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June 6, 2007

The Honorable Eric Solomon
Assistant Secretary (Tax Policy)
Department of the Treasury
Room 3120 MT
1500 Pennsylvania Avenue, N.W.
Washington, DC 20220

The Honorable Kevin Brown
Acting Commissioner
Internal Revenue Service
Room 5226
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Re: Report on Proposed Regulations Regarding
Exchanges of Property for Annuities

Dear Assistant Secretary Solomon and Acting Commissioner Brown:

I am pleased to enclose the New York State Bar Association Tax Section's Report No. 1130, addressing the U.S. federal income tax treatment of the exchange of property for an annuity.

The enclosed report comments on the proposed regulations under Treasury Regulations Sections 1.72-6(e) and 1.1001-1(j) that were issued on October 17, 2006 (the "Proposed Regulations") with respect to the U.S. federal income tax treatment of the exchange of property for an annuity. The Proposed Regulations would eliminate a taxpayer's ability to account for an annuity that is exchanged for property under the ratable basis recovery method or open transaction method. Rather, under the Proposed Regulations, a taxpayer must immediately recognize gain or loss upon receipt of the

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annuity in an amount equal to the difference between its basis in the property and the fair market value of the annuity as determined under Section 7520 of the Internal Revenue Code.

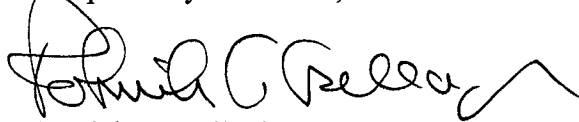
As discussed more fully in the report, subject to the next paragraph we agree with the Proposed Regulations that the ratable basis recovery and open transaction accounting methods described above should not apply to the exchange of property for an annuity. We believe, however, that a taxpayer should generally be eligible to report any gain that it recognizes upon a sale of property for an annuity under the installment method of accounting that is set forth under Section 453 of the Internal Revenue Code and the regulations thereunder. If a taxpayer elects out of, or is otherwise prohibiting from using, the installment method of accounting under Section 453, then we believe that the taxpayer should be treated in the manner set forth in the Proposed Regulations under which the taxpayer would recognize gain or loss in respect of the sale based on the fair market value of the annuity at the time of the sale.

The report also presents alternatives to full adoption of Section 453, including (1) a more modest approach that would retain the current ratable basis recovery but add anti-abuse provisions applicable to installment sales (in particular, Section 453(e) concerning dispositions by a related party, and the Section 453A interest charge rules), which would have similar effect to our basic Section 453 proposal but would deny the annuity issuer an interest deduction, and (2) in light of their long standing historic treatment, excluding secured and/or commercial annuities from eligibility for the installment method.

The report also addresses the technical application of the installment sale rules to the exchange of property for an annuity, the tax treatment of the issuer of an annuity in exchange for property and the tax treatment of a charitable organization that issues such an annuity.

We appreciate your consideration of our recommendations and comments. We would be pleased to discuss these matters with you further or provide any other assistance that you would find helpful.

Respectfully submitted,



Patrick C. Gallagher
Chair

(Enclosure)

cc: Donald L. Korb, Chief Counsel, Internal Revenue Service
Michael J. Desmond, Tax Legislative Counsel,
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James Polfer, Attorney,
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