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**Contact**  
Paul Siegert, President and CEO  
031 Elk Crossing, Keystone, CO 80435  
970-262-1047  
[PSiegert@InsuranceStudies.org](mailto:PSiegert@InsuranceStudies.org)

## 2009 Revenue Rulings Give Seniors and the Life Settlement Industry a Few Answers, But More Questions

**STATUS:** Published, September, 2009

**LEAD RESEARCHER:** Brent Schreiber, University of Saint Thomas Law Student; Christopher Kampa, ISI Director of Research and Project Development, Prof. Morgan Holcomb, Tax Law Professor at Hamline University School of Law.

**ISI OVERSIGHT:** Paul Siegert, ISI President and CEO; Christopher Kampa, ISI Director of Research and Project Development

**PROJECT DESCRIPTION:** A life settlement is the sale of an insurance policy to a third party investor. Tax law provides specific regulations pertaining to taxation of gains on distributed cash surrender values, death benefits to beneficiaries and death benefits to parties that purchased life insurance policies, but such regulations have been unclear when applied to gains on life settlements and premium financed policies (see “Taxation of Life Insurance Policies In An Evolving Secondary Market” by ISI 2008). Previously, the IRS provided no formal guidance on the issue of taxation for either sellers or investors. On May 4th, 2009, the Treasury Department issued Revenue Ruling 2009-13 and 2009-14 regarding life settlement transactions. These rulings provide answers to some questions but create new questions and legal issues. This research project is intended to provide a pragmatic understanding of the new questions and issues.

**SCOPE OF RESEARCH AND METHODOLOGY:** In 2008, the Insurance Studies Institute published a white paper analyzing the tax ramifications of life insurance, policy lapses and surrenders, premium financed policies, and life settlements. Issues identified in the ISI 2008 paper will be evaluated based on the newly issued IRS revenue rulings, and new issues will be identified and evaluated. The project will analyze the calculation of cost basis, adjusted tax basis, and differentiation between ordinary income and capital gains as such apply to sellers of life insurance policies and to investors when such policies are resold and when death benefits are paid. Specific topics to be covered:

1. Taxation of policy seller
2. Taxation of domestic investors
3. Taxation of foreign investors
4. Effect of taxation on insurers
5. Legality of IRS Revenue Rulings
6. Economic tax impact before and after the May, 2009 IRS Rulings

**RESOURCES:** “Taxation of Life Insurance Policies in an Evolving Secondary Marketplace” by ISI 2008, IRS Revenue Ruling 2009-13, IRS Revenue Ruling 2009-14, Daily Tax Report, BNA, Inc., “The Future will be Better Tomorrow: The Obama Tax Agenda is Released” by Greenberg Traurig, “Tax Alert” by Sadis & Goldberg, LLP, “New Tax Proposals Target Life Insurers” Wall Street Journal, Other technical resources as appropriate

**TARGET RESULTS AND BENEFITS:** Research results will be published in an ISI white paper to point out benefits and issues of the May, 2009 IRS Rulings affecting life settlements. As found from the ISI 2008 published paper, numerous advisors have used the ISI 2008 tax paper as a valued resource and the 2009 paper will expect to further that value.

**TIMELINE:** Research started May, 2009 and completion targeted August, 2009.

**BUDGET:** \$30,000