

RELEASE IN FULL

for the dividends received deduction) used to fund the company's obligations to policyholders, sections 807 and 805 require the company to adjust certain income and deduction items for the policyholders' share of such tax preferred income. See section 807(a) and (b), section 805(a)(4).

Section 812 provides the mechanism to calculate the life insurance company's and policyholders' respective shares of net investment income. Under section 812(b)(1), a life insurance company's share of net investment income is the excess (if any) of "net investment income" (determined under section 812(c)) for the taxable year over the sum of (i) "policy interest" (determined under section 812(b)(2)) for the taxable year, and (ii) the "gross investment income's proportionate share of policyholder dividends" (determined under section 812(b)(3)) for the taxable year.

Policy interest includes "required interest" on reserves. Section 812(b)(2)(A). Required interest on a contract's reserves is calculated using the mean of the contract's beginning-of-year and end-of-year reserves and the interest rate used in determining the contract's reserves. For example, if the life insurance reserves for a contract are determined using the greater of the applicable Federal interest rate or the prevailing State assumed interest rate for the contract, then required interest on those reserves is calculated by multiplying (i) the mean of the reserves by (ii) the interest rate used in calculating the reserves (i.e., the greater of the applicable Federal interest rate or the prevailing State assumed interest rate for the contract). If neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used in determining a contract's life insurance reserves, then required interest is calculated using another appropriate rate. Section 812(b)(2); Rev. Rul. 2003-120, 2003-2 C.B. 1154.

In both Situation 1 and Situation 2, the amount of the life insurance reserves taken into account under section 807 for Contract A is the amount of tax reserve determined under section 807(d)(2), which is determined using the applicable Federal interest rate for the Contract. As the applicable Federal interest rate is used to determine the amount of the life insurance reserves for Contract A, the required interest on the Contract's life insurance reserves

is calculated by multiplying the mean of those reserves by the applicable Federal interest rate for the Contract. Rev. Rul. 2003-120.

In Situation 1, the mean of the 2007 beginning-of-year and end-of-year life insurance reserves for Contract A is \$9,000  $(\$8,000 + \$10,000) \div 2 = \$9,000$  and the applicable Federal interest rate for Contract A is 4.82 percent. For taxable year 2007, the required interest on Contract A's life insurance reserves is  $\$433.80 (\$9,000 \times 4.82\% = \$433.80)$ .

In Situation 2, the mean of the 2007 beginning-of-year and end-of-year life insurance reserves for Contract A is \$9,160  $(\$8,155 + \$10,165) \div 2 = \$9,160$ . The applicable Federal interest rate for Contract A is 4.82 percent. For taxable year 2007, the required interest on Contract A's life insurance reserves is  $\$441.51 (\$9,160 \times 4.82\% = \$441.51)$ . Consistent with the allocation of Contract A's life insurance reserves between IC's general account reserves and separate account reserves, \$7.71 of the required interest  $(\$441.51 \times \$160 / \$9,160 = \$7.71)$  is taken into account under section 812 as required interest on IC's general account reserves. The remaining  $\$433.80 (\$441.51 \times \$9,000 / \$9,160 = \$433.80)$  of the required interest is taken into account under section 812 as required interest on IC's separate account reserves.

#### HOLDING(S)

1. Under section 807(d)(1), the amounts of the end-of-year life insurance reserves for Contract A in both Situation 1 and Situation 2 are the amounts of the tax reserve determined under section 807(d)(2). Thus, in Situation 1, the amounts of the 2006 and 2007 end-of-year life insurance reserves for Contract A are \$8,000 and \$10,000, respectively. In Situation 2, the amounts of the 2006 and 2007 end-of-year life insurance reserves for Contract A are \$8,155 and \$10,165, respectively.

2. In both Situation 1 and Situation 2, the required interest on Contract A's life insurance reserves is calculated by multiplying the mean of the Contract's beginning-of-year and end-of-year reserves by the applicable Federal interest rate for the Contract. In Situation 1, the 2007 required interest on Contract A's life insurance re-

serves is \$433.80. In Situation 2, the 2007 required interest on Contract A's life insurance reserves is \$441.51. Of this amount, \$7.71 is required interest on IC's general account reserves for Contract A, and the remaining \$433.80 is required interest on IC's separate account reserves for Contract A.

#### DRAFTING INFORMATION

The principal author of this revenue ruling is Stephen D. Hooe of the Office of Associate Chief Counsel (Financial Institutions & Products). For further information regarding this revenue ruling, contact Stephen D. Hooe at (202) 622-3900 (not a toll-free call).

### Section 812.—Definition of Company's Share and Policyholders' Share

A revenue ruling that provides guidance regarding (1) the amount of life insurance reserves taken into account for a variable contract where some or all of the reserves are accounted for as part of a life insurance company's separate account reserves and (2) what interest rate is used to calculate required interest under section 812(b)(2)(A) on life insurance reserves in situations where the amount of those reserves is the tax reserve determined under section 807(d)(2). See Rev. Rul. 2007-54, page 604.

### Section 893.—Compensation of Employees of Foreign Governments or International Organizations

26 CFR 1.893-1: Compensation of employees of foreign governments or international organizations.

Revenue rulings obsolete. This ruling obsoletes Rev. Rul. 75-425, 1975-2 C.B. 291, which provides guidance related to the effect of signing a waiver (USCIS Form I-508) under section 247(b) of the Immigration and Nationality Act (8 U.S.C. section 1257(b)) by alien individuals employed in the United States by a foreign government or international organization. Rev. Rul. 75-425 obsoleted.

### Rev. Rul. 2007-60

The Internal Revenue Service is continuing its program of reviewing guidance (including revenue rulings, revenue procedures, and notices) published in the In-

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Internal Revenue Bulletin to identify those rulings that are obsolete because (1) the applicable statutory provisions or regulations have been changed or repealed; (2) the ruling position is specifically covered by statute, regulations, or subsequent published position; or (3) the facts on which the ruling position is based no longer exist or are not sufficiently described to permit clear application of the current statute and regulations.

Rev. Rul. 75-425, 1975-2 C.B. 291, concerns the effect of an alien individual employed by a foreign government or international organization in the United States signing a waiver (United States Citizenship and Immigration Services (USCIS) Form I-508) under section 247(h) of the Immigration and Nationality Act (8 U.S.C. § 1257(b)). Generally, an alien individual employed by a foreign government or international organization who files the waiver provided by section 247(b) of the Immigration and Nationality Act is, from the date of filing the waiver, no longer entitled to exemption from income tax under section 893 of the Internal Revenue Code with respect to his or her compensation received from such foreign government or international organization. See Treas. Reg. § 1.893-1(a)(5) and (b)(4). However, the filing of the waiver will have no effect on any income tax exemption derived by an alien individual from the provisions of an income tax treaty, consular agreement, or other international agreement to the extent the application of the exemption is not dependent upon the internal revenue laws of the United States. See Treas. Reg. § 1.893-1(c)(2).

Rev. Rul. 75-425 sets forth the application of the above rules with respect to a list of foreign countries with which the United States had an income tax treaty or consular agreement and a list of international organizations with respect to which the United States was a signatory to the international agreement creating the international organization(s) at the time of publication of the revenue ruling. Because many of those income tax treaties, consular agreements, and international agreements have been modified, superseded, or are no longer in force, and because the facts on which the ruling position was based no longer exist or are not sufficiently described to permit clear application of the

currently applicable legal provisions and agreements, the Internal Revenue Service has concluded that Rev. Rul. 75-425 is no longer determinative with respect to foreign government and international organization employees of any foreign country. Accordingly, Rev. Rul. 75-425 is hereby declared obsolete.

Alien individuals employed by a foreign government or international organization in the United States, who file the waiver provided by section 247(h) of the Immigration and Nationality Act (USCIS Form I-508), will be entitled to any tax exemption conferred under the provisions of an applicable income tax treaty, consular agreement, or international agreement, that is still in force, to the extent the application of the exemption is not dependent upon the internal revenue laws of the United States. For guidance with respect to a specific foreign country or international organization, send an e-mail to [embassy@irs.gov](mailto:embassy@irs.gov).

#### DRAFTING INFORMATION

Various personnel from the Office of Associate Chief Counsel (International) participated in the drafting of this revenue ruling. For further information regarding this revenue ruling, contact Richard A. Ward at (202) 874-1621 (not a toll-free call) or e-mail [embassy@irs.gov](mailto:embassy@irs.gov).

### Section 6011.—General Requirement of Return, Statement, or List

*26 CFR 1.6011-4: Requirement of statement disclosing participation in certain transactions by taxpayers.*

**T.D. 9350**

#### DEPARTMENT OF THE TREASURY Internal Revenue Service 26 CFR Parts 1, 20, 25, 31, 53, 54, and 56

#### AJCA Modifications to the Section 6011 Regulations

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final regulations.

**SUMMARY:** This document contains regulations under section 6011 of the Internal Revenue Code that modify the rules relating to the disclosure of reportable transactions under section 6011. These regulations affect taxpayers participating in reportable transactions under section 6011, material advisors responsible for disclosing reportable transactions under section 6011, and material advisors responsible for keeping lists under section 6112.

**DATES:** *Effective Date:* These regulations are effective August 3, 2007.

**FOR FURTHER INFORMATION CONTACT:** Charles D. Wien, Michael H. Beker, or Tolsun N. Waddle, 202-622-3070 (not a toll-free number).

#### SUPPLEMENTARY INFORMATION:

##### Background

This document contains final regulations that amend 26 CFR part 1 by modifying and clarifying the rules relating to the disclosure of reportable transactions under section 6011. This document also contains final regulations that amend 26 CFR parts 20, 25, 31, 53, 54, and 56 by modifying the rules for purposes of estate, gift, employment, and pension and exempt organizations excise taxes that require the disclosure of listed transactions by certain taxpayers on their Federal tax returns under section 6011.

The American Jobs Creation Act of 2004, Public Law 108-357, (118 Stat. 1418), (AJCA) was enacted on October 22, 2004. The AJCA revised sections 6111 and 6112, thereby necessitating changes to the rules under section 6011. On November 1, 2006, the IRS and Treasury Department issued a notice of proposed rulemaking and temporary and final regulations under sections 6011, 6111, and 6112 (REG-103038-05, 2006-49 I.R.B. 1049, REG-103039-05, 2006-49 I.R.B. 1057, REG-103043-05, 2006-49 I.R.B. 1063, T.D. 9295, 2006-49 I.R.B. 1030) (the November 2006 regulations). The November 2006 regulations were published in the Federal Register (71 FR 64488, 71 FR 64496, 71 FR 64501, 71 FR 64458) on November 2, 2006.

The IRS and Treasury Department received written public comments responding to the proposed regulations and held