



## Premium Taxes and Fees



### Captive Insurance Premium Tax

On July 12, 2005, Governor Ruth Ann Minner signed into law House Bill 218, which revised Delaware Code, Title 18, Chapter 69, Delaware's captive insurance company law. This is the first substantive revision of the captive insurance law since its enactment in 1984 and is intended to make Delaware an attractive domicile for the formation of captive insurance companies.

Building on Delaware's existing reputation for business, including access to Delaware's highly regarded business entity laws and preeminent court system, the new Title 18, Chapter 69, the Delaware Revised Captive Insurance Company Act, provides flexibility to captive insurance companies within a tax efficient framework, especially for start-up captive insurance companies, and within an appropriate regulatory context.

In consideration of captive companies licensed in Delaware prior to enactment of the Delaware Revised Captive Insurance Act, a provision was included in the law to allow those companies to choose, by submitting a written notice to the Commissioner, whether to continue being regulated by Chapter 69 as in effect on July 11, 2005, or to become subject to the revised Chapter 69 instead.

#### CAPTIVE INSURANCE COMPANY PREMIUM TAX CHANGES (18 Del. C., §6914)

The tax provided for in this section constitutes all taxes collectible under the laws of this State from a captive insurance company, and no other occupation tax or other taxes may be levied or collected from a captive insurance company by the State or a county, city, or municipality within this State, except ad valorem taxes on real and personal property used in the production of income. This tax is applicable to captive insurance companies and to each protected cell of any sponsored captive insurance companies.

Two or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurance company.

Premium tax shall be calculated on an annual basis. In the case of multiyear policies or contracts, the premium shall be prorated for purposes of determining the tax.

## **Direct Premiums**

A captive insurance company shall pay to the Department by March 1 of each year, a tax at the rate of two-tenths of one percent on the direct premiums on policies or contracts of insurance written by the captive insurance company, after deducting from the direct premiums subject to the tax the amounts paid to policyholders as return premiums with respect to such preceding year only, which amounts shall include only dividends or distributions of unabsorbed premiums or premium deposits returned or credited to policyholders, up to a maximum tax for such year of \$125,000; provided however, that no tax shall be due or payable as to consideration received for annuity contracts.

## **Reinsurance tax**

A captive insurance company shall pay to the Department by March 1 of each year, a tax at the rate of one-tenth of one percent on each dollar of assumed reinsurance premiums collected or contracted for, during the year ending December 31 next preceding, on policies or contracts of insurance written by the captive insurance company, up to a maximum tax for such year of \$75,000, provided, however, that no such tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis pursuant to subsection (a) of § 6914.

A premium tax is not payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if the transaction is part of a plan to discontinue the operations of the other insurer and if the intent of the parties to the transaction is to renew or maintain business with the captive insurance company.

## **Minimum / Maximum Tax**

The annual minimum aggregate tax to be paid by a captive insurance company or a protected cell of a sponsored captive insurance company shall be \$5,000.

The annual maximum aggregate tax to be paid by a captive insurance company or a protected cell of a sponsored captive insurance company shall be \$200,000, except a captive insurance company that has 25 or more separate qualified individuals as defined in § 6914(h) throughout a given tax year and that otherwise would be liable for tax for such year in an amount exceeding \$50,000, shall pay a tax for such year in the amount of \$50,000.