 2018 for calendar year taxpayers.
Treas. Reg. § 1.6012-2

• The proposed regulations would have removed Treas. Reg. §1.6012-2(c)(4), which prohibits an insurance company that files its Form 1120-L or Form 1120-PC electronically from attaching its annual statement (or pro forma annual statement) to its return.

• The final regulations retain §1.6012-2(c)(4), but it provide that electronic filers must file their annual statement or a portion thereof in accordance with the applicable rules in the forms or instructions.

• The Treasury Department and the IRS anticipate that once the IRS has the capacity to accept the electronic filing of annual statements, the tax return forms and instructions will require electronic filing of all or portions of the annual statement.

• The IRS expects to consult with the insurance industry before requiring such electronic filing.
Reinsurance of Foreign-Issued Contracts

- The preamble requests comments on a previous request that IRS promulgate regulations under section 807 that would provide, for purposes of subchapter L, that the determination of whether a contract issued by a non-US insurance company and reinsured by a US insurance company is a life insurance or annuity contract is made without regard to section 7702, rules applicable to certain flexible premium contracts under section 101(f), distribution on death requirements under section 72(s), and diversification requirements under section 817(h), provided that (i) no policyholder, insured, annuitant, or beneficiary with respect to the contract is a US person and (ii) such contract is regulated as a life insurance or annuity contract by a foreign regulator.

- Final regulations do not address this item.
Revenue Ruling 2020-19
Changes in Basis
Revenue Ruling 2020-19

- Addresses change in basis under section 807(f) “as amended by” TCJA
- CHANGES IN BASIS:
  - Situation 1-Misapplication of tax law-erroneously applies 92.81% haircut to full CARVM for variably annuity for 2 years in a row
  - Situation 2-New statutory “applicable method” for GMxBs for variable annuity contracts issued prior to year of change
  - Situation 3-Same as situation 2 except applicable method change doesn’t cover previously-issue contracts; cutoff method used
  - Situation 4-New actuarial guideline for CRVM for universal life
  - Situation 5-VM-20 contracts; STAT determined by sum of NPR; Change in CSO table for determining NPR
Revenue Ruling 2020-19 (continued)

• NOT CHANGES IN BASIS:
  • Situation 6- Apply VM-20 for all years; change in which amount controls [application of consistent methodology]
  • Situation 7-Apply VM-20 requirement to update mortality rates every 3 years for deterministic reserve; updated mortality rates used [application of consistent methodology]
  • Situation 8-Tax reserve for fixed annuity under CARVM is NSV in one year, 92.81% of CARVM in the following year [application of consistent methodology]
  • Situation 9-Omitted cell from computation of reserves due to a computer programming error [correction of error used in one tax year]
  • Situation 10-Addition of indemnity benefit to existing policies and addition to life reserve for this benefit [change in fact]
Other Recent Developments
CARES Act  NOL Provisions

• The CARES Act added new section 172(b)(1)(D), which provides a special rule for NOLs arising in 2018, 2019, and 2020, and made conforming amendments to section 172.

• NOLs arising in a taxable year beginning after December 31, 2017, and before January 1, 2021, are now allowed as a CARRYBACK to each of the 5 taxable years preceding the taxable year of such loss.

• The CARES Act also temporarily repealed the 80% taxable income limitation on the use of NOLs

• The result is that a company may be able to carryback a 2018 NOL to as far back as to 2013
  • Note rate change from 35% to 21%--affects value of the NOL
## Summary of TCJA NOL Rules for December 31 Year-End Taxpayers

<table>
<thead>
<tr>
<th>Company</th>
<th>Pre-Tax Reform</th>
<th>Post-TCJA/Pre-CARES Act*</th>
</tr>
</thead>
<tbody>
<tr>
<td>Nonlife (Form 1120-PC)</td>
<td>2-year Carryback &amp; 20-year Carryforward</td>
<td>2-year Carryback &amp; 20-year Carryforward Company not subject to 80% Limitation</td>
</tr>
<tr>
<td>&quot;Regular&quot; C Corporation</td>
<td>2-year Carryback &amp; 20-year Carryforward</td>
<td>No Carryback &amp; Indefinite Carryforward Company subject to 80% Limitation</td>
</tr>
<tr>
<td>(Form 1120)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Life (Form 1120-L)</td>
<td>3-year Carryback &amp; 15-year Carryforward</td>
<td>No Carryback &amp; Indefinite Carryforward Company subject to 80% Limitation</td>
</tr>
</tbody>
</table>
Reminder - NOL Modifications Made by the TCJA

- The TCJA conforms the treatment of NOLs experienced by life insurance companies with the treatment afforded NOLs experienced by non-insurance companies by repealing section 810 and making other conforming amendments to the Code.

- With the changes made by the TCJA, net operating losses experienced by life insurance companies fall under the general rules of section 172, i.e., no carryback period and indefinite carryforward period under IRC section 172(b)(1)(A).

- An NOL experienced by an insurance company other than a life insurance company is allowed a 2-year carryback period and a 20-year carryforward period under IRC section 172(b)(1)(C).

- The TCJA also added a limitation based on the taxable income of the entity seeking to utilize a NOL carryback or carryover in a particular taxable year.

- This limitation is equal to 80% of taxable income computed without regard to the deduction allowable under section 172.

  - The 80% Limitation does not apply to an insurance company other than a life insurance company under IRC section 172(f).
Questions?
Please remember to complete the evaluation and

THANK YOU!