



# TaxNewsFlash

## United States

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### Insurance initiatives in 2017-2018 priority guidance plan

The IRS and U.S. Treasury Department on October 20, 2017, released the 2017-2018 priority guidance plan. The priority guidance plan (referred to by some as the “IRS business plan”) contains guidance projects that the tax authorities “hope to complete” during the 12-month period from July 1, 2017, through June 30, 2018 (the plan year).

The [2017-2018 priority guidance plan](#) [PDF 301 KB] has eliminated from the previous IRS business plan, all but a few insurance initiatives.

#### Background

The [2016-2017 priority guidance plan](#) [PDF 160 KB], released in August 2016, included the following insurance-specific items:

- Final regulations under section 72 on the exchange of property for an annuity
- Regulations under sections 72 and 7702 defining cash surrender value
- Guidance on annuity contracts with a long-term care insurance rider under sections 72 and 7702B
- Guidance under sections 807 and 816 regarding the determination of life insurance reserves for life insurance and annuity contracts using principles-based methodologies, including stochastic reserves based on conditional tail expectation
- Guidance on exchanges under section 1035 of annuities for long-term care insurance contracts
- Guidance related to captive insurance companies

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#### 2017-2018 priority guidance plan

The 2017-2018 priority guidance plan includes only a few insurance-specific items.

Under the subheading “Insurance Companies and Products” are the following items:

- Final regulations under section 72 on the exchange of property for an annuity *[also listed in the 2016-2017 plan]*
- Guidance under sections 807 and 816 regarding the determination of life insurance reserves for life insurance and annuity contracts using principles-based methodologies, including stochastic reserves based on conditional tail expectation *[also listed in the 2016-2017 plan]*

In addition, part 2 of the 2017-2018 business plan describes certain projects that have been identified as “burden reducing” and that the IRS believes can be completed in the 8½ months remaining in the plan year, with additional burden reduction projects possibly to be added. This part of the business plan includes the following insurance projects under the subheading “Near-Term Burden Reduction”:

- Guidance under section 954, including regarding the use of foreign statement reserves for purposes of measuring qualified insurance income under section 954(i)
- Revising the withholding requirements on insurance premiums under Chapter 4

Under the subheading “International - A. Subpart F/Deferral” is the following item:

- Guidance under sections 1295, 1297, and 1298 on passive foreign investment companies *[proposed regulations regarding foreign insurance companies were published as REG-108214-15 on April 24, 2015]*

## **KPMG observation**

Guidance items relating to many insurance initiatives that, for several years, had appeared on the priority guidance plan have been removed from the 2017-2018 plan, thereby leaving a narrower listing. This reduced list may be the result of a focus on upcoming tax reform initiatives and planning for anticipated resource needs.

- “Captives” (specifically section 831(b) entities) are now a focus at the IRS examination level, with Notice 2016-66 being issued in November 2016. Read [\*\*TaxNewsFlash-United States\*\*](#).
- “Micro-captive insurance” is also included in the [\*\*IRS issues-based compliance campaign\*\*](#). As a result, it is not surprising that this item was removed from the 2017-2018 priority guidance plan.

Principle-based reserving (PBR) remains on the 2017-2018 priority guidance plan and is also included on the IRS issues-based compliance campaign. Life insurance companies will continue to evaluate their insurance tax reserves calculations to allow

for an orderly transition and accurate assessment of related tax issues as PBR becomes mandatory on January 1, 2020.

It is also not surprising that guidance under section 954(i) is anticipated. Several private letter rulings have been released in the past year that approved the utilization of foreign statement reserves as the basis for determining foreign personal holding company income. See, for example, PLR 201637005 (June 8, 2016); PLR 201718020 (Feb. 9, 2017); PLR 201739009 (June 30, 2017).

For more information, contact a tax professional with KPMG's Washington National Tax practice:

Sheryl Flum | +1 (202) 533-3394 | [sflum@kpmg.com](mailto:sflum@kpmg.com)

Fred Campbell-Mohn | +1 (212) 954-8316 | [fcampbellmohn@kpmg.com](mailto:fcampbellmohn@kpmg.com)

Liz Petrie | +1 (202) 533-3125 | [epetrie@kpmg.com](mailto:epetrie@kpmg.com)

Rob Nelson | +1 (312) 665-6457 | [rsnelson@kpmg.com](mailto:rsnelson@kpmg.com)

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