



COMMONWEALTH OF PUERTO RICO
OFFICE OF THE COMMISSIONER OF INSURANCE

Fermín M. Contreras Gómez
Commissioner of Insurance

December 10, 2002

RULING LETTER NO. N-L-10-17-2002

**TO ALL INSURERS AUTHORIZED TO TRANSACT LIFE INSURANCE BUSINESS
IN PUERTO RICO**

Re: Payments to Life Insurance Policy Beneficiaries

Dear Ladies and Gentlemen:

On September 17, 2002, the Supreme Court of Puerto Rico ratified the principle that "the amount of a life insurance policy is not part of the gross estate of the deceased" (*our translation*) in its decision of Julia Vélez Rivera, et al. v. Bristol-Myers Squibb, P.R., et al., 2002 TSPR 123. The Honorable Court determined that "...in accordance with the Internal Revenue Code's provisions, any amounts paid resulting from a life insurance policy wherein the insured is a resident of Puerto Rico, are not considered as part of the deceased's gross estate" (*our translation*). It also expressed that "the interpretation in favor of the beneficiary that grants such beneficiary a superior rank from that of any possible creditor of the insured, **including the State**, is still in effect" (*our emphasis, our translation*).

This decision is in complete harmony with the provisions of Article 11.330 of the Puerto Rico Insurance Code, Laws of P.R. Ann. 26§1133, which states, in part, that:

"The lawful **beneficiary**, assignee, or payee of a life insurance policy (other than an annuity contract), heretofore or hereafter effected by any person on his own life, or on

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the life of another, in favor of a person other than himself, **shall be entitled to the proceeds and avails of the policy against the creditors and representatives of the insured and of the person effecting the insurance**, and such proceeds and avails shall also be exempt from all liability for any debt of such beneficiary existing at the time the proceeds and avails are made available for his use." (*our emphasis*)

With this decision, it has been clearly established that designated beneficiaries of a life insurance policy are not required to provide insurers evidence of having obtained a certificate of exemption or cancellation of lien from the Department of Treasury, in order to receive 100% of the policy benefits. In other words, insurers that subscribe life insurance in Puerto Rico shall not require evidence of such certificates, as a condition precedent to making the payment of the total amount to the beneficiaries, since such action would constitute a violation of Article 11.330 of the Insurance Code, *supra*.

For purposes of compliance with the Supreme Court decision, it is hereby notified that, in those circumstances where the insurer retained the payment of benefits before the date of the Supreme Court decision, September 17, 2002, and where the 90 day period, provided in Article 27.162 of the Puerto Rico Insurance Code, Laws of P.R. Ann. 26§2716b, has ended, the insurer must pay to the beneficiary the full amount of benefits retained within a 30 days period from the date of this Ruling Letter. If the 90 days period has not ended, the payment shall be made on or before the above-mentioned 90 day period. The insurer shall be required to pay the legal interest on the full amount of any retained benefits that were not paid within the period herein provided.

In those circumstances where an extension has been granted, in accordance with the decision of our highest Court, it shall be understood that the extension ends on September 17, 2002.

In cases where the claims are presented after the Supreme Court decision, the insurer shall pay 100% of the life insurance policy benefit in accordance with Article 27.162, *supra*.

This Ruling Letter supersedes Ruling Letters N-L-I-02-47-92, dated as of March 5, 1992, and N-L-I-03-49-92, dated as of March 20, 1992. Strict compliance with the order given in this Ruling Letter is hereby required.

Cordially,


Fermín M. Contreras Gómez
Commissioner of Insurance