

Office of Chief Counsel
Internal Revenue Service
Memorandum

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Third Party Communication: None
Date of Communication: Not Applicable

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date: October 15, 2004

to: TM:LMSB:F:1158

from: Donald J. Drees, Jr.
Acting Branch Chief, CC:FIP:4

subject: Deferred and Uncollected Items

LEGEND

Taxpayer =

State A =

Year 1 =

Year 2 =

Year 3 =

This Chief Counsel Advice is being written concerning a matter involving Taxpayer, who is in your audit jurisdiction, which has come to our attention. This advice may not be used or cited as precedent.

Taxpayer is primarily engaged in the business of selling life insurance and annuity products. Taxpayer is taxable as a life insurance company under Part I of subchapter L of the Code and files its Form 1120-L (U.S. Life Insurance Company Income Tax Return) on a calendar year basis. Through Year 1, Taxpayer recognized the deferred and uncollected premium as reported in its State A statutory annual

statement and included in its reserves the obligations associated with the deferred and uncollected premiums for federal income tax purposes.

For Year 2, Taxpayer removed the obligations associated with the deferred and uncollected premiums from the computation of its tax reserves for federal income tax purposes. For Year 3, Taxpayer submitted a Form 3115 (Application for Change in Accounting Method) requesting a change in method of accounting so as to no longer report into underwriting income deferred and uncollected premiums for federal income tax purposes.

In removing the reserve obligations associated with the deferred and uncollected premiums in Year 2 Taxpayer claims that this change could be accomplished without securing the consent of the Commissioner to a change in method of accounting. Taxpayer based its claim under the authority of § 807 and Rev. Rul. 94-74, 1994-2 C.B. 157, which deal with adjustments for changes in computing reserves for purposes of calculating life insurance taxable income. We disagree. It is our view that no change in the methodology of computing Taxpayer's life insurance reserves was involved and that the action that Taxpayer took in Year 2 was subject to the normal procedures for securing the Commissioner's approval for a change in method of accounting. Thus, it was an unauthorized change. In addition, we believe that Taxpayer's attempt to secure permission to change the deferred and uncollected premiums on the underwriting side for a Year 3 change involves the same or integrally related material item that was involved in the Year 2 change relating to deferred and uncollected premiums on the reserve side.

Since we have concluded that Taxpayer's efforts to change the amount of reserves it was reporting in Year 2 was an unauthorized change, which occurred in a tax year for which a tax return has been filed, we are referring the matter to your office for whatever action that you deem appropriate.

If you have any questions concerning this memorandum, please call (202) 622-3970.