

NOVEMBER 15, 2007

**IRS TAKES PROCEDURAL STEP TOWARD PROVIDING GUIDANCE ON
COLI/BOLI REPORTING**

On November 9, 2007, the Treasury Department and the IRS issued temporary and proposed regulations related to the annual information reporting requirements for employer-owned life insurance policies (typically referred to as “COLI” or “BOLI”) that are subject to Internal Revenue Code (“IRC”) section 101(j) (“§101(j)). These reporting requirements were included under new IRC section 6039I (“§6039I”) as part of the COLI/BOLI “best practices” legislation that was signed into law in August 2006. However, to date these reporting requirements have not been implemented, as Treasury and the IRS have not provided the form needed to file the annual information return or any substantive instructions/guidance necessary for employers to satisfy such requirements. The temporary and proposed regulations do not provide any substantive guidance related to the reporting requirements. Rather, they appear to merely be a procedural step necessary for the IRS to provide such guidance in the future. It is our understanding that the IRS has informally indicated that a final form and substantive guidance required for employers to satisfy the reporting requirements of §6039I could be provided as early as January 2008.

The proposed regulations also include a request for comments on the need for guidance regarding IRC §101(j), including the need for guidance concerning (i) the determination of whether a potential insured is considered to be “highly compensated” and (ii) the notice and consent requirements. Importantly, the proposed regulations state that any future guidance provided on the application of IRC §101(j) will not be applied retroactively to the detriment of any taxpayers who have made a “good faith” effort to comply with IRC §101(j) based on a reasonable interpretation of the statutory provisions.

Clark Consulting will continue to keep you apprised of any developments as they occur. For more information on the statutory requirements of §101(j) and §6039I, please see Clark Consulting’s *Executive Benefits Bulletin* of August 17, 2006.

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For additional information, please contact your Clark Consulting representative.

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