



# Alert

## Tax Advice and Controversy Client Service Group and Captive Insurance Team

To: Our Clients and Friends

May 14, 2014

### IRS Issues Guidance on Retiree Health Benefits Funded Through Captive Insurance Subsidiary

The Internal Revenue Service recently ruled that retiree health benefits funded through a captive insurance subsidiary qualified as insurance.

In Revenue Ruling 2014-15, an employer (“Employer”) voluntarily provided health benefits to its retirees by making contributions to a voluntary employee’s beneficiary association (“VEBA”). The VEBA provided the health benefits, but instead of self-insuring, it entered into a contract with an unrelated insurance company (“IC”). IC then reinsured the risks with an insurance company wholly owned by the employer (“Captive”).

In order for an arrangement to qualify as insurance, the arrangement must, among other requirements, shift the risk of loss from the party paying the premium to the recipient of the premium, and the recipient must distribute that risk of loss among other insured parties. Prior to the issuance of Revenue Ruling 2014-15, there was uncertainty as to whether retiree health benefits funded through captive insurance subsidiaries had sufficient risk shifting and risk distribution to qualify as insurance. Revenue Ruling 2014-15 concluded that it was the risks of the retirees (and not the employer) that were being insured. As a result, there was sufficient risk shifting and risk distribution for this arrangement to qualify as insurance for federal income tax purposes and for Captive to be taxed as an insurance company.

To discuss this issue further, please speak to your Bryan Cave contact, or to:

Brian Berglund  
(303) 866-0264  
[bwberglund@bryancave.com](mailto:bwberglund@bryancave.com)

Kevin Fischer  
(314) 259-2064  
[kbfischer@bryancave.com](mailto:kbfischer@bryancave.com)

Ken Kleban  
(314) 259-2398  
[kakleban@bryancave.com](mailto:kakleban@bryancave.com)

Alan Solarz  
(212) 541-2075  
[ahsolarz@bryancave.com](mailto:ahsolarz@bryancave.com)

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Philip Wright  
(314) 259-2499  
[pbwright@bryancave.com](mailto:pbwright@bryancave.com)

Gregory Galvin  
(212) 541-1071  
[greg.galvin@bryancave.com](mailto:greg.galvin@bryancave.com)

Jill Joerling  
(314) 259-2578  
[jill.joerling@bryancave.com](mailto:jill.joerling@bryancave.com)