

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

for the purpose of insuring primarily, though not exclusively, risks of that related business. Via captive insurance arrangements, businesses can cost-effectively insure ...

Apr. 22, 2020

With COVID-19 decimating businesses, many now regret their decision to forgo insuring their business via a captive insurance company—a decision strongly influenced by the IRS's targeting of certain captive insurance arrangements and its refusal to provide honest taxpayers with any substantive guidance about operating such companies in good faith.

In a captive insurance arrangement, a business forms a related insurance company for the purpose of insuring primarily, though not exclusively, risks of that related business. Via captive insurance arrangements, businesses can cost-effectively insure risks that they otherwise perhaps could not, and they can retain underwriting profits for themselves if they effectively manage their risks and limit claims.

Despite their important role in protecting the nation's small businesses, the IRS has been hostile to captive insurance arrangements for decades. In recent years the Service has stepped up its harassment by designating the vast majority of small captives as "transactions of interest", requiring small captive owners to disclose the transactions in detail each year, and also including small captives on its annual "Dirty Dozen" listing of potentially abusive tax avoidance transactions. In September of 2019, the IRS announced a settlement offer for certain taxpayers under audit who participated in "abusive" small captive insurance transactions.

Because of this harassment, many businesses who desperately need captive insurance have declined to form a captive insurance company due to fear of "buying an IRS audit." And many businesses who once enjoyed the insurance protection offered by a

captive insurance company have since shut down their captives for identical reasons.

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

insurance companies increase liquidity available in an emergency— business owners and leadership teams may be able to access the retained earnings of the captive via dividends or in other ways during the time operations are impeded.

With businesses forced to shut down, supply chains cut off and consumer spending at an all-time low, businesses with captive insurance companies are better equipped to survive than their uninsured competitors. Unfortunately, due to pressure from the IRS, fewer companies have captives during this critical time.

Captive insurance management company CIC Services, based in Knoxville, Tennessee, has seen their own clients hurt from the IRS scare tactics.

“Over the years we’ve talked with many physicians groups that earn most of their income from elective surgeries. All of them have now been devastated by this coronavirus—they lost their income stream when the states banned all elective procedures,” said Randy Sadler who leads CIC Services’ marketing and client empowerment. “Unfortunately, the IRS’s scare tactics dissuaded many of them from setting up a captive insurance company that would have helped them endure this interruption to business. But our clients who do have them are mostly thrilled at the movement, IRS concerns or not.”

CIC Services has petitioned the Supreme Court of the United States to hear its lawsuit against the IRS regarding IRS Notice 2016-66. They expect to have a ruling on that petition within a couple of months. The firm has sought an injunction prohibiting the IRS from enforcing IRS Notice 2016-66 which was illegally promulgated in contravention of the Administrative Procedures Act. Lower courts declined the injunction request citing the Anti-Injunction Act, a Civil War-era law prohibiting courts from restraining the assessment or collection of federal taxes.

Since then, CIC Services' lawsuit has continued to gain increasing support from legal

Hello. It looks like you're using an ad blocker that may prevent our website from working properly. To receive the best experience possible, please make sure any blockers are switched off and refresh the page.

If you have any questions or need help you can email us

every instance. Taxpayers can always enjoy the latter regardless of whether or not they choose to pursue the former.”

Benefits

CPA Practice Advisor is registered with the National Association of State Boards of Accountancy (NASBA) as a sponsor of continuing professional education on the National Registry of CPE Sponsors.

© 2024 Firmworks, LLC. All rights reserved