

# The TOLI Center

**Fiduciary Advisor Series**  
February, 2007  
FAS-7



## Insurance Trust Policy Valuation Statements

A section of the Pension Protection Act of 2006 warrants review by institutional trustees as it may have implications for trustees managing trusts that own insurance policies. The Pension Protection Act in Section 1219 added new Section 6695A to the Internal Revenue Code that affects any person or company that supplies values taxpayers use to calculate their income taxes.

Under 6695A, financial institutions appear to be appraisers since they issue forms taxpayers use to determine their taxable income and income tax payments. Many financial institutions price TOLI at \$1 book value and either report this value or exclude any reported value on the client's statements. If an institution reports such values, which are not fair market values, on year-end statements or tax forms taxpayers use, it could be violating 6695A and subject to its penalty provisions including fines of up to \$1,000 per mispriced asset.

In August, the Pension Protection Act timing coincided with an American Bankers Association telephone briefing on "Fiduciary Pitfalls with Trust-Owned Life Insurance" to review "the necessary approach" for trustees to demonstrate performance of their fiduciary duties. Shortly thereafter, the American College of Estate and Trust Counsel published part 3 of its 4-part insurance trust administration series clarifying the need for and appropriate form of **actuarially defensible** policy evaluation.

The Pension Protection Act has been the catalyst for many banks that value insurance policies at a \$1 to also review their TOLI practices. For example, in order to report TOLI fair market values, current TOLI policy values must be efficiently integrated into the trust accounting system and client tax reporting statements. Since current life insurance policy information must be obtained for this reporting purpose, the incremental cost to prepare and communicate an actuarially defensible TOLI policy performance report is minimal.

This situation allows a trustee to review their TOLI risk management and administration services, communicate an expanded scope of services to their clients, and re-price TOLI services to offset incremental costs.

If you have any questions concerning this advisory, please call E. Randolph Whitelaw at 314-993-8654.