THE TEAM WITH THE BEST PLAYERS WINS……. Jack Welch

Newsletter November 1st, 2018
Volume 6, Issue 11

Independent Captive Associates, LLC, 6900 Jericho Turnpike, Suite 300 Syosset, NY 11791
www.independentcaptiveassociates E-mail address promano@independentcaptiveassociates.com
Offices located in Boca Raton, Florida; Richmond, North Carolina; Simsbury, Connecticut; Syosset, New York

EFFECTIVE CHANGE

By William York, VP of Marketing

Over the last five years the number of captives being formed has skyrocketed!

Not only do more than 90% of Fortune 500 businesses own at least one Captive. Many mid-sized companies have formed Captives.

What has motivated this increase in Captive formation?

For one thing, a company owned insurance company provides direct access to reinsurance markets. Customized insurance coverage fills gaps in the commercial market and allows access to amassed investment income and also provides incentive to improve loss control. The rational is simple.

Why trade dollars with an insurance company when you don't need to?

In addition, this surge in Captive formations has been fueled by a series of favorable tax court rulings, an increasing number of U.S. State Domiciles sponsoring Captive formation and the emergence of new and challenging exposures such as cyber risk causing insurance carriers to raise rates and adopt stricter coverage terms and conditions.

As a result, the reasons to form a Captive have never been more persuasive!

If that isn't enough, on Friday, March 23, 2018, US President Donald Trump signed into law H.R. 1625, the Consolidated Appropriations Act of 2018. In addition to funding the US government for the remainder of this year, H.R. 1625 provided clarification regarding section 831(b) and the diversification requirements as previously implemented by the Protecting Americans from Tax Hikes (PATH) Act of 2015. The Act established a new look through provision for controlled groups, further defines a relevant specified asset, and amplifies the ownership rules to address certain aggregation among family members.

The changes implemented by President Trump have clarified both the 20 percent test as well as the ownership test. These changes will have a positive impact on the captive insurance industry. HR 1625 defines a policyholder as "each policyholder of the underlying direct written insurance with respect to such reinsurance or arrangement".

This means that the pool itself is not considered the policyholder but rather each discrete insured who is paying a premium into the pool is a policyholder. Therefore, as long as none of the insureds account for more than 20 percent of the total premiums paid to the Captive – the 20 percent test will be met.

In plain English, clarification of the ownership percentages in this manner means the pool is not considered the policyholder for our 20 percent test since each discrete insured paying premium into the pool is a policyholder. This change will allow the diversity requirements to be met with an appropriately structured reinsurance pooling arrangement.

Without going into the other changes, I can safely say that the amendments of HR 1625 go a long way in addressing the ambiguity and unforeseen consequences of the changes made under the PATH ACT.

In addition to the issues raised above concerning Captives, the new tax law, passed under Donald Trump, has also made significant changes in personal taxation. The tax law has also eliminated most deductions including state and local tax for individuals. For people living in high taxed states this has also spurred the creation of captives.

Historically business owners will be more inclined to make changes in the way they operate their businesses, if they are given a tax incentive. We have seen this with retirement plans, depreciation, R&D tax credits and much of the legislation coming out of Washington. Utilizing a Captive will add a level of protection for business which was not previously being expensed.

Many businesses currently self-insure much of their risk. They choose not to pay monies for insurance. Raising the tax-deductible limits on 831(b) captives, combined with higher personal taxation are causing businesses to rethink the tax ramification of how they allocate expenses.

Business owners are now looking favorably at company owned insurance which is a deductible expense resulting in the business being able to withstand greater threats. They can now save tax money and fortify their business. Likewise, **Congress understands that stronger businesses translate into more jobs and a stronger economy.**

This common-sense approach for businesses is adding to a brighter future for captives. However, creating a captive is a complicated process which should only be attempted with a firm that has extensive experience.

Independent Captive Associates has been involved in captive formation since 2003. Our Captive structures reflect the expertise of independent, best in class experts, allowing us to provide the highest degree of experience and guidance available in the Captive business today.

Independent Captive Associates has dealt with the IRS on audits (32 audits resulting in no change) due to a seasoned client service team which represents the best of the best service throughout the life of your Captive.

Independent Captive Associates understands that a Captive is not a product, but a business and we use a collaborative advisory team approach to work with your independent accounting, legal, risk management and investment advisors.

Independent Captive Associates specializes in the tri-state area and understands the related issues.

Independent Captive Associates diligently works with each business owner and customizes coverage whenever possible. We integrate, work with insurance brokers, deal with claims and work with each Captive owner to insure compliance eliminating time and stress for each business.

Our business will guide you through all of the steps necessary to advance you from initial feasibility through regulatory approval. We will help your business understand and utilize the best of the best in achieving your desired goals.

For more information, please contact:

Contact: Pamela Romano
Ph: 516-629-9045
Email:
promano@independentcaptiveassociates.com

Independent Captive Associates, LLC
6900 Jericho Turnpike, Suite 300 Syosset, NY 11791
www.independentcaptiveassociates.com