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Steve Leimberg's Charitable Planning Email Newsletter Archive Message #303

Date:30-Nov-20

Subject: Larry Katzenstein - New Actuarial Tables Are Coming

“On August 7, 2020, the National Center for Health Statistics at the Centers for Disease Control and Prevention issued the decennial life table for 2009-2011. And why, you may ask, would anyone except nerds like me care? Because this is the source for the IRS actuarial tables which Code section 7520 mandates estate planners use to value life estates, unitrust interests, remainders, and annuities.

The tables are required by section 7520 to be updated every 10 years and this has happened since the enactment of section 7520 in 1989 on May 1, 1989, 1999, and 2009 but not on May 1, 2019. Because the CDC had not yet issued the decennial table the IRS couldn't move forward. Now that this data has been released, I would expect the IRS to issue its updated actuarial tables in the form of proposed regulations shortly, hopefully by the end of the year.”

Larry Katzenstein provides members with commentary that reviews the new actuarial tables that should be issued soon by the IRS now that the National Center for Health Statistics at the Centers for Disease Control and Prevention issued the decennial life table for 2009-2011.

Lawrence P. Katzenstein is a nationally known authority on estate planning and planned giving. He practices in St. Louis, Missouri in **Thompson Coburn LLP's** private client services area and is a frequent speaker around the country to professional groups. He received his undergraduate degree from Washington University in St. Louis and earned his law degree at Harvard Law School. He appears annually on several American Law Institute estate planning programs and has spoken at many other national tax institutes, including the Notre Dame Tax Institute, the University of Miami Heckerling Estate Planning Institute and the Southern Federal Tax Institute. Larry has served as an adjunct professor at the Washington University School of Law where he has taught both estate and gift taxation and fiduciary income taxation. A former chair of the American Bar Association Tax Section Fiduciary Income Tax Committee, he is also a

fellow of the American College of Trust and Estate Counsel and a member of its Charitable Planning Committee, and has served as a member of the advisory board of the New York University National Center on Philanthropy and the Law. He is listed in The Best Lawyers in America® in the field of Trusts and Estates. Larry was named the St. Louis Non-Profit/Charities Lawyer of the Year in 2011 and 2015 and the St. Louis Trusts and Estates Lawyer of the Year in 2010 and 2013 by Best Lawyers®. He was nationally ranked in the 2009-2019 editions of Chambers USA for Wealth Management. Larry is also the creator of Tiger Tables actuarial software, which is widely used by tax lawyers and accountants nationwide.

Here is his commentary:

EXECUTIVE SUMMARY:

On August 7, 2020, the National Center for Health Statistics at the Centers for Disease Control and Prevention issued the decennial life table for 2009-2011. And why, you may ask, would anyone except nerds like me care? Because this is the source for the IRS actuarial tables which Code section 7520 mandates estate planners use to value life estates, unitrust interests, remainders, and annuities.

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COMMENT:

What is the decennial table? The table is a distillation of the entire U.S. population, on a unisex basis and derived from the 2010 census, of the number of persons living at each age from 0 to 110. That single Lx table is the basis of every single mortality-based actuarial calculation we estate planners generally use. It is used for only one thing—to calculate the probability of surviving from one age to another age—but that is what underlies every actuarial calculation involving a life or lives.

How does the current table compare to the new decennial table?

Age	Lx old table	Lx new table	Gain
0	100000	100,000	0
1	99305	99,382	77
2	99255	99,341	86
3	99222	99,314	92
4	99197	99,293	96
5	99176	99,276	100
6	99158	99,262	104
7	99140	99,248	108
8	99124	99,237	113
9	99110	99,226	116
10	99097	99,217	120
11	99085	99,209	124
12	99073	99,200	127
13	99057	99,188	131
14	99033	99,171	138
15	98998	99,145	147
16	98950	99,112	162
17	98891	99,071	180
18	98822	99,022	200
19	98745	98,964	219
20	98664	98,899	235
21	98577	98,824	247
22	98485	98,741	256
23	98390	98,652	262
24	98295	98,560	265
25	98202	98,467	265
26	98111	98,374	263
27	98022	98,280	258
28	97934	98,186	252
29	97844	98,089	245
30	97750	97,990	240
31	97652	97,887	235
32	97549	97,782	233
33	97441	97,672	231

34	97324	97,559	235
35	97199	97,443	244
36	97065	97,321	256
37	96921	97,194	273
38	96767	97,059	292
39	96600	96,915	315
40	96419	96,761	342
41	96223	96,596	373
42	96010	96,416	406
43	95782	96,221	439
44	95535	96,005	470
45	95268	95,769	501
46	94981	95,510	529
47	94670	95,229	559
48	94335	94,923	588
49	93975	94,590	615
50	93591	94,226	635
51	93180	93,828	648
52	92741	93,398	657
53	92270	92,935	665
54	91762	92,438	676
55	91211	91,908	697
56	90607	91,342	735
57	89947	90,737	790
58	89225	90,091	866
59	88441	89,401	960
60	87595	88,666	1,071
61	86681	87,884	1,203
62	85691	87,052	1,361
63	84620	86,168	1,548
64	83465	85,227	1,762
65	82224	84,222	1,998
66	80916	83,142	2,226
67	79530	81,978	2,448
68	78054	80,729	2,675
69	76478	79,388	2,910
70	74794	77,958	3,164
71	73001	76,430	3,429
72	71092	74,798	3,706
73	69056	73,049	3,993

74	66882	71,178	4,296
75	64561	69,175	4,614
76	62091	67,045	4,954
77	59476	64,774	5,298
78	56721	62,366	5,645
79	53833	59,796	5,963
80	50819	57,081	6,262
81	47694	54,214	6,520
82	44475	51,205	6,730
83	41181	48,060	6,879
84	37837	44,809	6,972
85	34471	41,400	6,929
86	31114	37,895	6,781
87	27799	34,314	6,515
88	24564	30,701	6,137
89	21443	27,107	5,664
90	18472	23,587	5,115
91	15685	20,198	4,513
92	13111	16,996	3,885
93	10773	14,032	3,259
94	8690	11,348	2,658
95	6871	8,976	2,105
96	5315	6,932	1,617
97	4016	5,218	1,202
98	2959	3,824	865
99	2122	2,723	601
100	1477	1,882	405
101	997	1,261	264
102	650	818	168
103	410	514	104
104	248	312	64
105	144	183	39
106	81	104	23
107	43	57	14
108	22	30	8
109	11	15	4
110	0	0	0

The table, which of course is already 10 years out of date, shows remarkable improvements in longevity. Take a look at age 84:

Age	Old Lx table	New Lx table	Gain
84	37837	44,809	6,972

Almost 7000 more people out of 100,000 still survive at age 84 than under the old table. The improvements in longevity at older ages is truly remarkable. For example, the probability of survival from age 60 to age 90 went from 21.088% to 26.6021% in just ten years. No wonder the Today show stopped years ago highlighting viewers who attained age 100. There were just too many of them.

Note that the IRS could make small tweaks to the CDC Lx table but I would expect any tweaks to be minor and this gives us at least a good idea of the effect the new tables will eventually have. Obviously, once the new tables are effective the value of a life estate will be greater and the value of a remainder after a life less under the new assumptions. Assuming a 5% section 7520 rate, the life estate factor for a person age 60 jumps from .60739 to .63394.

Longer life expectancies will be advantageous in some cases and disadvantageous in others. A longer life expectancy can be advantageous if the value being measured is a lead interest for life (or the shorter of life or a term) in a charitable lead trust. But the deduction for a contribution to a charitable remainder trust for a life or lives will be smaller.

For example, the deduction for a \$100,000 contribution by a 70 year old donor to a charitable remainder unitrust paying a 5% unitrust interest quarterly will fall from \$51,981 to \$49,111. There will be other effects as well. It will become even harder to get a CRAT to qualify for the 10% remainder value test and the 5% exhaustion test. Also reduced, of course, will be the charitable deduction for the remainder in a personal residence after a retained life estate.

Questions remain. Will we be allowed to elect to use the new rates for any transaction after April 30, 2019, the date on which the new tables were mandated by section 7520 to be effective? Will there be an effective date transition period? Will the IRS at some point allow use of exact computer-

generated factors rather than the almost-exact published factors—almost exact because of rounding and related issues required to make published tables workable? Will the IRS make minor tweaks to the Lx table above?

HOPE THIS HELPS YOU HELP OTHERS MAKE A *POSITIVE* DIFFERENCE!

Larry Katzenstein

CITE AS:

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