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Captive Investments Scrutinized Following Key Tax Court Ruling, Business Insurance

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In an article published in the January issue of Business Insurance, Phil Karter and Katherine Jordan discuss a particular aspect of micro captive transactions that has attracted unwanted IRS attention, namely the investment by micro captives of surplus capital in company-owned life insurance ("COLI"). The authors conclude that captive investments in life insurance should not be treated any differently than captive investments in various other types of appreciating assets, assuming the investments meet the requirements imposed on insurance companies by the jurisdiction in which they operate.

Karter and Jordan explain that the recent arguments the IRS has raised that COLI investments call into question the legitimacy of the underlying captive arrangement are groundless and that there is no basis for the IRS to create artificial distinctions between captive investments in life insurance as opposed to other investment assets. The authors conclude that taxpayers engaging in micro captive transactions should remain confident that well-documented captive arrangements covering bona-fide insurable risks should be respected in most situations irrespective of whether the captive has COLI investments or not.

The article is available to online subscribers at <http://www.businessinsurance.com/>.