

COMMISSIONER OF SECURITIES & INSURANCE

MONICA J. LINDEEN
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

January 15, 2016

NOTICE

TO: All Captive Managers

FROM: Steve Matthews
Captive Coordinator
Office of the Commissioner of Securities & Insurance (CSI)

SUBJECT: 2015 Reporting Instructions
Montana-domiciled Captive Insurers

1. Unaudited Financial Statements (Annual Statement or Annual Report):

Pursuant to Mont. Code Ann. § 33-28-107, on or before April 1 of each year, a captive insurer shall submit to the Commissioner, on a form prescribed by the Commissioner, a report of its financial condition. Each captive insurer shall report using generally accepted accounting principles (GAAP). Modifications or adaptations to standard GAAP accounting may be used only with the prior written approval of the Commissioner.

Non-risk retention groups ("non-RRGs") may use the "Montana Short Form" for the annual filing. The prescribed and approved 2015 "Montana Captive Insurance Company Annual Report" ("Montana Short Form") can be found on the CSI website at <http://csimt.gov/insurance/captives>

Non-RRGs may also voluntarily elect to use the NAIC Property & Casualty Annual Statement Blank ("yellow blank") and Instructions.

Important Legislation Change: Under Senate Bill 52, effective April 28, 2015, in Mont. Code Ann. §33-28-207(1)(f), the Commissioner may impose a fine for the late filing of an annual report. The fine may not exceed \$100 per day, and the maximum fine is \$1,000.

2. Audited Financial Statements:

Pursuant to Administrative Rules of Montana (Mont. Admin. R.) 6.6.6811, all non-RRG captive insurers shall have an annual audit by an independent certified public accountant authorized by the Commissioner, and shall file such audited financial report with the Commissioner on or before June 30 for the year ending December 31 immediately preceding.

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The annual CPA audit report shall be considered part of the captive insurer's annual report of financial condition except with respect to the date by which it must be filed.

The annual CPA audit shall consist of the following:

- a) Financial statements furnished pursuant to this section shall be examined by an independent certified public accountant in accordance with generally accepted auditing standards as determined by the American Institute of Certified Public Accountants.
- b) The opinion of the independent certified public accountant shall cover all the years presented.
- c) The opinion shall be addressed to the captive insurance company on stationery of the accountant showing the address of issuance, shall bear original manual signatures, and shall be dated.

The annual CPA audit report shall include an evaluation of the internal controls of the captive insurer relating to the methods and procedures used in the securing of assets and the reliability of the financial records, including but not limited to such controls as the system of authorization and approval and the separation of duties.

The accountant shall furnish the company, for inclusion in the filing of the audited financial report, a letter stating:

- a) That it is independent with respect to the captive insurance company and conforms to the standards of the profession, as contained in the Code of Professional Ethics and pronouncements of the American Institute of Certified Public Accountants and pronouncements of the Financial Accounting Standards Board.
- b) The general background and experience of the staff engaged in the audit including the experience in auditing captives or other insurance companies.
- c) That the accountant understands that the audited annual report and the accountant's opinion thereon will be filed with the CSI.
- d) That the accountant consents to the requirements of Mont. Admin. R. 6.6.6819.
- e) That the accountant is properly licensed by the appropriate state licensing authority and is a member in good standing with the American Institute of Certified Public Accountants.

The annual CPA audit shall include the following financial statements:

- a) Balance sheet;

- b) Statement of operations;
- c) Statement of changes in financial position;
- d) Statement of changes in paid up, gross paid in and contributed surplus and unassigned funds (surplus); and
- e) Notes to financial statements, which shall include those that are required by GAAP, including:
 - 1. A reconciliation of differences, if any, between the audited financial report and the statement or form filed with the Commissioner (i.e., unaudited statement);
 - 2. A summary of ownership and relationship of the company and all affiliated corporations or companies insured by the captive.

3. Actuarial Opinion:

Pursuant to Mont. Admin. R. 6.6.6816, the annual CPA audit shall include an opinion as to the adequacy of the captive insurer's loss reserves and loss expense reserves. The individual who certifies as to the adequacy of the reserves shall be approved by the Commissioner and shall be a member of the Casualty Actuarial Society, a member in good standing of the Academy of Actuaries, or an individual who has demonstrated competence in loss reserve evaluation to the Commissioner.

The required opinion may follow the NAIC Annual Statement Instructions, but is not required to do so. For non-RRG opinions that do not follow the NAIC Annual Statement Instructions, the actuary must still state his or her "opinion" regarding the sufficiency of the company's loss reserves and loss expense reserves, and the actuary must sign such opinion.

4. Special Instructions for Cell Reporting:

Each Protected Cell Captive Insurance Company (PCC core) and each protected cell (cell) affiliated with the PCC core shall file separate unaudited financial statements on the Montana Short Form on or before April 1st of each year. For example, if there is a PCC core and two cells, then the PCC core files an unaudited financial statement to report its own business, and each cell files an unaudited financial statement to report the cell's business.

Each PCC core shall file "combined" audited financial statements with the CSI on or before June 30 of each year. The auditor shall express an opinion on the combined assets, liabilities, capital and surplus of the PCC core and each cell. The detailed assets, liabilities, and capital and surplus balances of the PCC core and each cell shall be disclosed in a supplemental schedule to the financial statements.

Each individual cell shall file an actuarial opinion, certifying the adequacy of the loss reserves and LAE reserves on or before June 30 of each year. An actuarial opinion would also be required for the PCC core, if the PCC core is at risk, i.e., has loss reserves.

5. Special Instructions for Series LLC Reporting:

A Series LLC (Series core) and its series business unit(s) (SBU) may file “combined” unaudited financial statements on the Montana Short Form on or before April 1st of each year.

Each Series core shall file “combined” audited financial statements with the CSI on or before June 30 of each year. The auditor shall express an opinion on the combined assets, liabilities, capital and surplus of the Series core and each SBU. The detailed assets, liabilities, and capital and surplus balances of the Series core and each SBU shall be disclosed in a supplemental schedule to the financial statements.

Each individual SBU shall file an actuarial opinion, certifying the adequacy of the loss reserves and LAE reserves on or before June 30 of each year. An actuarial opinion would also be required for the Series core, if the Series core is at risk, i.e., has loss reserves.

6. Filing Instructions:

One hard copy or electronic copy of the annual statement should be filed with the CSI. Additionally, one hard copy or electronic copy of all other financial filings is required. See the attached “Montana Filing Checklist for Captive Insurers” for further filing requirements and instructions.

7. Fiscal Year Filers:

Non-RRGs with a fiscal year-end other than December 31 must request and receive permission from the CSI to file on a basis other than December 31. This request need only be made one time (companies generally request this, and are approved, at time of licensure), but any subsequent changes must also be approved by the CSI. Filing deadlines for fiscal year filers are as follows: unaudited statements are due 90 days after fiscal year-end; audited statements and actuarial opinions are due 180 days after fiscal year-end. Premium tax returns for fiscal year filers are due March 1 as is for all captive insurers. See the next section for additional instructions for fiscal year filers.

8. Premium Tax Returns:

All Montana-domiciled captive insurers are required to file a Montana Premium Tax Return no later than March 1 of each year. Please note that Mont. Code Ann. § 33-28-201 allows a quarterly proration of the minimum premium tax for those captive insurers who were newly licensed during the tax year being filed.

Premium tax remittance checks should be made payable to: Commissioner of Insurance.

Fiscal year filers shall file a Montana Premium Tax Return no later than March 1 of each year for the most recently completed calendar year. In order to provide

sufficient information to support the premium tax return, a fiscal year filer shall attach to the premium tax return a report of monthly written premium and/or reinsurance assumed for the prior calendar year.

PCC core companies should submit a single premium tax return that includes the combined premium/assumed reinsurance numbers for the PCC core and each cell.

Series core companies should submit a single premium tax return that includes the combined premium/assumed reinsurance numbers for the Series core and each SBU. A new premium tax form for Series core companies with SBUs is available on the CSI website at <http://csimt.gov/insurance/captives> under "Annual Reporting Instructions."

Important Legislation Changes: Under Senate Bill 52, effective April 28, 2015, the maximum premium tax of \$100,000 shall be applied to each SBU of a Series LLC captive, rather than application of the maximum to the captive in aggregate. In addition, in a captive's final year, the \$5,000 minimum premium tax shall be prorated based on the date of COA surrender. If the COA is surrendered in the 1st, 2nd, 3rd or 4th quarter of the final year, the prorated minimum tax is \$1,250, \$2,500, \$3,750 or \$5,000, respectively.

9. Certificate of Authority Renewal:

Pursuant to Mont. Code Ann. § 33-28-102(4)(b), all licensed captive insurers shall pay a Certificate of Authority (license) renewal fee of \$300. The renewal fee is incorporated into the Montana Premium Tax Return and payment should be remitted therewith. The Commissioner may suspend or revoke a captive's Certificate of Authority if the renewal fee is not paid by March 1. The \$300 license renewal fee does not apply to cells or SBUs, only their core companies.

10. Other Important Legislation Changes:

In addition to those noted above, other legislation changes took effect in 2015. Under House Bill 536, effective April 10, 2015, a political subdivision is allowed to form and own a captive, which would be licensed as a "special purpose captive." Under House Bill 52, effective April 28, 2015, the \$200 captive application fee now applies to each Series Member (SBU) of a Series LLC captive insurer and to each protected cell of a Protected Cell captive insurer. In addition, for captives that utilize a Letter of Credit (LOC), the required LOC format has been made a statutory requirement. The form is available on the CSI website at <http://csimt.gov/insurance/captives>

11. CSI Contacts for Questions Regarding Filings:

Daniel Judge
(406) 444-3469
DJudge@mt.gov

Kari Leonard
(406) 444-2895
KLeonard2@mt.gov

Stephen Mack
(406) 444-3496
SMack@mt.gov

Tal Redpath
(406) 444-0765
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Montana Filing Checklist for Captive Insurers

| | <i>Due Date</i> | <i>Captive Insurer</i> | <i>Cell Captive (PCC Core)/ Series LLC (Series Core)</i> | <i>Individual Cell/ Individual Member of Series LLC</i> |
|--|-----------------|------------------------|--|---|
| UNADUITED FINANCIAL STATEMENTS | | | | |
| Annual Financial Statement: | 4/1 | | | |
| AUDITED FINANCIAL STATEMENTS | | | | |
| Audited Financial Statements: | 6/30 | | * | * |
| Report of Evaluation of Internal Controls: | 6/30 | | * | * |
| Accountants Letter: | 6/30 | | * | * |
| ACTUARIAL OPINION | | | | |
| Statement of Actuarial Opinion: | 6/30 | | ** | ** |
| OTHER REQUIRED FILINGS | | | | |
| Premium Tax Return: | 3/1 | | *** | *** |
| Certificate of Authority Renewal Fee: | 3/1 | | | |

Denotes required filing.

- * Each Protected Cell Captive (PCC core) and Series LLC (Series core) must file a "combined" audited financial statement. Refer to "Reporting Instructions" memo.
- ** Each PCC core must file individual actuarial opinions for each cell and the PCC core (if applicable). Refer to "Reporting Instructions" memo.
- ** Each Series core must file individual actuarial opinions for each SBU and the Series core (if applicable). Refer to "Reporting Instructions" memo.
- *** Each PCC core and Series core must file a combined Premium Tax Return. Refer to "Reporting Instructions" memo.

Note: For captives using a non-calendar year (fiscal year), the due dates in the above checklist do not apply, except for the premium tax return and Certificate of Authority Renewal fee. Refer to "Reporting Instructions" memo.



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2015 PREMIUM TAX STATEMENT-CAPTIVE INSURANCE COMPANIES

Due on or before March 1st

For Captives Filing the Annual Report on the Montana Short Form

| | | | |
|--|--|--------------|-----------------|
| Insurer Name (Attach list if necessary) | | | FEIN |
| Mailing Address | City | State | Zip Code |
| Administrative Office E-mail Address | Contact Person Telephone Number | | |

INSTRUCTIONS: A reinsurance premium tax does not apply to premiums for risks or portions of risks that are subject to Montana taxation on a direct basis.

SCHEDULE A – TAX ON DIRECT PREMIUMS WRITTEN

1. Gross Direct Premiums (Annual Report, Page 7, Column 1) \$ _____ [01]
2. Less return premiums \$ _____ [02]
3. Other deductions (provide explanation by attachment) \$ _____ [03]
4. Premiums subject to tax (line 1 minus line 2 minus line 3) \$ _____ [04]
5. First \$20 million of line 4 x .4% \$ _____ [05]
6. Each subsequent dollar of line 4 x .3% \$ _____ [06]
7. Total (sum of lines 5 and 6) \$ _____ [07]

SCHEDULE B – TAX ON ASSUMED REINSURANCE PREMIUMS

8. Gross Assumed Reinsurance (Annual Report, Page 7, Column 2) \$ _____ [08]
9. First \$20 million of reinsurance premiums on line 8 x .225% \$ _____ [09]
10. Next \$20 million of reinsurance premiums on line 8 x .150% \$ _____ [10]
11. Each subsequent dollar of reinsurance on line 8 x .050% \$ _____ [11]
12. Total (sum of lines 9 through 11) \$ _____ [12]

SCHEDULE C – CALCULATION OF TOTAL AMOUNT DUE

13. Total Premium Tax (sum of lines 7 and 12 but no more than \$100,000) \$ _____ [13]
14. Captives licensed during 2015, the minimum tax is prorated using date licensed. (1st qtr \$5,000; 2nd qtr \$3,750; 3rd qtr \$2,500; 4th qtr \$1,250) \$ _____ [14]
15. Captives licensed prior to 2015, the minimum tax is \$5,000 \$ _____ [15]
16. Minimum Tax per § 33-28-201(3), MCA (line 14 or 15) \$ _____ [16]
17. Tax Due (greater of line 13 or line 16) \$ _____ [17]
18. Annual License Renewal Fee of \$300 per § 33-28-102(4)(b), MCA \$ 300.00 [18]
19. Total due to: Commissioner of Insurance (sum of lines 17 and 18) \$ _____ [19]

| | | |
|--|------------------------------------|--|
| <p><i>This is a true report of premiums written in the past calendar year and complies with the requirements of applicable law.</i></p> <p>_____</p> <p>Signature of Officer Date</p> | Name of Officer (Type or Print) | |
| | Title of Officer | |



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2015 PREMIUM TAX STATEMENT - SERIES LLC COMPANIES

Due on or before March 1st

For Captives Filing the Annual Report on the Montana Short Form

| | | | | |
|---|---------------------------------|-------|----------|--|
| Insurer Name (Attach list if necessary) | | | FEIN | |
| Mailing Address | City | State | Zip Code | |
| Administrative Office E-mail Address | Contact Person Telephone Number | | | |

INSTRUCTIONS: A reinsurance premium tax does not apply to premiums for risks or portions of risks that are subject to Montana taxation on a direct basis.

SERIES LLC (CORE) TAX ON DIRECT PREMIUMS WRITTEN

1. Gross Direct Premiums (Annual Report, Page 7, Column 1) \$ _____ [01]
2. Less return premiums \$ _____ [02]
3. Other deductions (provide explanation by attachment) \$ _____ [03]
4. Premiums subject to tax (line 1 minus line 2 minus line 3) \$ _____ [04]
5. First \$20 million of line 4 x .4% \$ _____ [05]
6. Each subsequent dollar of line 4 x .3% \$ _____ [06]
7. Total (sum of lines 5 and 6) \$ _____ [07]

SERIES LLC (CORE) TAX ON ASSUMED REINSURANCE PREMIUMS

8. Gross Assumed Reinsurance (Annual Report, Page 7, Column 2) \$ _____ [08]
9. First \$20 million of reinsurance premiums on line 8 x .225% \$ _____ [09]
10. Next \$20 million of reinsurance premiums on line 8 x .150% \$ _____ [10]
11. Each subsequent dollar of reinsurance on line 8 x .050% \$ _____ [11]
12. Total (sum of lines 9 through 11) \$ _____ [12]

SERIES BUSINESS UNIT (SBU) TAX ON INSURANCE PREMIUMS

13. Total Premium Tax on SBUs from Page 2 \$ _____ [13]

CALCULATION OF TOTAL AMOUNT DUE

14. Total Premium Tax (sum of lines 7, 12 and 13) \$ _____ [14]
15. Minimum tax is based on the date licensed: 1st qtr 2015 & prior=\$5,000;
 2nd qtr 2015=\$3,750; 3rd qtr 2015=\$2,500; 4th qtr 2015=\$1,250 \$ _____ [15]
16. Tax Due (greater of line 14 or line 15) \$ _____ [16]
17. Annual License Renewal Fee of \$300 per § 33-28-102(4)(b), MCA \$ 300.00 [17]
18. Total due to: Commissioner of Insurance (sum of lines 16 and 17) \$ _____ [18]

| | | |
|---|---------------------------------------|------------------|
| This is a true report of premiums written in the past calendar year and complies with the requirements of applicable law. | Name of Officer (Type or Print) | |
| | Signature of Officer _____ Date _____ | Title of Officer |

ADDITIONAL INSTRUCTIONS: On Page 2, list the individual premium tax for each Series Business Unit (SBU) that will be rolled up and reported on Page 1 of the premium tax form. If an SBU has both direct premiums written and assumed reinsurance premiums, use two lines to report the premium tax. Use the premium tax rates on Page 1 of .4% for direct premiums written and .0225% for assumed reinsurance premiums. The maximum premium tax for each individual SBU shall not exceed \$100,000. (Users of this form may create their own form similar to the below schedule.)

| | <u>Series Business Unit</u> | <u>Premiums Written or Assumed</u> | <u>Tax Rate</u> | <u>Tax</u> |
|-----|---|--|-----------------|-----------------|
| 1. | _____ | \$ _____ | x _____ | = \$ _____ [01] |
| 2. | _____ | \$ _____ | x _____ | = \$ _____ [02] |
| 3. | _____ | \$ _____ | x _____ | = \$ _____ [03] |
| 4. | _____ | \$ _____ | x _____ | = \$ _____ [04] |
| 5. | _____ | \$ _____ | x _____ | = \$ _____ [05] |
| 6. | _____ | \$ _____ | x _____ | = \$ _____ [06] |
| 7. | _____ | \$ _____ | x _____ | = \$ _____ [07] |
| 8. | _____ | \$ _____ | x _____ | = \$ _____ [08] |
| 9. | _____ | \$ _____ | x _____ | = \$ _____ [09] |
| 10. | _____ | \$ _____ | x _____ | = \$ _____ [10] |
| 11. | _____ | \$ _____ | x _____ | = \$ _____ [11] |
| 12. | _____ | \$ _____ | x _____ | = \$ _____ [12] |
| 13. | _____ | \$ _____ | x _____ | = \$ _____ [13] |
| 14. | _____ | \$ _____ | x _____ | = \$ _____ [14] |
| 15. | _____ | \$ _____ | x _____ | = \$ _____ [15] |
| 16. | _____ | \$ _____ | x _____ | = \$ _____ [16] |
| 17. | _____ | \$ _____ | x _____ | = \$ _____ [17] |
| 18. | _____ | \$ _____ | x _____ | = \$ _____ [18] |
| 19. | _____ | \$ _____ | x _____ | = \$ _____ [19] |
| 20. | _____ | \$ _____ | x _____ | = \$ _____ [20] |
| 21. | _____ | \$ _____ | x _____ | = \$ _____ [21] |
| 22. | _____ | \$ _____ | x _____ | = \$ _____ [22] |
| 23. | _____ | \$ _____ | x _____ | = \$ _____ [23] |
| 24. | _____ | \$ _____ | x _____ | = \$ _____ [24] |
| 25. | _____ | \$ _____ | x _____ | = \$ _____ [25] |
| 26. | _____ | \$ _____ | x _____ | = \$ _____ [26] |
| 27. | _____ | \$ _____ | x _____ | = \$ _____ [27] |
| 28. | _____ | \$ _____ | x _____ | = \$ _____ [28] |
| 29. | _____ | \$ _____ | x _____ | = \$ _____ [29] |
| 30. | _____ | \$ _____ | x _____ | = \$ _____ [30] |
| 31. | Sub-total rolled up to Page 1, Line 13 (sum of Page 2, lines 1 to 30) | | | \$ _____ [31] |