

Department  
of the  
Treasury

Internal  
Revenue  
Service

Office of  
Chief Counsel

**Notice**

N(35)000-153

April 14, 1998

Leveraged Corporate  
Owned Life Insurance

**Subject:** Policies (COLI)

**Cancellation Date:** October 11, 1998

The purpose of this Notice is to remind all district counsel and regional counsel attorneys to notify the contact persons indicated below of issues involving Leveraged Corporate Owned Life Insurance Policies [COLI]. The COLI issue was the subject of two prior Notices [(35)000-131, issued February 1, 1995, and (35)000-131(a), issued July 28, 1995].

The COLI issue generally arises with these general facts. A corporation pays the premium for, and is the beneficiary of, life insurance policies purchased on the lives of a large number of its employees. Typically, a large percentage of the premium is borrowed by the corporation from the insurance company, and the loans are secured by the cash value of the policies. The loans may carry above-market interest rates. The issues that arise include whether the policy loans, and the interest charged on the loans, are valid indebtedness and interest for federal tax purposes under the provisions of I.R.C. § 163 and, if so, whether the interest is disallowed under the provisions of I.R.C. § 264.

In TAM 9812005, it was determined, with respect to a particular taxpayer, that one particular type of COLI financing arrangement lacked economic substance and, therefore, did not give rise to a valid indebtedness or deductible interest under section 163 or, alternatively, produced interest that is disallowed under section 264. In accordance with I.R.C. § 6110(j)(3), the TAM may not be used or cited as precedent, and the analysis and conclusion in TAM 9812005 are intended to apply only to the particular taxpayer and product which were the subject of the TAM.

There are several different types of COLI arrangements. A given COLI arrangement, based on the particular facts and circumstances present, may or may not warrant the same tax

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treatment as the transaction recently considered by the National Office in TAM 9812005.<sup>1</sup> Cases that include the COLI issue should be brought to the attention of the National Office for advice regarding factual development and the appropriate legal conclusions to be drawn based on the particular facts of these individual cases.

The COLI issue is significant and thus is subject to the notification procedures described in Chief Counsel Notice N(35)000-139(a), issued September 24, 1996. This issue will be added to the list of significant issues requiring National Office notification when that list is next updated.

If you have a docketed case that includes a COLI issue or you are assisting a revenue agent or appeals officer with a case that includes a COLI issue, please notify Nancy Knapp or Teri Culbertson, who may be reached at (202) 622-7870 and (202) 622-7820, respectively.

/s/

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JUDITH C. DUNN  
Associate Chief Counsel  
(Domestic)

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<sup>1</sup> TAM 9812005 considered the law prior to amendments made by P.L. 104-191 and P.L. 105-34 to section 264. These amendments and transition rules must also be considered for years for which they are applicable.