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Insurance Trust Policy Valuation Statements

A section of the Pension Protection Act of 2006 warrants review by institutional trustees as it may have implications for trustees managing trusts that own insurance policies. The Pension Protection Act in Section 1219 added new Section 6695A to the Internal Revenue Code that affects any person or company that supplies asset values to taxpayers for income tax preparation and reporting purposes.

Under 6695A, financial institutions appear to be appraisers since they issue forms taxpayers use to determine their taxable income and income tax payments. Many financial institutions value TOLI at \$1 book value and either report this value or exclude any reported value on the client's tax reporting statement. If an institution reports values that are not fair market values on tax reporting statements, this could be a violation of 6695A and subject to its penalty provisions including fines of up to \$1,000 per mispriced asset.

In August, the Pension Protection Act timing coincided with an American Bankers Association telephone briefing on "Fiduciary Pitfalls with Trust-Owned Life Insurance" to review "the necessary approach" for trustees to demonstrate performance of their fiduciary duties. Shortly thereafter, the American College of Estate and Trust Counsel published part 3 of its 4-part insurance trust administration series clarifying the need for and appropriate form of **actuarially defensible** policy evaluation.

The Pension Protection Act has been the catalyst for many banks that value insurance policies at a \$1 to also review their TOLI practices. For example, to report TOLI at a value other than \$1, how can this information be obtained and efficiently integrated into the trust accounting system and client statements? Since current life insurance policy information is needed for these purposes, the incremental cost to prepare and communicate an actuarially defensible TOLI report is minimal.

As a practical matter, this situation allows a trustee to communicate an expanded scope of services to their clients and re-price TOLI services to offset incremental costs.

If you have any questions concerning this advisory, please call E. Randolph Whitelaw at 314-993-8654.