



WASHINGTON REPORT

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Subject: **IRS Issues COLI Reporting Form**

Major References: [Form 8925](#)

Prior Washington Reports: 07-101; 06-18, 35, 65, 83, 92, 93, 121, 127, 132; 05-117, 94, 63

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THE CONCLUSION OF THIS WASHINGTON REPORT.**

The Internal Revenue Service recently released the new COLI reporting form (Form 8925) that is required to be filed by policyholders (i.e., employers) that own "employer-owned life insurance contracts". The form itself contains the instructions.

Section 101(j) of the Revenue Code requires that, in order for the proceeds from employer-owned life insurance contracts to be tax free, the policy must satisfy certain statutory requirements. In general, section 101(j) permits the tax-free receipt of life insurance policy proceeds by such an employer if, for example, the insured is, at the time of policy insurance, a director, highly compensated employee or highly compensated individual and the section 101(j) notice and consent requirements are satisfied. Under those requirements the employee must, in writing before the policy is issued, (i) be notified of the policyholder/employer's intention to insure the employee's life and of the maximum face value for which the employee could be insured, (ii) consent to being insured under the contract and (iii) be informed in writing that the policyholder/employer will be the beneficiary of any proceeds payable on the death of the employee.

As a complementary statutory provision to section 101(j) and at the time of its passage, Congress enacted section 6039I which establishes reporting requirements with respect to employer-owned life insurance contracts. Those reporting requirements were recently the subject of temporary and proposed regulations. (See our Bulletin No. 07-101.)

By statute, these reporting requirements would have been applicable to life insurance contracts issued after the date of enactment (August 17, 2006), subject to certain conditions and limitations. To illustrate, contracts issued after August 17, 2006 as part of a section 1035 exchange for a contract issued before August 18, 2006 are not required to be reported. However, any contract issued before August 18, 2006 that is modified to materially increase the death benefit or make other material changes to the contract is treated as a new contract and is subject to these reporting requirements. For master contracts, the addition of covered lives is treated as new contracts only for the additional covered lives.

The Revenue Service has now issued the reporting form that policyholders should complete and attach to their Form 1120 (or other tax form) on which they will be reporting their income taxes. Even though the statute was effective for contracts issued after August 17, 2006, the Form 8925 does not require any reporting for any tax year ending before November 14, 2007.

The form is straightforward. It requires reporting the number of employees the policyholder had at the end of the year (December 31, 2007 for a calendar-year employer) and the number of employees who were insured under employer-owned life insurance contracts issued after August 17, 2006 (subject to the exceptions previously described). The form also requires the total amount of employer-owned life insurance in force for the employees covered on the form. It asks if the policyholder has a valid consent from each of those employees. If the employer does not have valid consents, then the number of employees for whom a valid consent does not exist must be listed.

Any AALU member who wishes to obtain a copy of Form 8925 may do so through the following means: (1) use hyperlink above next to "Major References," (2) log onto the AALU website at www.aalu.org and enter the *Member Portal* and select *Current Washington Report* for linkage to source material or (3) email Erik Ruselowski at ruselowski@aalu.org and include a reference to this *Washington Report*.

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