

# ARCHER & GREINER

ATTORNEYS AT LAW

## *Tax Alert*

October 13, 2003

### IRS ISSUES FINAL SPLIT-DOLLAR REGULATIONS

On September 11, 2003, the Internal Revenue Service issued final regulations that became effective on September 17, 2003 permanently changing the rules on the taxation of split-dollar life insurance policies that have been in place for almost 40 years.

If the policy was issued prior to January 28, 2002, it qualifies as a "super-grandfather" policy. A super-grandfathered policy that does not make any of the cash surrender value available to the insured, the employee or any trust established by the employee probably does not have to take any action at this time.

On the other hand, if any of the cash surrender value built up in the policy becomes available to the employee, or a trust created by the employee, then, before the end of this calendar year, December 31, 2003, all parties with any interest in the policy should:

1. Avoid any "material modifications" or exchanges of the policies, and
2. Analyze the options of: (i) termination, (ii) conversion of the policy to a loan regime, or (iii) developing an alternative exit strategy.

The analysis will require in-force illustrations from your insurance carrier.

There are a variety of non-traditional split-dollar arrangements in existence (such as private split-dollar arrangements) that are subject to additional rules. If you or your Company has any such agreements or arrangements, they should be reviewed carefully before year end.

Please call Gerry Rigby in our Philadelphia office (215-568-4166 or e-mail at [grigby@archerlaw.com](mailto:grigby@archerlaw.com)) to discuss your situation and obtain an independent analysis of the impact of the pending changes on your situation.

The materially changed income tax consequences may also affect the gift tax and estate planning consequences of split-dollar policies. You should review these potential changes with your estate planning advisors.