

Captive Insurance Companies in Benefits Financing Arrangements

Employers are under increasing pressure to control the cost of providing health and welfare benefits. A growing number of employers have found that using a captive insurance company as part of the financing arrangements for one or more benefit plans can provide an excellent means of capturing positive experience, gaining access to greater amounts of information about the cost of providing benefits, and fulfilling their objectives in connection with the taxation of their captives. Using a captive without creating unintended complications requires detailed understanding of captive transactions, the prohibited transaction rules of the Employee Retirement Income Security Act (ERISA), and the Internal Revenue Code rules on the taxation of insurance companies. Our attorneys have more experience in the use of captives as part of a benefits financing arrangement than any other law firm in the U.S., and we have excellent working relationships with many of the insurers, captive managers, and consultants active in this area. Examples of our relevant experience include:

- Obtaining over half of all prohibited transaction exemptions granted by the Department of Labor (DOL) for captive transactions.
- Advising an employer association on the design and implementation of an arrangement giving smaller employers access to affordable stop loss insurance through an association captive.
- Advising an employer on the design and implementation of an arrangement reinsuring risk of a retiree medical plan with a captive, including obtaining regulatory approval from the Internal Revenue Service (IRS) and DOL.