American Tax Cuts and Jobs Act

With the expected passage of tax reform this week, we wanted to reach out and provide some insight into the potential impact of the legislation on our client group captives.

From an individual member perspective, deduction of insurance premiums is unchanged from current law under the Tax Cuts and Jobs Act.

From a captive perspective, the international provisions in the Tax Cuts and Jobs Act focus mainly on the tax provisions that defer income and are intended to reduce the tax cost of bringing back cash from international operations to the U.S. Our client captives do not defer income and instead the income is taxed currently each year to the members on the Form 5471 as Subpart F income. The proposed legislation leaves the provisions for Subpart F income largely unchanged. Additionally, our client captives are owned equally by all the members, resulting in each member owning less than 10% of the captive. The majority of the international provisions in the Tax Cuts and Jobs Act with potential impacts are mainly targeted at 10% or more owners of foreign corporations.

From an insurance perspective, the proposed Tax Cuts and Jobs Act contains a provision that will adjust the calculation of loss reserves for tax purposes to use a different interest rate than under the current law. We are prepared to implement this change and do not anticipate a significant impact to our client captives.

The IRS and Treasury have published a statement that taxpayers should expect guidance in implementing the new law as early as February 2018. We will continue to monitor for any IRS guidance that impacts our client captives and update everyone as relevant information becomes available.

Section 831(b) Micro-captive Update

2017 was a busy year for Captive Resources' (CRI) micro-captive team and for the insurance industry in general. As we approach the end of the year, we wanted to highlight some recent developments and events, as well as certain aspects of CRI's offering in the 831(b) captive arena.

Increased Premium Limits. In 2017, the annual premium limit maximum for an insurer to avail itself of Section 831(b) was raised to $2.2 million, and will increase to $2.3 million in 2018. This has created more efficiencies in our client captives that have the capacity for premiums in the $2 million range, since our fees do not vary with premium levels. It should be noted that rates are decreasing, particularly for terrorism coverages, which is a reminder that premiums are determined independently by Pinnacle Actuarial Resources. We never target the premiums to be a specific dollar amount, but rather, we work with our clients to determine the right coverages and limits that fit their risk profile.

New Pooled Lines. We are expanding the lines which are eligible for pooling in Patriotic (the shared risk pool used by our client captives). Specifically, we are adding a new silo for those whose companies are Captive Resources group captive members, which is a pool of Second A Fund assessment reimbursement. There will be a deductible of 10 percent. This results in more opportunity for pooling premiums, and this potential risk sharing should be familiar to the participants. We are also adding defense costs to potential pooled lines. Court Cases/ IRS Activity. In the fall, Kenny Hall of Moore, Ingram, Johnson & Steele, (MIJS), Captive Resources' 831(b) partner and captive manager, sent out an analysis of the recent Tax Court Case, Avrahami, and the distinct differences between our program and the facts in that case. We continue to have no issues with the IRS on any of the captives that Captive Resources assisted in forming, nor do we expect any, since our methodologies are based in sound captive formation and management principles. Should a client receive any inquiries from the IRS, CRI and the MIJS team are glad to handle any information request. This assistance is part of our management agreement, so time spent on these issues at the exam level is not billed to clients.

Tax Reform. At the time of this writing, tax reform is on the table, but its final form and potential for passage is uncertain. We believe there will always be a tax rate difference between ordinary income and capital gains, and that coupled with the real business reasons for insuring clients' risks, as well as the time value of money, maintains the captive as an efficient risk management vehicle. We will keep you posted as tax reform continues its way through the legislative process.

Should you want more information about CRI's 831(b) services, or have any questions at all, please contact Amy Lewis at 847-944-9812, or alewis@captiveresources.com