



DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 1

[TD 10052]

RIN 1545-BQ07

Information Reporting and Transfer for Valuable Consideration Rules for Section 1035 Exchanges of Life Insurance and Certain Other Life Insurance Contract Transactions

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Final rule.

SUMMARY: This document contains final regulations 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 and certain acquisitions of interests in life insurance contracts in transactions that qualify as corporate reorganizations. The final regulations affect parties involved in these life insurance contract transactions, including with respect to payments of reportable death benefits.

DATES: *Effective date:* These regulations are effective on **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

Applicability dates: For dates of applicability, see §§ 1.101-6 and 1.6050Y-1(b).

FOR FURTHER INFORMATION CONTACT: Allan H. Sakaue, (202) 317-6995 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Authority

This document contains amendments to 26 CFR part 1 under sections 101 and 6050Y of the Internal Revenue Code (Code) issued pursuant to the express delegations of authority to the Secretary of the Treasury or his delegate (Secretary) provided under sections 6050Y(a) through (c), and 7805(a) of the Code (final regulations).

Section 6050Y provides express delegations of authority to the Secretary to prescribe the time and manner to file information returns and furnish statements setting forth certain information specified therein by the following persons: (1) an acquirer of a life insurance contract or any interest in a life insurance contract in a reportable policy sale during any taxable year (section 6050Y(a)); (2) an issuer of a life insurance contract in connection with a reportable policy sale (section 6050Y(b)); and (3) a payor of death benefits during any taxable year under a life insurance contract transferred in a reportable policy sale (section 6050Y(c)).

Section 7805(a) authorizes the Secretary to “prescribe all needful rules and regulations for the enforcement of [the Code], including all rules and regulations as may be necessary by reason of any alteration of law in relation to internal revenue.”

Background

These final regulations amend regulations under sections 101 and 6050Y published in the **Federal Register** (TD 9879, 84 FR 58460) on October 31, 2019, as corrected (84 FR 68042) on December 13, 2019 (2019 final regulations).

The Department of the Treasury (Treasury Department) and the IRS published proposed regulations under sections 101 and 6050Y (REG-108054-21) in the **Federal Register** (88 FR 30058) on May 10, 2023 (2023 proposed regulations). The 2023 proposed regulations were published in response to concerns raised following publication of the 2019 final regulations regarding the application of sections 101 and 6050Y to exchanges to which section 1035 of the Code applies (section 1035 exchanges) and to transfers of contracts occurring in corporate reorganizations under

section 368 of the Code. The Treasury Department and the IRS received written comments on the 2023 proposed regulations and held a public hearing on September 28, 2023.

After consideration of the written comments and comments received at the hearing, this Treasury Decision adopts the 2023 proposed regulations as final regulations with modifications, as described in the Summary of Comments and Explanation of Revisions.

Summary of Comments and Explanation of Revisions

This Summary of Comments and Explanation of Revisions section discusses the comments received on the 2023 proposed regulations and explains the revisions adopted in the final regulations in response to those comments.

1. Comments Relating to Section 1035 Exchanges

As described in the preamble to the 2023 proposed regulations, the proposed changes relating to section 1035 exchanges are intended to correct an unintended change effected by the 2019 final regulations to the treatment under section 101 of a life insurance contract issued to a policyholder in a section 1035 exchange, while continuing to address the concerns that prompted the inclusion of rules for section 1035 exchanges in the 2019 final regulations. These concerns include: (1) that the reporting of death benefits paid under section 6050Y(c) could be avoided by exchanging a contract transferred in a reportable policy sale (reportable policy sale (RPS) contract) for a new contract in a section 1035 exchange and (2) that a policyholder could attempt to avoid the limitation on the excludability of death benefits resulting from the application of the “transfer for value” rule set forth in section 101(a)(2) through a section 1035 exchange. The 2023 proposed regulations would accomplish these objectives in four ways: (1) by removing the reference to section 1035 exchanges in the definition of a “transfer of an interest in a life insurance contract” (§ 1.101-1(e)(2) of the 2023

proposed regulations); (2) by adding a new rule on how to determine the amount of the proceeds attributable to an interest in a life insurance contract issued in a section 1035 exchange that is excludable from gross income under section 101(a) (§ 1.101-1(b)(2)(iv) of the 2023 proposed regulations); (3) by modifying the definition of “reportable policy sale” to address section 1035 exchanges (§ 1.101-1(c)(3) of the 2023 proposed regulations); and (4) by making conforming modifications to §§ 1.6050Y-1 through 1.6050Y-4 of the 2019 final regulations. Regarding conforming modifications to the reporting requirements under section 6050Y, because section 1035 exchanges of RPS contracts would no longer be required to be reported under § 1.6050Y-2 of the 2019 final regulations, the 2023 proposed regulations would modify the reporting rules under §§ 1.6050Y-3 and 1.6050Y-4 of the 2019 final regulations to ensure proper reporting of reportable death benefits paid under contracts issued in section 1035 exchanges.

Commenters generally expressed support for the 2023 proposed regulations under section 101 regarding the treatment of section 1035 exchanges. However, two commenters requested clarification of certain issues related to these provisions. Additionally, one commenter requested changes to the 2023 proposed regulations under section 6050Y related to tracking and information reporting requirements for section 1035 exchanges of contracts that have been transferred in reportable policy sales.

These comments are addressed in detail in parts 1.A through 1.D of this Summary of Comments and Explanation of Revisions.

A. Comments supporting the 2023 proposed regulations

Comments supporting the 2023 proposed regulations under section 101 regarding the treatment of section 1035 exchanges included comments from a commenter that agreed with the determination in the 2023 proposed regulations to exclude the issuance of a life insurance contract to a policyholder, without qualification,

from the events treated as a transfer of an interest in a life insurance contract. The commenter specifically supported the proposed modification of § 1.101-1(e)(2) of the 2019 final regulations to delete the phrase “other than the issuance of a policy in an exchange pursuant to section 1035” from the last clause of that section. The commenter noted that it is well understood that a section 1035 exchange does not transfer the beneficial rights of life insurance coverage to a different policyholder/beneficiary, but, rather, is an exchange of an existing life insurance coverage for new life insurance coverage without any material change. The commenter also stated that it is well-settled in past IRS rulings that a section 1035 exchange does not change the tax attributes of the relinquished contract. Accordingly, the commenter reasoned, when an RPS contract is relinquished in a section 1035 exchange, the contract received in exchange should be treated as an RPS contract.

Another commenter agreed that the 2023 proposed regulations correctly conclude that a section 1035 exchange, in and of itself, is not a “transfer” of the newly issued contract received in the exchange. In support of the approach adopted in the 2023 proposed regulations, the commenter observed that issuing a contract is not a “transfer,” as a transfer of property presupposes the existence of property that can be transferred, and the new contract received in a section 1035 exchange does not exist until it is issued. The commenter also explained that the 2019 final regulations create a conundrum by treating all section 1035 exchanges as transfers for valuable consideration for which the carryover basis exception is never available to undo that treatment, regardless of whether the policyholder has a substantial relationship with the insured when the exchange occurs. The commenter remarked that, if left uncorrected, the 2019 final regulations would effect a major change in the Federal income tax treatment of contract exchanges, as section 1035 exchanges never triggered the transfer for value rule before the 2019 final regulations. The commenter applauded the

Treasury Department and the IRS for recognizing that such a change in law is not warranted or appropriate, for announcing a correction in the 2023 proposed regulations, and for extending the correction retroactively to eliminate any doubt for taxpayers regarding the Federal income tax treatment of contract exchanges they may have completed in prior years. In further support of the 2023 proposed regulations, the commenter also noted that the regulations should not subvert the intent of section 1035, which is to ensure that policyholders are able to exchange existing life insurance contracts for new ones better suited to their needs without having to recognize gain, and that the 2019 final regulations inappropriately subvert the intent of section 1035 by applying the transfer for value rule merely because a life insurance contract is exchanged for a new one. The commenter further expressed agreement with the preamble to the 2023 proposed regulations that the provisions therein are not inconsistent with section 101(j), which concerns the treatment of certain employer-owned life insurance contracts. No comments received on the 2023 proposed regulations expressed an opposing view on this point.

Consistent with these comments supporting the 2023 proposed regulations under section 101 regarding the treatment of section 1035 exchanges, the final regulations retain those provisions with clarifying changes to address the treatment of boot in a section 1035 exchange. These include clarifying changes to the description of a “section 1035 exchange” in §§ 1.101-1(a)(1) and 1.6050Y-1(a)(1) of the 2023 proposed regulations. Additionally, clarifying changes are made to § 1.101-1(b)(2)(iv)(B) of the 2023 proposed regulations. As clarified, § 1.101-1(b)(2)(iv)(B) of the final regulations provides that, in certain circumstances, the amount of boot received tax-free in a section 1035 exchange will reduce the amount of proceeds attributable to the old interest that is excludable from gross income under section 101(a) and will therefore also reduce the amount of proceeds attributable to the new interest that is excludable from gross

income under section 101(a). This clarification is consistent with the rules in § 1.101-1(b)(3) of the 2019 final regulations and section 1031(d).

B. Request for clarification regarding State insurable interest laws

Two of the commenters remarked on the requirement in section 7702(a) of the Code that a contract must be a “life insurance contract under the applicable law” to qualify as a life insurance contract for purposes of the Code. The commenters observed that a contract issued in a purported section 1035 exchange does not qualify as a life insurance contract for purposes of the Code if the contract violates applicable State insurance law, including State “insurable interest” laws, which the commenters described as generally requiring that a policyholder have a substantial family, business, or financial relationship with the insured individual other than the life insurance contract. The commenters noted that, in such a case, section 101 would not apply to exclude the death benefit under the contract from gross income.

One of the commenters expressed the view that it is not necessary to retain the significant expansion of the transfer for value rule that was reflected in the 2019 final regulations in order to discourage or prevent section 1035 exchanges if the exchange would violate State insurable interest laws because current and longstanding Federal income tax rules and potential adverse consequences under State law already provide an incentive to comply with such State laws. Consistent with this comment, the final regulations adopt, as proposed, the provisions of the 2023 proposed regulations reversing the expansion of the transfer for value rule with respect to section 1035 exchanges reflected in the 2019 final regulations.

The other commenter noted that the 2023 proposed regulations may have the unintended effect of creating some confusion in the marketplace about whether the “applicable law” requirement of section 7702(a) continues to apply. The commenter suggested that the Treasury Department and the IRS clarify as part of the process of

finalizing the 2023 proposed regulations that a contract issued as part of a purported section 1035 exchange remains subject to other requirements of the Code, such as the requirement in section 7702(a) that the contract issued in an exchange constitute a life insurance contract under the Code, which would require that it be treated as a life insurance contract under applicable State law.

Regardless of whether a contract is issued in a section 1035 exchange, it must be described in section 7702(a) to be considered a life insurance contract under section 101. Section 7702(a) requires, among other things, that a contract be a “life insurance contract under the applicable law,” State or foreign law, as applicable. The 2023 proposed regulations under sections 101 and 6050Y address the consequences under sections 101 and 6050Y in cases in which a life insurance contract is issued in a section 1035 exchange. The 2023 proposed regulations do not affect the application of other Code sections, including, for instance, sections 1035 and 7702. The 2023 proposed regulations, consequently, do not affect the determination of whether a contract issued in a purported section 1035 exchange qualifies as a life insurance contract under section 7702(a) for purposes of the Code or whether an exchange of contracts qualifies as a section 1035 exchange. The same is true of the final regulations.

A third commenter applauded the Treasury Department for proposing to modify the 2019 final regulations to allow employers to pursue section 1035 exchanges of contracts covering the lives of persons who are no longer actively employed. This comment could be read as suggesting that, with respect to section 1035 exchanges, the 2023 proposed regulations change the requirement under section 7702(a) that a contract be a “life insurance contract under the applicable law” to qualify as a life insurance contract for purposes of the Code. However, this is not the case. Neither the 2023 proposed regulations nor the final regulations change this requirement.

C. Requests for clarification regarding other rules and guidance

One commenter requested confirmation that the circumstances described in Notice 2009-48, 2009-24 I.R.B. 1085, Q&As 14 and 15, do not give rise to a material change in employer-owned life insurance contracts for purposes of applying section 101(j). This commenter also requested clarification that a forgiveness of loaned policy cash value or distribution of cash or other property as a result of an exchange would be recognized as taxable gain under section 1031(b) of the Code, but an enhancement of policy cash value by the new carrier to offset a loss of the exchanged value from the old policy would not be treated as a taxable event. The requests for clarification regarding sections 101(j) and 1031 are not limited to situations involving life insurance contracts acquired in reportable policy sales and are beyond the scope of these regulations, which address the application of sections 101(a) and 6050Y to life insurance contracts acquired in reportable policy sales.

This commenter also remarked that the 2023 proposed regulations do not address Rev. Rul. 2011-9, 2011-12 I.R.B. 554. This revenue ruling concerns the application to section 1035 exchanges of life insurance contracts of section 264(f)(1) of the Code, which disallows any deduction for the portion of a taxpayer's "interest expense" that is allocable to unborrowed policy cash values of life insurance contracts and annuity and endowment contracts. The commenter expressed the understanding that the 2023 proposed regulations render the employee exception in Rev. Rul. 2011-9 moot and requested that this point be clarified. However, the section 264 issue addressed in Rev. Rul. 2011-9 is also outside the scope of these final regulations under sections 101 and 6050Y. Neither the 2023 proposed regulations nor the final regulations affect Rev. Rul. 2011-9 or the conclusion set forth therein.

D. Request for changes to information reporting obligations and procedures

As described in the preamble to the 2023 proposed regulations, to ensure proper reporting of reportable death benefits paid under contracts issued in section 1035

exchanges, § 1.6050Y-3(a) of the 2023 proposed regulations would require reporting by each “6050Y(b) issuer” that is a “section 1035 issuer” with respect to each “seller” at the time of the exchange. The 2023 proposed regulations would generally impose a reporting obligation on both the issuer of the old interest (old issuer) and the issuer of the new interest (new issuer) in a section 1035 exchange if the policyholder (seller) is exchanging an interest in a life insurance contract that has been transferred in an RPS. The preamble to the 2023 proposed regulations indicated that it is anticipated that this reporting will be completed on Form 1099-SB, *Seller’s Investment in Life Insurance Contract*, and the information to be provided would include the policy number and identification of the transaction as a section 1035 exchange.

One commenter agreed with the Treasury Department and the IRS that modifying the information reporting rules is the right way to address the concern that prompted the inclusion of the section 1035 exchange rules in the 2019 final regulations, which related to the possibility that a contract transferred in an RPS subsequently could be exchanged for a new contract pursuant to section 1035 and the death benefits under the new contract might not be reported under section 6050Y(c). The commenter recommended that the Treasury Department and the IRS finalize the information reporting requirements in a manner that takes into account public comments that may simplify or clarify such requirements or otherwise reduce the administrative burdens imposed on the taxpayers charged with implementing them. The commenter did not, however, make any specific burden reduction recommendations.

Another commenter suggested changes to the provisions of the 2023 proposed regulations related to tracking and information reporting requirements for section 1035 exchanges of RPS contracts. The commenter noted that the 2023 proposed regulations would (1) track the RPS status of a contract in an exchange by the policy owner, (2) assure the death benefits paid on such a contract are reported for tax purposes, and (3)

be consistent with the remainder of the section 6050Y tax reporting regime. The commenter suggested that these goals could be achieved with less risk of confusion for policyholders and less administrative burden on insurers than under the 2023 proposed regulations. While expressing appreciation for the need to track the RPS tax attribute of a life insurance contract more formally, the commenter asserted that the requirement in § 1.6050Y-3(a) of the 2023 proposed regulations that the old issuer and new issuer file an information return with the IRS with respect to the section 1035 exchange is not necessary to accomplish the desired compliance goals and should therefore be removed. The commenter also suggested removing the requirement in § 1.6050Y-3(d)(1) of the 2023 proposed regulations that section 6050Y(b) issuers furnish a statement to sellers (policyholders) who make a section 1035 exchange. Additionally, the commenter expressed concerns regarding the anticipated use of Form 1099-SB for reporting section 1035 exchanges of RPS contracts.

The commenter noted that insurers involved in a section 1035 exchange typically share relevant information, including cost basis, without the use of an official IRS form. See, e.g., § 35.3405-1(T), Q&A (E-8), of the Employment Tax Regulations. The commenter stated that the existing process established for companies to share critical information about contracts exchanged is effective and that the RPS tax attribute could be incorporated in this reliable and established practice. The commenter suggested modifying § 1.6050Y-3 of the 2019 final regulations to require the issuer of the existing RPS contract to furnish a statement to the issuer of a new contract received in exchange for the RPS contract in a section 1035 exchange. Also, because the old issuer already must use Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*, to report section 1035 exchanges, the commenter recommended adding a new distribution code for Box 7 of Form 1099-R that would indicate that the section 1035 exchange being

reported is an exchange of an RPS contract. Insurance companies currently report section 1035 exchanges of life insurance contracts on Form 1099-R with a distribution code “6” in Box 7, which identifies the distribution as a tax-free section 1035 exchange.

After consideration of the comments received on the provisions of the 2023 proposed regulations relating to information reporting obligations and procedures, the Treasury Department and the IRS have determined that the filing of information returns with the IRS by the old issuer and new issuer with respect to section 1035 exchanges of RPS contracts is not necessary to accomplish the desired compliance goals. These goals can be addressed through the old issuer’s Form 1099-R reporting of the section 1035 exchange and the related exchange of information between the old issuer and the new issuer.

Accordingly, the following modifications to the proposed information reporting rules set forth in the 2023 proposed regulations are made in the final regulations:

- (1) the definition of “issuer” in § 1.6050Y-1(a)(8) of the 2019 final regulations is not expanded to include “section 1035 issuers”;
- (2) no change is made to §§ 1.6050Y-1(a)(14) and (18) and 1.6050Y-3(c) of the 2019 final regulations because the changes proposed in the 2023 proposed regulations are no longer necessary;
- (3) the requirement under § 1.6050Y-3(a) of the 2023 proposed regulations for section 1035 issuers (both old issuers described in § 1.6050Y-1(a)(8)(v)(A) of the 2023 proposed regulations and new issuers described in § 1.6050Y-1(a)(8)(v)(B) of the 2023 proposed regulations) to file information returns is not adopted;
- (4) the exception from reporting set forth in § 1.6050Y-4(e)(3) of the 2023 proposed regulations is modified and clarified;
- and (5) the reporting requirements under § 1.6050Y-3(a) and (d) of the 2023 proposed regulations for section 1035 issuers to furnish statements are not adopted and reporting with respect to section 1035 exchanges is instead required under new § 1.6050Y-3(h). Section 1.6050Y-3(h) of the final regulations applies to section 1035 exchanges that are

treated as the transfer of an interest in a life insurance contract in a reportable policy sale under § 1.101-1(c)(3) of the final regulations, but only if the new issuer is not the old issuer. To ensure proper reporting when a reportable death benefit is paid under the new contract, the old issuer will provide certain information to the new issuer, including the policyholder's investment in the contract with respect to the old interest and a statement indicating whether the old issuer would have reported a payment of reportable death benefits under § 1.6050Y-4 of the final regulations had it paid death benefits attributable to the old interest on the date of the section 1035 exchange. The old issuer may use any reasonable method to provide this information to the new issuer.

Although issuers will have no obligation to furnish statements to policyholders making a section 1035 exchange under the final regulations, issuers may still have an obligation to furnish statements to policyholders with respect to a section 1035 exchange under other Code sections or regulations. See section 6047(d); Rev. Proc. 92-26, 1992-1 C.B. 744. The final regulations do not require additional reporting on the Form 1099-R, but it is anticipated that, as suggested by one of the commenters, a new distribution code for Box 7 of Form 1099-R will be added to indicate that the section 1035 exchange being reported is an exchange of an RPS contract. Such reporting will not be required before the IRS publishes both a final Form 1099-R reflecting such a requirement and final instructions for completing such form.

2. Comments Relating to the De Minimis Exception for Ordinary Course Mergers and Acquisitions

As described in the preambles to the 2019 final regulations and the 2023 proposed regulations, the 2019 final regulations include provisions that effectively exclude from the definition of RPS certain acquisitions of life insurance contracts, or interests therein, in ordinary course business transactions in which one trade or business acquires another trade or business that owns life insurance. Following the

publication of the 2019 final regulations in the **Federal Register**, the Treasury Department and the IRS received a letter requesting the addition of an exception from the RPS rules for acquisitive transactions involving entities that own a de minimis amount of life insurance (for example, as a proportion of the total value of the transaction). More specifically, the author proposed that the Treasury Department and the IRS consider a further exception for transactions in which the amount of life insurance acquired as a result of an acquisitive transaction (and any related acquisitions) is five percent or less of the value of the acquired stock, assets, or both.

Section 1.101-1(c)(2)(v) of the 2023 proposed regulations provides an exception from the definition of “reportable policy sale” for direct acquisitions of interests in life insurance contracts from a C corporation by a C corporation if (1) the acquisition results from a transaction that qualifies as a reorganization under section 368(a); (2) immediately before the acquisition, (i) the interest is held by a C corporation that conducts an active trade or business within the meaning of § 1.367(a)-2(d)(2) and (3), (ii) the C corporation does not engage in a trade or business of investing in interests in life insurance contracts, and (iii) no more than 5 percent of the gross value of the assets of the C corporation consists of life insurance contracts; and (3) immediately after the acquisition, (i) the acquiring C corporation does not engage in a trade or business of investing in interests in life insurance contracts, and (ii) not more than 5 percent of the gross value of the assets of the C corporation consists of life insurance contracts. The two comments received on the de minimis exception for ordinary course mergers and acquisitions set forth in § 1.101-1(c)(2)(v) of the 2023 proposed regulations agreed that the transactions covered by proposed § 1.101-1(c)(2)(v) should not be reportable policy sales but also requested certain expansions of the exception. Both commenters urged that the de minimis exception be expanded to cover certain taxable transactions, rather than just transactions that qualify as tax-free reorganizations under section 368(a) as

provided by § 1.101-1(c)(2)(v)(D) of the 2023 proposed regulations.

One commenter asserted that this limitation is unnecessary and potentially confusing because it could result in disparate treatment of taxpayers engaged in very similar ordinary course business acquisitions that are structured differently for non-tax business reasons with no clear policy reason for why these transactions should have different results under section 101. This commenter also recommended removing the requirement in § 1.101-1(c)(2)(v)(A) of the 2023 proposed regulations that the interest in a life insurance contract be held, immediately before acquisition, by a C corporation that conducts an active trade or business within the meaning of § 1.367(a)-2(d)(2) and (3) because it is unnecessarily restrictive. The commenter noted that acquisitive transactions often occur at the holding company level as opposed to the operating subsidiary level and a holding company may not technically meet the “active trade or business” standard even though the holding company owns operating subsidiaries that are engaged in active trades or businesses. The commenter made an alternative recommendation of modifying § 1.101-1(c)(2)(v)(A) of the 2023 proposed regulations to permit the interest to be held by a C corporation that is engaged in an active trade or business or is a member of an affiliated group that includes one or more members engaged in an active trade or business. The commenter asserted that this approach would be consistent with section 355(b)(3) and the regulations promulgated thereunder, upon which the section 367 regulations appear to have been originally based and which, pursuant to subsequent revisions that were made after the release of the relevant section 367 regulations, test the active conduct of a trade or business on an affiliated group level.

The other commenter similarly urged that the de minimis exception should not be limited to transactions that qualify as a tax-free reorganization under section 368(a), and further, that it should also apply to acquisitive transactions of non-C corporation targets.

This commenter highlighted the acknowledgement in the preamble to the 2023 proposed regulations that “C corporations are not frequently used as vehicles for investing in life insurance contracts covering insureds with respect to which the corporation does not have a substantial business, financial, or family relationship at the time the contract is issued because a corporate level income tax applies to corporate earnings in addition to income tax on distributions at the shareholder level” and asserted that other types of business entities also “are not frequently used as vehicles for investing in life insurance contracts covering insureds with respect to which the corporation does not have a substantial business, financial, or family relationship at the time the contract is issued.” This commenter also remarked that it is concerning that transactions with identical (or nearly identical) economic substance may have divergent outcomes with respect to whether the transaction gives rise to an RPS depending on the transaction’s form. This commenter further asserted that there are a number of legal, economic, and business reasons why it is highly unlikely that ordinary course business acquisitions involving meager amounts of life insurance contracts can simply be restructured to meet the form-driven rules of either the 2023 proposed regulations or the 2019 final regulations, but that negative outcomes with respect to these incidentally transferred insurance contracts do have significant consequences to a variety of stakeholders. Finally, the commenter expressed concern that since the issuance of the 2019 final regulations, the life insurance industry has continued to see a number of circumstances where transactions that are wholly unrelated to the transfer of life insurance contracts have unclear outcomes under the RPS rules. For these reasons, the commenter urged that the de minimis exception be expanded to entities other than C corporations and regardless of the type of acquisitive transaction involved.

After consideration of the comments received on the de minimis exception for ordinary course mergers and acquisitions set forth in § 1.101-1(c)(2)(v) of the 2023

proposed regulations, the final regulations adopt this provision without change. The Treasury Department and the IRS will continue to consider the possibility of proposing a rule broader than the one set forth in the 2023 proposed regulations, but will not delay the adoption of the 2023 proposed regulations supported by commenters while studying the issue. The Treasury Department and the IRS invite additional comments regarding the scope of the de minimis exception.

3. Comments Relating to the Applicability Date

In general, the 2023 proposed regulations would apply to certain transactions occurring on or after the date the 2023 proposed regulations are finalized. See §§ 1.101-6(c) and 1.6050Y-1(b)(2) of the 2023 proposed regulations. The commenter requesting changes to the information reporting provisions of the 2023 proposed regulations discussed in part 1.D of this Summary of Comments and Explanation of Revisions also requested transition relief from the reporting obligations if the proposed reporting changes suggested by the commenter were not adopted. Because the final regulations adopt the commenter's suggested reporting changes, no transition relief is provided in the final regulations. The applicability date provisions in the 2023 proposed regulations are adopted in the final regulations. See §§ 1.101-6(c) and 1.6050Y-1(b)(2) of the final regulations. However, for administrative reasons, § 1.6050Y-1(b) is republished in its entirety in the final regulations to reflect all changes to § 1.6050Y-1(b), including the ministerial changes set out in the 2023 proposed regulations to address the addition of § 1.6050Y-1(b)(2).

Special Analyses

I. Regulatory Planning and Review—Economic Analysis

These final regulations are not subject to review under section 6(b) of Executive Order 12866 pursuant to the Memorandum of Agreement (July 4, 2025) between the Treasury Department and the Office of Management and Budget (OMB) regarding

review of tax regulations.

II. *Paperwork Reduction Act*

The additional collection of information relating to the final regulations has been reviewed and approved by OMB in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)) under OMB Control Number 1545-0119. In general, the additional collection of information is required for purposes of enforcing section 6050Y. When an interest in a life insurance contract that was previously transferred, or is treated as having been previously transferred, in an RPS (old contract) is exchanged by a policyholder under section 1035 for a new life insurance contract (new contract), § 1.6050Y-3(h) of the final regulations requires the issuer of the old contract (old issuer) to notify the issuer of the new contract (new issuer) of the status of the old contract as a contract transferred, or treated as having been transferred, in an RPS and to provide the investment in the contract for the old contract. This information is necessary to carry out the purpose of section 6050Y(c), which requires a payor of reportable death benefits to report certain information about payments of reportable death benefits.

The additional collection of information in § 1.6050Y-3(h) of the final regulations was suggested by commenters on the proposed regulations as a simpler and less burdensome alternative to the collection of information rules in the proposed regulations, especially because most old issuers routinely provide new issuers with relevant information about the contract being exchanged, including relevant RPS information. Because the additional collection of information would achieve the goal of providing the information necessary for the proper reporting of reportable death benefits, the final regulations eliminate the reporting obligations that would have been imposed by § 1.6050Y-3 of the 2023 proposed regulations on new issuers with respect to section 1035 exchanges and reduce the reporting obligations that would have been imposed by § 1.6050Y-3 of the 2023 proposed regulations on old issuers with respect to

section 1035 exchanges.

The likely respondents to the collection of information are life insurance companies.

The burden for the additional collection of information contained in § 1.6050Y-3 of the final regulations will be reflected on Form 1099-R, *Distributions From Pensions, Annuities, Retirement or Profit-Sharing Plans, IRAs, Insurance Contracts, etc.*, when the burden is revised to reflect the additional collection of information in § 1.6050Y-3. The burden also will be revised when a new distribution code for Box 7 of Form 1099-R is added to indicate that the section 1035 exchange being reported is an exchange of an RPS contract. The OMB Control Number for Form 1099-R is 1545-0119. The final regulations eliminate the burden on policyholders making section 1035 exchanges of RPS contracts imposed by § 1.6050Y-2 of the 2019 final regulations. The burden on Form 1099-LS, *Reportable Life Insurance Sale*, will accordingly be reduced when the burden is revised. The OMB Control Number for Form 1099-LS is 1545-2281.

III. *Regulatory Flexibility Act*

The Regulatory Flexibility Act (RFA) requires agencies to “prepare and make available for public comment an initial regulatory flexibility analysis,” which will “describe the impact of the proposed rule on small entities.” 5 U.S.C. 603(a). Section 605(b) of the RFA allows an agency to certify a rule, in lieu of preparing an analysis, if the proposed rulemaking is not expected to have a significant economic impact on a substantial number of small entities.

Pursuant to the RFA, it is hereby certified that the final regulations will not have a significant economic impact on a substantial number of small entities, because any effect on small entities by the rules finalized in this document flows directly from section 13520 of Public Law 115-97, 131 Stat. 2054, 2148, 2151 (2017), commonly known as the Tax Cuts and Jobs Act (TCJA). In addition, it is anticipated that requirements in the

final regulations, which implement the statutory requirements under section 13520 of the TCJA, will fall primarily on financial and insurance firms with annual receipts greater than \$47 million and, therefore, on no small entities. Therefore, the Secretary of the Treasury hereby certifies that the final regulations will not have a significant economic impact on a substantial number of small entities.

Pursuant to section 7805(f) of the Code, the notice of proposed rulemaking preceding the final regulations was submitted to the Chief Counsel for the Office of Advocacy of the Small Business Administration for comment on its impact on small business, and no comments were received.

IV. Unfunded Mandates Reform Act

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that agencies assess anticipated costs and benefits and take certain other actions before issuing a final rule that includes any Federal mandate that may result in expenditures in any one year by a State, local, or Tribal government, in the aggregate, or by the private sector, of \$100 million in 1995 dollars, updated annually for inflation. This rule does not include any Federal mandate that may result in expenditures by State, local, or Tribal governments, or by the private sector in excess of that threshold.

V. Executive Order 13132: Federalism

Executive Order 13132 (Federalism) prohibits an agency from publishing any rule that has federalism implications if the rule either imposes substantial, direct compliance costs on State and local governments, and is not required by statute, or preempts State law, unless the agency meets the consultation and funding requirements of section 6 of the Executive order. These final regulations do not have federalism implications and do not impose substantial direct compliance costs on State and local governments or preempt State law within the meaning of the Executive order.

VI. Congressional Review Act

Pursuant to the Congressional Review Act (5 U.S.C. 801 et seq.), the Office of Information and Regulatory Affairs has designated this rule as not a “major rule,” as defined by 5 U.S.C. 804(2).

Drafting Information

The principal author of these regulations is Allan H. Sakaue, Office of Associate Chief Counsel (Financial Institutions and Products), IRS. However, other personnel from the Treasury Department and the IRS participated in their development.

Statement of Availability of IRS Documents

Any IRS Revenue Procedure, Revenue Ruling, Notice, or other guidance cited in this document is published in the Internal Revenue Bulletin (or Cumulative Bulletin) and is available from the Superintendent of Documents, U.S. Government Publishing Office, Washington, DC 20402, or by visiting the IRS website at <https://www.irs.gov>.

List of Subjects in 26 CFR Part 1

Income taxes, Reporting and recordkeeping requirements.

Adoption of Amendments to the Regulations

Accordingly, the Treasury Department and IRS amend 26 CFR part 1 as follows:

PART 1--INCOME TAXES

Paragraph 1. The authority citation for part 1 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *

Par. 2. Section 1.101-1 is amended by:

1. Adding a heading to paragraph (a) and a sentence after the fourth sentence of paragraph (a)(1);
2. Revising the headings to paragraph (b) introductory text and paragraph (b)(2);
3. Adding paragraph (b)(2)(iv);
4. Adding a sentence at the end of paragraph (c)(1);

5. Revising paragraph (c)(2)(v);

6. Adding paragraph (c)(3);

7. In the last sentence of paragraph (e)(2), removing the language “, other than the issuance of a policy in an exchange pursuant to section 1035”;

8. Adding two sentences after the fourth sentence of paragraph (g)(11); and

9. Adding paragraphs (g)(17) through (19).

The additions and revisions read as follows:

§ 1.101-1 Exclusion from gross income of proceeds of life insurance contracts payable by reason of death.

(a) *Exclusion from gross income--(1) In general.* * * * The extent to which this exclusion applies in cases in which life insurance policies have been gratuitously transferred or issued in an exchange to which section 1035(a) or section 1031 (to the extent it relates to section 1035(a)) applies (section 1035 exchange) is stated in paragraph (b)(2) of this section. * * *

* * * * *

(b) *Transfers and exchanges of life insurance policies.* * * *

* * * * *

(2) *Other transfers and exchanges.* * * *

* * * * *

(iv) *Section 1035 exchanges.* When an interest in a life insurance contract (old interest) is exchanged in a section 1035 exchange for an interest in a newly issued life insurance contract (new interest), except as otherwise provided by this section with respect to any portion of the new interest that is transferred or exchanged subsequent to the section 1035 exchange, the amount of the proceeds attributable to the new interest that is excludable from gross income under section 101(a) is determined under either paragraph (b)(2)(iv)(A) or paragraph (b)(2)(iv)(B) of this section.

(A) If, at the time of the exchange, the entire amount of the proceeds attributable

to the old interest would have been excludable from gross income under section 101(a), the entire amount of the proceeds attributable to the new interest is excludable from gross income.

(B) If, at the time of the exchange, less than the entire amount of the proceeds attributable to the old interest would have been excludable from gross income under section 101(a), the amount of the proceeds attributable to the new interest that is excludable from gross income is limited to the sum of the amount of the proceeds attributable to the old interest that would have been excludable at the time of the exchange and the premiums and other amounts paid with respect to the new interest by the policyholder, reduced (but not below zero) by amounts received by the policyholder under the new life insurance contract that are not received as an annuity, to the extent excludable from gross income under section 72(e). For purposes of this paragraph (b)(2)(iv)(B), the amount of the proceeds attributable to the old interest that would have been excludable at the time of the exchange is decreased by the amount of any money and the fair market value of any other property received by the policyholder in the exchange and increased by the amount of gain to the policyholder that was recognized on such exchange.

* * * * *

(c) * * *

(1) * * * See paragraph (c)(3) of this section for special rules applicable to section 1035 exchanges.

(2) * * *

* * * * *

(v) The direct acquisition of an interest in a life insurance contract by a C corporation if:

(A) Immediately before the acquisition, the interest is held by another

C corporation (target C corporation) that actively conducts a trade or business within the meaning of § 1.367(a)-2(d)(2) and (3);

(B) Immediately before the acquisition, the target C corporation does not engage in a trade or business of investing in interests in life insurance contracts;

(C) Immediately before the acquisition, no more than 5 percent of the gross value of the assets (as determined under paragraph (f)(4) of this section) of the target C corporation consists of life insurance contracts;

(D) The acquisition results from a transaction that qualifies as a reorganization under section 368(a) with respect to which the target C corporation and the acquiring C corporation each is a party to the reorganization (within the meaning of section 368(b));

(E) Immediately after the acquisition, the acquiring C corporation does not engage in a trade or business of investing in interests in life insurance contracts; and

(F) Immediately after the acquisition, no more than 5 percent of the gross value of the assets (as determined under paragraph (f)(4) of this section) of the acquiring C corporation consists of life insurance contracts.

(3) *Section 1035 exchanges.* This paragraph (c)(3) applies if an interest in a life insurance contract (old interest) is exchanged in a section 1035 exchange for an interest in a newly issued life insurance contract (new interest), and the old interest previously was transferred for valuable consideration in a reportable policy sale under paragraph (c)(1) of this section or is treated as an interest in a life insurance contract that previously was transferred for valuable consideration in a reportable policy sale under this paragraph (c)(3). For purposes of this section, the new interest is treated as an interest in a life insurance contract that previously was transferred for valuable consideration in a reportable policy sale. For purposes of §§ 1.6050Y-3(h) and 1.6050Y-4, the section 1035 exchange is treated as the transfer of an interest in the life

insurance contract in a reportable policy sale.

* * * * *

(g) * * *

(11) * * * Also, the exception in paragraph (c)(2)(v) of this section applies, provided Corporation X satisfies the requirements of paragraphs (c)(2)(v)(A) through (C) of this section immediately before the acquisition by Corporation Y, and Corporation Y satisfies the requirements of paragraphs (c)(2)(v)(E) and (F) of this section immediately after the acquisition. This would be the case even if A were no longer employed by Corporation X at the time of the transfer. * * *

* * * * *

(17) *Example 17.* The facts are the same as in paragraph (g)(4) of this section (*Example 4*), except that, before A's death, C exchanges the policy on A's life for a new policy on A's life in a section 1035 exchange. The amount of the proceeds C may exclude from C's gross income under this section is limited under paragraph (b)(2)(iv)(B) of this section to \$6,000 plus any premiums and other amounts paid by C with respect to the original policy subsequent to the transfer and any premiums and other amounts paid by C with respect to the new policy.

(18) *Example 18.* The facts are the same as in paragraph (g)(17) of this section (*Example 17*), except that, before A's death, C sells the new policy to A for fair market value. A's estate receives the proceeds of \$100,000 on A's death. Under paragraph (b)(1)(ii)(B)(3)(i) of this section, the amount of the proceeds A's estate may exclude from gross income is not limited by paragraph (b) of this section.

(19) *Example 19.* A is the initial policyholder of a \$100,000 insurance policy on A's life. A transfers the policy for \$6,000, its fair market value, to an individual, C, who does not have a substantial family, business, or financial relationship with A at the time of the transfer. The transfer from A to C is a reportable policy sale. C also is the initial

policyholder of a \$200,000 insurance policy on A's life. Before A's death, C exchanges the two policies on A's life for a single new policy on A's life in a section 1035 exchange. C receives the proceeds from the new policy on A's death. The entire amount of the proceeds attributable to the interest in the new policy that was issued in exchange for the policy originally issued to C is excludable from gross income under paragraph (b)(2)(iv)(A) of this section. The amount of the proceeds attributable to the interest in the new policy that was issued in exchange for the policy originally issued to A that is excludable from gross income is limited under paragraph (b)(2)(iv)(B) of this section to \$6,000 plus any premiums and other amounts paid by C with respect to the policy originally issued to A subsequent to the transfer and any premiums and other amounts paid by C with respect to the interest in the new policy that was issued in exchange for the policy originally issued to A.

Par. 3. Section 1.101-6 is amended by revising the section heading and adding paragraph (c) to read as follows:

§ 1.101-6 Applicability date.

* * * * *

(c) Notwithstanding paragraphs (a) and (b) of this section, § 1.101-1(b)(2)(iv) and (c)(3) apply to any interest in a life insurance contract issued in a section 1035 exchange occurring on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**, and § 1.101-1(c)(2)(v) applies to any acquisition of an interest in a life insurance contract occurring on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Taxpayers may also choose to apply the rules in § 1.101-1(b)(2)(iv), (c)(2)(v), and (c)(3) to all exchanges and acquisitions occurring after December 31, 2017.

Par. 4. Section 1.6050Y-1 is amended by:

1. Adding a sentence at the end of paragraph (a)(1);

2. Revising and republishing paragraph (a)(2);
3. Removing the last sentence in paragraph (a)(8)(ii);
4. Adding the language “under § 1.101-1(c)(1) or (3)” at the end of paragraph (a)(12); and
5. Revising and republishing paragraph (b).

The additions and revisions read as follows:

§ 1.6050Y-1 Information reporting for reportable policy sales, transfers of life insurance contracts to foreign persons, and reportable death benefits.

(a) * * *

(1) * * * For purposes of determining the buyer under paragraph (a)(2) of this section, the term *acquirer* also includes any person to whom an interest in a life insurance contract (new interest) is issued in an exchange to which section 1035(a) or section 1031 (to the extent it relates to section 1035(a)) applies (section 1035 exchange) that is treated as the transfer of an interest in the life insurance contract in a reportable policy sale under § 1.101-1(c)(3).

(2) *Buyer*. The term *buyer* means, with respect to any interest in a life insurance contract that has been transferred in a reportable policy sale under § 1.101-1(c)(1) or treated as such an interest under § 1.101-1(c)(3), the person that was the most recent acquirer of that interest in a reportable policy sale as of the date reportable death benefits are paid under the contract.

* * * * *

(b) *Applicability dates*--(1) *In general*. Except as otherwise provided in paragraph (b)(2) of this section, this section and §§ 1.6050Y-2 through 1.6050Y-3 apply to reportable policy sales made after December 31, 2018. Except as otherwise provided in paragraph (b)(2) of this section, this section and § 1.6050Y-4 apply to reportable death benefits paid after December 31, 2018. This section and § 1.6050Y-3 apply to any notice of a transfer to a foreign person received after December 31, 2018.

However, for reportable policy sales and payments of reportable death benefits occurring after December 31, 2018, and on or before December 31, 2019, and any notice of a transfer to a foreign person received after December 31, 2018, and on or before December 31, 2019, transition relief is provided as follows:

(i) Statements required to be furnished to issuers under section 6050Y(a)(2) and § 1.6050Y-2(d)(2)(i) must be furnished by the later of the applicable deadline set forth in § 1.6050Y-2(d)(2)(ii) or December 30, 2019.

(ii) Statements required to be furnished to reportable policy sale payment recipients under section 6050Y(a)(2) and § 1.6050Y-2(d)(1)(i) must be furnished by the later of the applicable deadline set forth in § 1.6050Y-2(d)(1)(ii) or February 28, 2020.

(iii) Statements required to be furnished to sellers under section 6050Y(b)(2) and § 1.6050Y-3(d)(1) must be furnished by the later of the applicable deadline set forth in § 1.6050Y-3(d)(2) or February 28, 2020.

(iv) Statements required to be furnished to reportable death benefits payment recipients under section 6050Y(c)(2) and § 1.6050Y-4(c)(1) must be furnished by the later of the applicable deadline set forth in § 1.6050Y-4(c)(2) or February 28, 2020.

(v) Returns required to be filed under section 6050Y(a)(1) and § 1.6050Y-2(a), section 6050Y(b)(1) and § 1.6050Y-3(a), and section 6050Y(c)(1) and § 1.6050Y-4 must be filed by the later of the applicable deadline set forth in § 1.6050Y-2(c), § 1.6050Y-3(c), and § 1.6050Y-4(b) or February 28, 2020.

(2) *Section 1035 exchanges.* Sections 1.6050Y-1, 1.6050Y-2, and 1.6050Y-3 apply to any life insurance contract acquired in a section 1035 exchange that occurs on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Section 1.6050Y-4 applies to reportable death benefits paid with respect to an interest in a life insurance contract issued in a section 1035 exchange if the exchange occurs on or after **[INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER]**.

§ 1.6050Y-2 [Amended]

Par. 5. Section 1.6050Y-2 is amended by removing paragraph (f)(3).

Par. 6. Section 1.6050Y-3 is amended by:

1. In paragraph (f) introductory text, removing the language “paragraph (f)(1), (2), or (3) of this section applies” at the end of the paragraph and adding in its place “paragraph (f)(1) or (2) of this section applies”;

2. Removing paragraph (f)(3); and

3. Adding paragraph (h).

The addition reads as follows:

§ 1.6050Y-3 Information reporting by 6050Y(b) issuers for reportable policy sales and transfers of life insurance contracts to foreign persons.

* * * * *

(h) *Information to be provided by old issuer to new issuer for certain section 1035 exchanges--(1) Scope.* This paragraph (h)(1) applies to a section 1035 exchange in which an interest in a life insurance contract (old interest) is exchanged by a policyholder for an interest in a newly issued life insurance contract (new interest), and the old interest previously was transferred for valuable consideration in a reportable policy sale under § 1.101-1(c)(1) or is treated as an interest in a life insurance contract that previously was transferred for valuable consideration in a reportable policy sale under § 1.101-1(c)(3). However, this paragraph (h)(1) does not apply if the issuer of the old interest (old issuer) and the issuer of the new interest (new issuer) are the same.

(2) *Provision of information.* If paragraph (h)(1) of this section applies to a section 1035 exchange, the old issuer will provide to the new issuer the information necessary to ensure proper reporting of reportable death benefits under § 1.6050Y-4. This information includes the policyholder’s investment in the contract with respect to the old interest and a statement indicating whether the old issuer would have reported a payment of reportable death benefits under § 1.6050Y-4 had it paid death benefits

attributable to the old interest on the date of the section 1035 exchange. For example, if the old issuer had received, or had knowledge of another issuer having received, a statement described in § 1.6050Y-2(d)(2), the old issuer would include a statement that it would have reported a payment of reportable death benefits. Similarly, if the old issuer had other information indicating that the old interest previously was transferred for valuable consideration in a reportable policy sale under § 1.101-1(c)(1) or was treated as having been so transferred under § 1.101-1(c)(3), the old issuer would include a statement that it would have reported a payment of reportable death benefits.

(3) *Reasonable method.* For purposes of paragraph (h)(2) of this section, the old issuer may use any reasonable method to provide the information described in paragraph (h)(2) of this section to the new issuer.

Par. 7. Section 1.6050Y-4 is amended by adding a sentence at the end of paragraph (e)(3) to read as follows:

§ 1.6050Y-4 Information reporting by payors for reportable death benefits.

* * * * *

(e) * * *

(3) * * * Additionally, if the reportable death benefits are paid with respect to an interest in a life insurance contract issued in a section 1035 exchange, the payor never received, and has no knowledge of any issuer having received, information indicating that the interest was issued in exchange for an interest in a life insurance contract that previously was transferred for valuable consideration in a reportable policy sale or was treated as so transferred under § 1.101-1(c)(3).

* * * * *

Frank J. Bisignano,
Chief Executive Officer.

Approved: June 11, 2026

Kevin M. Salinger,

Deputy Assistant Secretary of the Treasury (Tax Policy).

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