



“The Dirty Dozen”

An Educated Response to Industry Issues

By now, many of those reading this newsletter have heard that the IRS has posted Captive Insurance Companies on its annual list of tax scams, called the “Dirty Dozen” for the 2015 filing season, announced in IR-2015-19 on February 3rd. For those that have not heard of this development, it will be important to become even more familiar with these targeted practices and other issues surrounding the Captive industry. Oxford is prepared to assist our consultants working in this space and educate our clients and advisors about potentially abusive practices drawing IRS attention.

Even though Captives are now “officially” on the 2015 “Dirty Dozen” list, the IRS includes them in the context of plans which are structured and managed in a non-compliant manner. This should really come as no surprise, nor be an issue, to the educated client or advisor. Over the past few years, we have seen an increase in the number of promoters willing to utilize questionable captive business models, potentially abusive structures and market conduct and our industry has been expecting some form of corrective measures for some time.

As the Service identifies potentially abusive arrangements, it has stepped up enforcement through “Promoter Audits” and has increased focus on captive arrangements to assure folks are following the rules of the road—no surprise there. The same fact patterns that result in IRS respected insurance transactions, which have held true throughout the years, still continue to hold true in 2015 and beyond.

So, what are some of the main issues/fact patterns that the IRS is looking for? To name a few: lack of business purpose, implementing a Captive for tax-deductible life insurance, forming a Captive solely for tax benefits, little to no underwriting/feasibility or risk management analyses completed, sloppy formation and management by novice service providers, non-fortuitous policy issuance, high-deductible policy designs, pooling arrangements designed to have zero claims, implausible coverage such as asteroid strike insurance and tidal wave insurance (again just to name a “few”).

At the end of the day, partnering with experienced service providers to help form a bona-fide insurance company for non-tax reasons AND operating it as such still results in a legitimate structure within the guidelines of the code.

Please contact our office to arrange a call if you would like to discuss further.

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Key Points

- ◆ Partner with experienced service providers to ensure proper formation
- ◆ Take time to diligently evaluate all aspects and benefits of Captive insurance, outside of tax “savings”
- ◆ Complete and undergo a thorough feasibility process which includes your risk management advisors
- ◆ Participate in a plan that educates clients properly and processes legitimate claims

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