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## Gallagher captive manager Artex discloses it's subject to IRS probe

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Artex Risk Solutions Inc., the Bermuda-based captive management subsidiary of insurance broker Arthur J. Gallagher & Co., has confirmed that it is involved in an Internal Revenue Service probe into captive insurers formed under 831(b) of the Internal Revenue Code.

Under Section 831(b) of the IRS code, insurance companies earning no more than \$1.2 million in annual written premiums can opt not to pay taxes on those premiums and be taxed only on their investment income.

In addition to Artex, at least a dozen other captive managers are involved in the IRS investigation, according to David McManus, president of Artex Risk Solutions. He said that Artex has contacted its clients via newsletter to inform them of the probe.

Mr. McManus said Artex acknowledged its participation in the IRS investigation because “we think it's time we come out and tell people what's going on.”

“The IRS clearly recognizes captives as a legitimate tool for businesses, when used correctly,” he said, adding that “Artex believes that its small captive formation and management activities are lawful and will withstand IRS scrutiny.”

The use of captive insurers in general has been coming under IRS scrutiny because of their proliferation in recent years, an IRS official acknowledged during a meeting of the American Bar Association's Section of Taxation held in Phoenix in March.

“Captives have proliferated in recent history,” said Sheryl Flum, branch 4 chief in the IRS Office of Associate Chief Counsel, during a panel discussion at that meeting. “Most Fortune 500 companies have captives, and now with section 831(b), a lot of middle-market and

closely held companies are forming captives. Given this environment of proliferation of captives, we are seeing an uptick in IRS interest in captives.”