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The

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Reciprocal RRG Obtains Favorable IRS Private Letter Ruling

Caring Communities, a Reciprocal Risk Retention Group (CCrRRG) has obtained a Private Letter Ruling (PLR) from the **Internal Revenue Service** approving its reciprocal federal income tax deduction. The District of Columbia-domiciled RRG provides a range of liability insurance coverages to not-for-profit, faith-based senior care service organizations in almost 40 jurisdictions.

Richard Bland, a principal in the Richmond, Virginia-based law firm of **Bland & Sorkin, P.C.**, which represented CCrRRG before the IRS, explains that an RRG formed as a reciprocal has a unique tax advantage under IRS Section 832(f) which allows it to take a deduction for the amount of its annual statutory net income that is credited to the subscribers savings accounts (SSAs).

He notes that the federal tax deduction for reciprocal RRGs is significant since it can be up to an amount equal to a reciprocal RRG's annual statutory income. However, he explains, because reciprocal RRGs taking the Section 832 deduction are required to pay departing subscribers the full amount of their savings account balance "promptly" under IRS regulations, it can create problems for the RRG. If the RRG pays the departing subscriber the full amount of the SSA "promptly," defined as six months by a prior IRS ruling, it can put the remaining subscribers at risk for developing claims and losses following the subscribers withdrawal of capital from it's SSA.

Under the IRS ruling, CCrRRG "is allowed a deduction pursuant to Section 832 (f) of the Internal Revenue Code and corresponding regulations for the increase for the taxable year in savings credited to Subscriber Savings Accounts in light of the method and practice by which [it] distributes the savings credited to its Subscriber Savings Accounts to subscribers that withdraw from [CCrRRG.]"

The ruling focused on whether the time period over which CCrRRG pays its departing subscribers, a period beginning many years after a subscriber-insured has left it and then taking place over several years, satisfied the "promptly" payout requirement of the IRS regulations.

According to Jim Caldwell, CCrRRG president and CEO, the ruling is significant as it "allows CCrRRG to preserve, maintain and use our capital more wisely." Richard Seligman, CCrRRG general counsel, explains that, "We wanted to make sure the IRS would recognize a payout period commensurate with our expected claims resolution, a period of several years, rather than the much shorter time period of several months which the IRS had previously announced satisfied the promptly requirement."

Bland, who along with his law partner, Scott Sorkin, contributed an article to the *RRR* discussing a similar favorable IRS ruling (see *RRR*, Mar.'07) notes that, "While such a private letter ruling cannot be relied upon by other taxpayers, it is significant in combination with another private letter ruling obtained in 2006 by another RRG." Bland says that, taken "together these rulings indicate that the IRS is currently willing to take a reasoned approach to what constitutes `promptly' in the context of the time it takes to resolve the claims of the particular reciprocal." He adds that, "This is a great improvement over the six month period previously identified as `promptly' by the Service before the issuance of these two recent rulings." However, he cautions that, "Such rulings are particular to specific taxpayers' facts and circumstances."

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