
Flaster Greenberg Estate Planning & Tax Attorney Quoted in Tax Notes About Proposals Targeting Private Placement Life Insurance

Press Release

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Tax Notes

David Neufeld, Tax and Trusts & Estates Shareholder, was tapped by Tax Notes, the premier magazine for tax professionals and policy-makers, for his input for an article titled, “A Look at the Proposals Targeting Private Placement Life Insurance.” The article discusses two recent proposals designed to constrain the use of private placement life insurance (PPLI) and private placement annuity (PPA) contracts.

The proposals might suffer from the same fatal defect: They could violate equal protection under the Fifth Amendment. There appears to be no rational basis for treating PPLI differently than variable universal life insurance (VULI) of the type owned by millions of taxpayers, said David S. Neufeld of Flaster Greenberg PC. “PPLI owned by the ultrawealthy is the same product as VULI,” he said, adding that “in all material tax consequences, PPLI is indistinguishable from other variable insurance.”

The only difference between PPLI and VULI is that the investments held in the former are subject to Securities Act Regulation D, Neufeld said. Regulation D allows exemptions from the securities registration requirements for companies offering private placements by limiting them to investors who are presumed to be both sophisticated enough to assess the risks of those investments and able to withstand the financial hit if the investment goes south.

The premise for distinguishing between taxpayers who purchase PPLI and those who buy VULI is irrational, Neufeld said. Instead of taxing the targeted group of taxpayers on the basis of their activities, the proposal would tax them based on the fact that they are not the group that is restricted in their investments under securities law, he said. “The Senate Finance Committee’s report and the administration’s green book would use a federal securities provision intended to protect one class of investor under the securities law as a bludgeon to punish another class of investor under the tax law,” he said.

Neufeld noted that the attributes of PPLI that the proposals deem problematic are also part of variable insurance: The premiums are invested in securities, gains within the policy are realized tax free, cash can be borrowed tax free at favorable rates against the policy, and the death benefit can be received free from income tax and be excluded from the estate tax. “Every middle-class person in America can, to use the Senate’s phrase, buy/borrow/die just like the ultrawealthy, and many do,” he said.

Read the full article [here](#).

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New Jersey & Florida Tax Attorney

David has practiced law for more than 35 years, advising individuals and businesses around the globe on sophisticated federal income and estate tax planning, state tax residency planning and audits, asset protection, and insurance and investment planning. In addition, he helps business clients engaged in both inbound and outbound transactions (most notably involving China and India) as well as the individual tax issues that arise from cross-border business transactions.

ATTORNEYS MENTIONED

David Neufeld