

**Department of
Veterans Affairs**

Memorandum

Date: November 24, 2006

VAOPGCPREC 6-2006

From: Acting General Counsel (022)

Subj: Applicability of SGLI Tax Exemption to TSGLI—38 U.S.C. §§ 1970(g), 1980A

To: Director, Insurance Service (29)

1. You asked us whether the tax exemption provided by 38 U.S.C. § 1970(g) to payments due or to become due under the Department of Veterans Affairs Servicemembers' Group Life Insurance (SGLI) program also applies to payments under Traumatic SGLI (TSGLI). We have concluded that it does.

2. There are two main reasons for our conclusion. First, TSGLI is part of the SGLI program, as indicated by its placement in the same title 38 subchapter that governs SGLI and by Congress' statement in the original legislation creating the TSGLI program that TSGLI is a "rider" to SGLI. That being the case, since SGLI is tax-exempt under section 1970(g), it follows that TSGLI, as a part of SGLI, is tax-exempt under section 1970(g). Second, nothing in the laws or the history underlying the laws creating the TSGLI program indicates a congressional intent to exclude TSGLI payments from the section 1970(g) exemption generally applicable to SGLI payments.

3. We have attached a more comprehensive legal analysis of the question should you wish to review it. The Office of the Division Counsel/Associate Chief Counsel (Tax Exempt and Government Entities) of the Internal Revenue Service has advised us that it agrees with our conclusion. Consequently, I hold as follows:

HELD: The tax exemption provided by 38 U.S.C. § 1970(g) to payments due or to become due under the Servicemembers' Group Life Insurance program also applies in the same manner to payments due or to become due under the traumatic injury protection provided by 38 U.S.C. § 1980A.

LEGAL ANALYSIS

1. Subchapter III of chapter 19 of title 38, United States Code, governs the Servicemembers' Group Life Insurance (SGLI) program, under which the lives of certain servicemembers and their dependents are insured. Section 1970(g) of title 38, United States Code, provides that, with three exceptions, [FN#1] "[a]ny payments due or to become due under [SGLI] . . . made to, or on account of, an insured or a beneficiary shall be exempt from taxation," shall be exempt from creditors' claims, and shall not be subject to attachment, levy, or seizure. On May 11, 2005, Congress amended subchapter III by adding a new section 1980A. Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005, Pub. L. No. 109-13, § 1032(a)(2), 119 Stat. 231, 257. As added by Public Law 109-13, section 1980A(a) provided to servicemembers insured under SGLI a "traumatic injury protection rider" that provides for a payment of up to \$100,000 if an insured member sustains a traumatic injury that results in any of certain losses. See *also* H.R. Rep. No. 109-72, at 127 (2005) (Conf. Rep.). [FN#2] This additional coverage for certain traumatic injuries under the SGLI program is known colloquially, and shall be referred to hereafter, as "TSGLI."

2. The first reason we conclude that the tax exemption applies to TSGLI payments is that TSGLI is a part of the SGLI program. This can be seen from the fact that Congress placed the U.S. Code section governing TSGLI in the subchapter of title 38, United States Code, that governs SGLI. As a general rule, new statutes enacted as part of an established statutory scheme must be construed to fit consistently within the statutory scheme. See *United States v. Jefferson Elec. Mfg. Co.*, 291 U.S. 386, 396 (1934) ("As a general rule, where the legislation dealing with a particular subject consists of a system of related general provisions indicative of a settled policy, new enactments of a fragmentary nature on that subject are to be taken as intended to fit into the existing system and to be carried into effect conformably to it, excepting as a different purpose is plainly shown."). Furthermore, Congress, in authorizing TSGLI, specified that there be a "traumatic injury protection *rider*" to the SGLI policy. Pub. L. No. 109-13, § 1032(a)(2) (emphasis added); H.R. Rep. No. 109-72, at 127. "Rider" is a legal term of art, defined as "[a]n attachment to some document, such as a legislative bill or an insurance policy, that amends or supplements the document." *Black's Law Dictionary* 1347 (8th ed. 2004). The use of the term necessarily implies that TSGLI is not a benefit separate from SGLI, but rather an expansion of the original SGLI program. Although Congress later eliminated the term "rider" from section 1980A(a), that section's current language, which provides that a servicemember who is insured under SGLI is automatically insured under TSGLI, still makes clear that TSGLI is a part of SGLI. Therefore, it is reasonable to infer that section 1970(g) exempts from taxation TSGLI payments in the same manner as other SGLI payments.

3. The second reason we conclude that the tax exemption applies to TSGLI payments is that we find no evidence of Congressional intent to exclude TSGLI payments from the exemption. Nothing in Public Law 109-13 or Public Law 109-233 or in the legislative history of those statutes indicates a Congressional intent to exclude TSGLI payments from the section 1970(g) exemption generally applicable to SGLI payments. The fact that section 1980A does not specifically state that TSGLI payments are exempt from taxation is of no consequence because TSGLI is a part of SGLI, and all SGLI payments are exempt from taxation under section 1970(g) except as specified. Therefore, TSGLI payments are exempt from taxation in the same manner as other SGLI payments are exempt under section 1970(g).

FN #1 - The three exceptions are: "(1) collection of amounts not deducted from the member's pay, or collected from him by the Secretary concerned under section 1969(a) of this title, (2) levy under subchapter D of chapter 64 of the Internal Revenue Code of 1986 (26 U.S.C. [§] 6331 et seq.) (relating to the seizure of property for collection of taxes), and (3) the taxation of any property purchased in part of wholly out of such payments." 38 U.S.C. § 1970(g).

FN #2 - Because of technical amendments subsequently made by section 501 of the Veterans' Housing Opportunity and Benefits Improvement Act of 2006, Pub. L. No. 109-233, § 501, 120 Stat. 397, 411, section 1980A(a) no longer explicitly refers to a "rider." However, these technical amendments were "not intended to make any substantive change in current law." H.R. Rep. No. 109-263, at 17 (2005).