

In The News

David Slenn Explains what a Recent U.S. Tax Court Decision Means for the Future of Microcaptive Premium Deductions

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In an article recently published by the International Risk Management Institute, Akerman Tax Partner David Slenn discusses the U.S. Tax Court's recent decision in *Swift v. Commissioner*. The case was brought by taxpayers after the IRS disallowed their deductions for premiums paid to a micro-captive insurance company and also imposed accuracy-related penalties. This was the IRS's sixth straight win in cases involving micro-captive insurance. That fact isn't the only thing a taxpayer should consider before pursuing litigation, according to Slenn.

“The decision to challenge an adverse IRS determination involving micro-captive deductions continues to be a substantial investment in time and money. The time between petition and opinion can take several years,” Slenn writes. “The micro-captive battle requires the use of experts and at least a 1-week trial. All of this necessitates a cost-benefit analysis. Consequently, the merits of the case and potential for settlement should be compared to the litigation cost and potential outcome.”

Slenn routinely counsels clients on utilizing captive insurance companies as a form of risk management. He has helped business owners in various industries understand the benefits and challenges of such programs, and has counseled on a variety of issues including federal tax controversy matters in IRS

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examination, litigation in U.S. Tax Court, and complex matters related to exiting captive insurance programs. He is the editor and a co-author of the *Captive Insurance Deskbook for the Business Lawyer* (ABA).

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