

Corporate Tax - USA

Abusive small captive insurance companies on IRS 'dirty dozen' list

Contributed by **Caplin & Drysdale, Chartered**

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For the first time the Internal Revenue Service (IRS) has included certain small captive insurance companies in its annual list of 'dirty dozen' tax scams. On February 3 2015, the IRS released IR-2015-19, which identified the use of abusive small captive insurance companies as one of this year's dirty dozen. The release contains a specific discussion of abusive small captive insurance companies and lists several facts that the IRS believes are indicative of abuse.

The insured owners of a small captive insurance company can pay up to \$1.2 million of deductible premiums to their small captive insurance company each taxable year. Under Section 831(b) of the Internal Revenue Code, small captive insurance companies can exclude the premiums received from income and pay tax only on investment income. The IRS release acknowledges that small captive insurance companies are a "legitimate tax structure". However, the IRS has identified small captive insurance companies as a structure that might be implemented abusively. Moreover, the IRS is focusing on captive insurance companies in income tax examinations relating to the deductibility of premiums paid to captive insurance companies.

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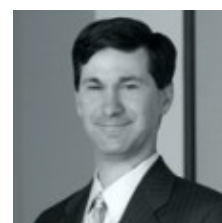
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