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Captive Insurance Services

PATH ACT Impacts Business Owners

2015 Act of Congress with BIG implications

The **P**rotecting **A**mericans from **T**ax **H**ikes Act of 2015 (the PATH Act), was enacted on December 18, 2015. The PATH Act contains several changes to the tax law that affect individuals, families, businesses and help safeguard against tax fraud.

The 233 page document ultimately benefits millions of Americans in a positive way, from tax relief for families and individuals, incentives for charitable giving, incentives for growth, jobs, investment, and innovation, to incentives for real estate investment.

For business owners, two significant pieces of this legislation impact you.

1. 831b
2. QSBS

The **831b** election is specific to Captive Insurance companies. These insurance companies insure risks of an operating company. These companies have been insuring risks since the 1950's.

Captive insurance is not only here, it is here to stay. First, the Act increases the amount of premiums that an insurance company may receive and still be eligible to make an election under section 831(b). Under the past law, the limit was $1,200,000 per year. The Act increases the limit to $2,200,000 per year. In addition, the limit is indexed for inflation with 2013 the base year for calculating the inflation adjustment. Currently in 2024, the limit per Captive, per year is $2,800,000.

Additionally, clarification was given regarding the critical risk sharing and distribution aspects of Captive Insurance administration. All Captive administrators should act in accordance with these guidelines.

Why is this important?

The multi-billion dollar Captive Insurance industry has clarification and direction from Congress. More importantly for business owners, the opportunity to operate and manage risk more effectively through their captive insurance company is now available as the congressional changes are in effect as of January 1, 2017.

Qualified Small Business Stock (QSBS) allows 100% exclusion of proceeds from a sale of qualified businesses to be excluded from federal income tax up to $10 million or 10 times basis, whichever is **greater**.

Qualifying businesses:

- Business must be valued under $50 million at time stock is issued.
- Business must be a C Corporation.
- Business must meet 5 year holding period.
- Sale of business must be a stock sale.
- Business owner must be actively involved in business.

Excluded businesses include:

- Insurance companies, banking, financial services, athletics, farming, hotel, restaurants, investing, and consulting, and others.

Why is this important?

Business owners may receive millions of dollars TAX FREE upon sale of the business. For qualifying entrepreneurs this legislation should impact future wealth and generations to come.

The impact of the PATH ACT is significant for business owners regarding their current business as well as their potential exit. Captive Insurance and QSBS have been given clarity from this legislation and this clarity and the adjustments from this ACT can and should be

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