



# TaxNewsFlash

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## Proposed regulations: Information reporting and transfer for valuable consideration rules for section 1035 exchanges

The U.S. Treasury Department and IRS today released for publication in the Federal Register proposed regulations (REG-108054-21) providing guidance on the application of the transfer for valuable consideration rules and associated information reporting requirements for reportable policy sales of interests in life insurance contracts to exchanges of life insurance contracts qualifying for nonrecognition of gain or loss under section 1035, as well as to certain acquisitions of interests in life insurance contracts in transactions that qualify as corporate reorganizations.

The [proposed regulations](#) [PDF 268 KB] (11 pages as published in the Federal Register on May 10, 2023) would amend final regulations under sections 101 and 6050Y issued in 2019 (T.D. 9879) to address comments the Treasury Department and the IRS received relating to the application of sections 101 and 6050Y to section 1035 exchanges and reorganizations. The proposed regulations would provide guidance on the application of the rules for determining the amount of death benefits excluded from gross income following reportable policy sales of interests in life insurance contracts under section 101 and the associated information reporting requirements for reportable policy sales under section 6050Y to the exchange of a life insurance contract for another life insurance contract qualifying for nonrecognition of gain or loss under section 1035, as well as to certain acquisitions of interests in life insurance contracts in transactions that qualify as reorganizations under section 368(a) (reorganizations).

The proposed regulations under section 101 are proposed to apply to section 1035 exchanges or any acquisition of an interest in a life insurance contract occurring on or after the date the proposed regulations are finalized. However, taxpayers may choose to apply or rely on the proposed regulations to all section 1035 exchanges and acquisitions occurring after December 31, 2017.

The proposed regulations under section 6050Y with respect to reporting obligations generally are proposed to apply to section 1035 exchanges occurring on or after the date the proposed regulations are finalized. However, any person with a reporting obligation under the proposed regulations may rely on the proposed regulations with respect to all section 1035 exchanges occurring after May 10, 2023 (the date the proposed regulations were published in the Federal Register).

Comments on the proposed regulations and requests for a public hearing are due by July 10, 2023.

### **KPMG observation**

These proposed regulations deliver needed guidance on when life insurance policy exchanges pursuant to section 1035 are also reportable policy sales under section 101. KPMG tax professionals support the position that if death benefits would be exempt from taxation under section 101(a) for the original life insurance contract, there would be no reportable policy sale if the contract is exchanged pursuant to section 1035 for a new policy. KPMG tax professionals also agree with the suggestion that if a section 1035 exchange takes place after a reportable policy sale, the new life policy received in the section 1035 exchange is also subject to the reportable policy sale reporting and tax requirements.

The proposed regulations also reduce the likelihood that an acquisition of a C corporation that owns a *de minimis* amount of life insurance in the ordinary course by another C corporation will create a reportable policy sale, which KPMG tax professionals view as another positive provision.

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