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SUBMITTED ELECTRONICALLY

December 17, 2015

Internal Revenue Service
CC:PA:LPD:PR (REG-127895-14)
1111 Constitution Avenue, NW
Room 5203
Washington, DC 20044

Re: Treatment of Annuity Contracts Under Proposed Section 871(m) Regulations

Dear Sir or Madam:

We are writing on behalf of the Committee of Annuity Insurers (the “Committee”) to comment on the temporary and proposed regulations on dividend equivalents that the Treasury Department and Internal Revenue Service (the “Service”) published in the Federal Register on September 18, 2015 (the “2015 proposed regulations”).¹ The Committee is a coalition of life insurance companies formed in 1981 to participate in the development of federal policy with respect to annuities. The Committee’s 29 member companies represent more than 80% of the annuity business in the United States.²

The Committee supports the clear rule in the 2015 proposed regulations that payments from annuity contracts issued by domestic life insurance companies are not dividend equivalent payments if the payments are subject to tax under section 871(a) or section 881.³ This is a welcome change from the 2013 proposed regulations. As we described in our July 31, 2014 comment letter, the Committee’s member companies were concerned that the 2013 proposed regulations could be interpreted to treat payments from certain types of annuity contracts as dividend equivalents under section 871(m) subject to withholding. Given that annuity payments are already subject to section 871(a) this created considerable ambiguity. Moreover, under the 2013 proposed regulations withholding generally would have been required at the later of the time the amount of the dividend equivalent was fixed or the time the withholding agent had custody or control over the dividend. As a result, if payments from an annuity contract were

¹ 80 Fed. Reg. 56,866 (September 18, 2015).

² A list of the Committee’s member companies is attached.

³ Unless otherwise indicated, references herein to a “section” mean a section of the Internal Revenue Code of 1986, as amended (the “Code”).

characterized as dividend equivalents, the 2013 proposed regulations would have required the insurer to withhold from the annuity contract's cash value even though no amount had been received under the contract. Such treatment clearly would have been inconsistent with section 72.

The Committee thanks Treasury and the Service for recognizing in the 2015 proposed regulations that the taxation of life insurance and annuity contracts issued by domestic insurance companies is adequately addressed under current law. In this regard, Treas. Reg. section 1.871-15T(c)(2)(iv)(A) addresses the Committee's concerns by eliminating any ambiguity as to the characterization of payments from an annuity contract by expressly providing they do not include a dividend equivalent if the payment is subject to tax under section 871(a) or section 881.

Accordingly, the Committee requests that Treas. Reg. section 1.871-15T(c)(2)(iv)(A) be issued as a final regulation.

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The Committee's member companies appreciate the opportunity to comment on the 2015 proposed regulations and once again thank you for addressing the concerns we expressed regarding the 2013 proposed regulations. If you have any questions, please do not hesitate to contact either of the undersigned at 202-347-2230.

Sincerely,



Joseph F. McKeever, III



Alison R. Peak

Counsel to the Committee of Annuity Insurers

Attachment

THE Committee
OF
Annuity Insurers
www.annuity-insurers.org

AIG Life & Retirement, Los Angeles, CA
Allianz Life Insurance Company, Minneapolis, MN
Allstate Financial, Northbrook, IL
Ameriprise Financial, Minneapolis, MN
Athene Annuity & Life Company, Des Moines, IA
AXA Equitable Life Insurance Company, New York, NY
Fidelity Investments Life Insurance Company, Boston, MA
Genworth Financial, Richmond, VA
Global Atlantic Life and Annuity Companies, Southborough, MA
Great American Life Insurance Co., Cincinnati, OH
Guardian Insurance & Annuity Co., Inc., New York, NY
Jackson National Life Insurance Company, Lansing, MI
John Hancock Life Insurance Company, Boston, MA
Life Insurance Company of the Southwest, Dallas, TX
Lincoln Financial Group, Fort Wayne, IN
MassMutual Financial Group, Springfield, MA
Metropolitan Life Insurance Company, New York, NY
Nationwide Life Insurance Companies, Columbus, OH
New York Life Insurance Company, New York, NY
Northwestern Mutual Life Insurance Company, Milwaukee, WI
Ohio National Financial Services, Cincinnati, OH
Pacific Life Insurance Company, Newport Beach, CA
Protective Life Insurance Company, Birmingham, AL
Prudential Insurance Company of America, Newark, NJ
Symetra Financial, Bellevue, WA
The Transamerica companies, Cedar Rapids, IA
TIAA-CREF, New York, NY
USAA Life Insurance Company, San Antonio, TX
Voya Financial, Inc., Atlanta, GA

The Committee of Annuity Insurers was formed in 1981 to participate in the development of federal policies with respect to annuities. The member companies of the Committee represent more than 80% of the annuity business in the United States.