



MEMORANDUM FOR CLIENTS REINSURING AUTOMOTIVE SERVICE CONTRACTS

GPW is providing this brief Memorandum on the IRS Proposed Regulations 1.6011-10 and 1.6011-11 (“Proposed Regs”) issued in April 2023 as a summary for its clients that insure and reinsure contracts sold to unrelated customers.¹ Comments are due to the IRS by June 12th, and a public hearing on the Proposed Regs is scheduled for July 19th.

Similar to Notice 2016-66, the Proposed Regs provide additional reporting requirements for certain captive insurance transactions electing to be taxed under Internal Revenue Code Section 831(b). GPW supports the IRS’s goal of ridding the industry of abusive captive insurance structures. However, GPW feels strongly that the Proposed Regs unnecessarily capture hundreds or thousands of proper captive structures. GPW is actively coordinating with several industry groups to provide its recommendations to the IRS on the Proposed Regs.

The Proposed Regs clearly obsolete any reporting requirements which may have existed under Notice 2016-66. Similar to Notice 2016-66, the captive definitions surrounding reinsurance of related party risk should continue to preclude Administrator-Obligor programs from filing requirements. New to the Proposed Regs that didn’t exist in Notice 2016-66, the IRS has created a special exception from reporting requirements for Dealer-Obligor programs where the aggregate of fees and commissions is greater than 50% of the customer cost, hereafter referred to as the Consumer Coverage Exception (CCE).² GPW does not generally receive customer cost information; however, based on its knowledge and experience in the industry, it anticipates that most of its clients with Dealer-Obligor programs would meet the CCE and would not be required to report under the Proposed Regs.

Should you fail to meet the CCE, there is new language not present in Notice 2016-66 elevating certain captive insurance transactions to a Listed Transaction. The reporting requirements in the Proposed Regs for participants are limited to the captive and the insured business(es); shareholders are no longer required to report as an attachment to their personal return.

Next Steps

Should the Proposed Regs become final, GPW will be prepared to assist its clients in complying. GPW will keep you apprised of any significant updates; please contact either of the undersigned below if you have any questions or would like to discuss this further.

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¹ Announcement 2023-11. See also, Proposed Regs. 1.6011-10 and 1.6011-11. [RIN 1545-BQ44](#).

² The Prop. Regs. provide that the percentage may be higher, but for brevity, this is not discussed here.

