



## **Risk Distribution and Retroactive Risk Pools**

Based on recent discussion with tax counsel at Baker Hostetler, the IRS is focusing attention on risk distribution pools which share risk with unrelated participants on a retroactive basis. For example, assume a client purchases a policy in December of 2013 and the policy year extends to December of 2014. The captive risk distribution structure operates the indirect risk component on a calendar year basis. So, the client purchasing the 2013-14 policy actually participates in the indirect claims for that policy year retroactive back to January 1, 2013. Needless to say, the IRS is not enamored with taxpayers achieving risk distribution with unrelated risk pool participants, on a retroactive basis, nearly 12 months into the claims experience.

Here at Oxford, we issue policies year round on a fiscal year basis. Accordingly, in the above example, the client will participate in the Oxford risk distribution and incur indirect claims experience on a prospective basis from December 2013 to the policy year end December 2014.