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Self-Insured Retentions and Deductibles: When and Where They Apply

Self-insured retentions (SIR) and deductibles both require the insured to pay a portion of a claim, but differ in control and payment timing. With a deductible, the insurer manages the defense from day one and bills the insured later. With an SIR, the insured will generally handle, defend, and pay claims up to the limit before the insurer steps in, with some exceptions, such as Employment Practices Liability policies.

Key Differences

- **Types of Coverage Where They Apply:** SIRs generally apply to insurance policies that are written on a Claims Made/Claims Made & Reported basis. Examples include Directors & Officers Liability, Employment Practices Liability, Fiduciary Liability, Professional Liability/E&O and Cyber. (there are other liability coverages that utilize SIRs as well) Other standardized insurance policies like General Liability, Property Insurance, Crime, etc. generally utilize a Deductible. (There are other commercial insurance products that utilize a Deductible.)
- **Claims Handling and Defense:** With an SIR, the policyholder manages the defense, often choosing their own counsel. This is most common with policies that do not have Duty to Defend language, such as Directors & Officers Liability policies. Employment Practices Liability are usually written with Duty to Defend language, where the Insurer controls the defense and choice of counsel, are an exception. Policies with Deductibles usually have the defense and choice of counsel controlled by the Insurer, not the Insured.
- **Payment Timing:** Insurers pay the claim first with a deductible and seek reimbursement. With an SIR, the Insured pays upfront and the Insurer obligation to pay begins once the SIR has been fully paid by the Insured.
- **Policy Limits:** Deductibles typically erode the policy limit (reducing available coverage), while SIRs do not.
- **Defense Costs:** SIRs often include defense costs within the retention amount.
- **Collateral:** Insurers may require collateral for high-deductible policies, but typically do not for SIRs.

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