

**MANY COMPANIES NOW REQUIRED TO ACCRUE A LIABILITY FOR
“POSTRETIREMENT” LIFE INSURANCE PREMIUMS RELATING TO SPLIT
DOLLAR LIFE INSURANCE ARRANGEMENTS**

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For Immediate Release

As outlined in the FASB final abstract from its Emerging Issues Task Force (EITF Issue No. 06-10), a company must now record on its balance sheet a liability for “postretirement” benefits provided by a collateral assignment split dollar life insurance arrangement. This ruling follows similar EITF Issue No. 06-4, which applies to endorsement split dollar life insurance arrangements. These Consensuses, which are both effective for fiscal years beginning after December 15, 2007, apply only if the company is required to pay premium after the retirement of an executive or employee.

Given the need and desire for companies to provide permanent life insurance benefits to its executives, these accounting changes pose challenges to companies that may now be required to accrue a liability annually prior to an executive’s retirement for all life insurance premiums that would be payable after retirement.

Caution should be exercised when one considers modifying favorably grandfathered existing split dollar arrangements that were entered into prior to September 18, 2003. The final split dollar arrangement regulations suggest that any material modification other than those explicitly reflected in Treasury regulation 1.61-22(j)(2)(ii) could cause a loss of favorable grandfathering treatment, such as the ability to use lower economic benefit rates. For grandfathered arrangements, one possible solution is to shorten the premium payment schedule so that no premiums are payable after retirement age. Many commentators agree that although not explicitly mentioned in the regulations, this change would not constitute a material modification.

For non-grandfathered split dollar arrangements, planning may include: amending the arrangement to terminate at retirement; giving the company the right to terminate the arrangement; structuring or restructuring the arrangement to extend an employee’s services to the company beyond retirement as a director, service provider, or both; or shortening the premium schedule as discussed above.

We believe all potential postretirement split dollar arrangements should be reviewed in light of EITF Issue Nos. 06-10 and 06-4 to determine whether they apply. If so, care should be taken to evaluate potential solutions without jeopardizing favorable grandfathering provisions.

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