Captive Insurance Tax Summit

October 27 & 28, 2014 • Washington, DC • McDermott Will & Emery LLP

A two-day conference with live group instruction featuring a comprehensive update on the legal, tax and financial aspects of the captive insurance industry today.

Program at a Glance:
• Review of business reasons for utilizing an insurance affiliate
• Onshore and offshore captive tax and regulatory considerations
• Evolution of federal taxation of captives
• Pools and other third party risks – what, where and why
• Redomestication of captive arrangement
• Current IRS audit experience and discussion of recent rulings and cases
• State taxation of captives

Previous Attendee Comments:
“No better forum for topic.”
“Experienced practitioners who shared real life cases.”
“Prior to this, everything I knew about captives came from an attorney trying to sell service to my client. Now I have objective information and can make a more informed, more confident decision with my client and future client situations.”

All paid attendees will receive the Bloomberg BNA Portfolio:
U.S. Income Taxation of International Insurance Activities #931
*One Portfolio per paid attendee. Quantities are limited.

Earn Up to 16 CPE/CLE Credits

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This unique course is only offered by Bloomberg BNA
For more information, call 800.372.1033 or visit http://www.bna.com/captive_oct2014/
DAY ONE
7:30 AM Registration and Continental Breakfast
8:00 AM Chairpersons’ Welcome & Opening Remarks
8:15 AM Review of Business Reasons for Using an Insurance Affiliate
• Internal risk financing/profit center opportunity
• Claims, defense and administrative cost reduction
• Access to reinsurance
• Employee benefits and terrorism coverage
• Global based risk distribution
9:15 AM Evolution of Federal Taxation of Captives
• Clath of fundamental tax concepts
• 1941 U.S. Supreme Court LeGierse – case
• First wave of cases – IRS victories
• Second wave of cases – taxpayer victories
• IRS limited concessions and safe harbors
• Today – the third wave of cases
9:45 AM Potential Tax Benefits of an Insurance Affiliate
• Acceleration of risk funding deductions
• Premium and insurance reserves deductibility
• Unrelated business – types and amounts
• Broather/sister risks – structures avoiding risk concentration
• Mix of shareholders/insureds
• Group captives and risk distribution in cell and series structure
• Evaluation of IRS guidance vs. case law definitions
10:30 AM Break for Refreshments
10:45 AM Onshore Captive Tax and Regulatory Considerations
• Key onshore insurance company tax considerations
• Loss and unearned premium reserve deductions
• Stock, mutual or reciprocal format for optimal tax results
• Regulatory concerns and basics of liability risk retention group
11:30 AM Offshore Captive Tax and Regulatory Considerations
• Support F treatment of insurance income
• Related Person Insurance Income (RPII)
• Passive Foreign Investment Company (PFIC) rules
• When and how to make an IRC §953(d) onshore tax election
• Avoidance of a U.S. trade or business
• Overview of anti-tax haven and foreign account initiatives
12:15 PM Luncheon
1:30 PM Risk Distribution: Siblings or Strangers?
• Why a captive wants third party risks – how measured?
• Disadvantages of a captive assuming third party risk
• Third party risks in light of the demise of the “economic family” theory
• “Brother-sister” risk distribution – what types of siblings are counted
• Homogeneity of risks – a developing requisite?
• Evolving IRS guidance and enforcement on risk pooling
• Distribution among entities versus distribution within an entity
2:15 PM Employee Benefits as Third Party Risk
• ERISA benefits – why insure them in a captive?
• Obtaining a DOL prohibited transaction exemption
• The “ex pro” option – availability and how to qualify
• IRS “look through” rulings / medical stop loss
• Non-ERISA opportunities and strategies
3:00 PM Break for Refreshments
3:15 PM Federal Excise Tax Developments
• FET basics
• IRS cascading theory and its enforcement aftermath
• Industry response, legislation and pending IRS appeal
• Varieties of tax treaty protection

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DAY TWO
7:45 AM Continental Breakfast
8:15 AM Chairpersons’ Review of Day One and Preview of Day Two
8:30 AM Current IRS Audit Experience and Discussion of Recent Rulings and Cases
• Analysis of Revenue Ruling “safe harbors”
• Court decisions that will refine the definition of "risk distribution" and decide the validity of "cascading" federal excise tax
• In-depth analysis of recent rulings attempting to exclude business risks from the tax definition of insurance
• Ongoing battlegrounds such as tax status of loss portfolio transfers & retro programs
• IRS focus on "fortuity" and "paying your own losses" in tax definition of insurance
• Overview of commonly raised issues in captive income and excise tax audits
• The latest on state premium based taxes on captives and their policyholders as well as trend toward state income taxation of captives
10:00 AM Break for Refreshments
10:15 AM Overview of Cell, Series and Rent-a-Captives
• Structures for cell, series LLC and rent-a-captives
• Will courts respect cell walls’ segregation of risk?
• Analysis of proposed treasury regulations
• Testing for insurance tax treatment – cells must meet usual tests
• One taxpayer or many? – factors under IRS guidance
• Preferred stock vs contract rights
• Incorporated cells and hybrid cell companies – the next generation
11:00 AM Repatriation of Captive Profits
• Dividends
• Loan backs
• Pledges
• Receivables/commercial paper purchases
• Guarantees
• Impact on desired tax results and regulatory constraints
11:30 AM Sec 831(b) Election and Consequences
• Qualifications to be taxed under Sec 831(b)
• Election mechanics and consequences
• Computing investment income
• The other small insurance company – Sec 501(c)(15)
• Practical guidance for small insurance companies
12:15 PM Luncheon
1:15 PM State Taxation of Captives
• Premium, income or self-procurement taxes?
• How insurance company state taxation rules applied pre-NRRA
• Effect of federal NRRA “home state” and other provisions preempting state law
• The various reactions of states to NRRA
• Emerging trend to subject captives to state income tax
2:00 PM Basics of Captive Tax Compliance
• Required and optional federal tax filings for offshore captives
• Impact of FATCA compliance on captives
• Insurance company federal tax filings for domestic captives
• Dealing with an IRS captive audit at the field or appeals office levels
• Overview of state tax filings
3:00 PM Summary and Q. & A Session
3:15 PM Conference Concludes
WHY YOU SHOULD ATTEND
Recent financial turmoil marks the likely end of a “soft” insurance mar-
ket. Meanwhile, the captive insurance industry continues to grow expo-
nentially, with scores of new captives formed onshore and offshore last
year. Concurrently, many companies are exploring more intensive use
of their existing captives, whether individually or as part of a group, to
contain their escalating cost of risk and to take advantage of employee
benefits self-insurance opportunities. In addition, closely held busi-
nesses are creating captives to achieve tax advantaged family wealth
transfer goals. This conference will provide you and your company with
key tax, legal and regulatory information on structuring, implementing
and operating your captive program. Both single parent and group/
association captive arrangements, whether onshore or offshore, will be
analyzed. Recent IRS pronouncements will be dissected. In particular,
IRS federal excise tax and cell captive guidance, the validity of Rev.
Rul. 2005-40, limiting insurance tax treatment in single policyholder
situations, and the “event risk” IRS requirement of Rev. Rul. 2007-47
will be scrutinized. Differing taxpayer and IRS interpretations of risk
distribution, including the need for “fortify” and “homogeneity” will be
considered. Various sessions will address the major tax and non-tax
issues associated with captives, including access to more efficient reinsurance markets, enhanced control over cash flows and investments, as well as promo-
tion of a coordinated focus on proactive risk management and loss
control. The parameters of developing a well structured captive insur-
ance program to facilitate acceleration of premium tax deductibility
from the time claim payments are made to the time premium expenses are incurred as well as other benefits will be discussed.

WHO SHOULD ATTEND
This conference is intended for: executive vice presidents, senior vice
presidents, CFO’s, financial controllers, controllers, comptrollers,
treasurers, assistant treasurers and secretaries, directors, corporate
tax professionals, consulting tax professionals, corporate strate-
gic planners, tax lawyers, legal counsel, lenders, bankers, CPAs,
offshore and domestic service providers. No prerequisites/advance
preparation is necessary for this basic to intermediate level confer-
ence. This program is transitional which is appropriate for newly
admitted attorneys.

FEE INCLUDES
Continental breakfasts, lunches, refreshment breaks,
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CONFERENCE LOCATION
McDermott, Will & Emery LLP Conference Center – Tel.: 202.756.8000
500 N. Capital St, NW, Washington, DC 20001
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We suggest the following:
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Hyatt Regency Washington on Capitol Hill – Tel.: 202.737.1234
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constitute acceptance.

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