

# COMMISSIONER OF SECURITIES & INSURANCE

MATTHEW M. ROSENDALE, SR.  
COMMISSIONER



OFFICE OF THE  
MONTANA STATE AUDITOR

January 8, 2020

## **NOTICE**

TO: All Captive Managers

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

SUBJECT: Annual Reporting Instructions  
Montana-domiciled Risk Retention Groups

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

On or before March 1 of each year, a captive risk retention group 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. Statutory accounting principles (SAP) may be used only when required by the Commissioner or when requested by the captive insurer and approved by the Commissioner.

The Commissioner has prescribed that all Montana-domiciled **risk retention groups ("RRGs")** are required to file GAAP or SAP based annual and quarterly statements with the CSI and with the NAIC using the NAIC Property & Casualty Annual and Quarterly Statement Blanks and Instructions.

Recognizing that the yellow blank has been designed for use with SAP, the following modifying instructions and guidance are provided to allow use of the yellow blank with GAAP accounting.

**a.)** The CSI prefers reporting loss reserves and unearned premium net of ceded amounts as is done on a SAP basis. However, some CPA firms require reporting on a gross basis when filing in accordance with GAAP. If loss reserves and unearned premium are reported on a gross basis, certain GAAP assets and liabilities shall be reflected separately on the respective lines in the yellow blank as follows:

<b>GAAP Classification</b>	<b>Yellow Blank</b>
Deferred Acquisition Costs	Page 2 – Line 25 – Aggregate write-in for other than invested assets as a separate item.
Prepaid Reinsurance (i.e. ceded unearned premium)	Page 2 – Line 25 – Aggregate write-in for other than invested assets as a separate item.
Reinsurance recoverable on <u>paid</u> losses and loss adjustment expenses	Page 2 – Line 16.1 – Amounts recoverable from reinsurers.
Reinsurance recoverable on <u>unpaid</u> losses and loss adjustment expenses	Page 2 – Line 16.3 – Other amounts receivable under reinsurance contracts.
CSI approved Letters of Credit (LOC) reported as an asset	Page 2 – Line 25 – Aggregate write-in for other than invested assets as a separate line item.
CSI approved Surplus Notes	Page 3 – Line 33 – Surplus Notes

**b.)** These reporting requirements may result in NAIC cross-check errors.

To satisfy the “cross-check” process and successfully file the annual statement using the NAIC reporting software, CSI instructs all Montana-domiciled RRGs to provide the following explanation where applicable:

***“Cross-check error is a result of differences between GAAP reporting and SAP reporting. GAAP reporting is required by the State of Montana pertaining to all domestic captive risk retention groups.”***

The CSI has notified the NAIC that all Montana-domiciled RRGs will be using the aforementioned explanation regarding cross-check errors.

**2. Audited Financial Statements:**

The audited financial report for RRGs is due June 1 for the year ending December 31 immediately preceding. RRGs shall follow the requirements of Mont. Admin. R. 6.6.6811(5) and Mont. Admin. R. 6.6.3501-6.6.3521.

**3. Actuarial Opinion:**

Pursuant to Mont. Code Ann. §§33-28-107(4), 33-2-701(1)(c), 33-28-207(4)(a), and 33-1-1402(1), each RRG must submit an opinion from a qualified actuary as to the adequacy of the RRG’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 must accompany the yellow blank due on or before March 1. The RRG is also required to submit an actuarial opinion summary by March 15. The opinion and summary must comply with the NAIC Annual Statement Instructions.

#### **4. Filing Instructions:**

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

#### **5. 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.

The attached memorandum regarding **OPTins** discusses the filing of the Montana Premium Tax Return by the March 1, 2020, due date. **Please read it carefully.**

#### **6. 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. The Commissioner may suspend or revoke a captive's license if the renewal fee is not paid by March 1.

#### **7. Additional RRG Requirements and Filings:**

**a.)** Each RRG is required to maintain a fidelity bond issued by an authorized corporate surety in favor of the RRG. The Commissioner shall consider the captive insurer's exposure, total assets, and total income in determining the bond amount. To determine the required bond amount, refer to the calculation at Mont. Admin. R. 6.6.6601, available at the following link:

<http://www.mtrules.org/gateway/ruleno.asp?RN=6%2E6%2E6601>

**b.)** RRGs that write medical malpractice insurance are required to complete the *Montana Medical Malpractice Professional Liability Experience Report*.

**c.)** Mont. Code Ann. § 33-28-207(4)(b) requires RRGs to submit a Risk-Based Capital Report to the Commissioner on or before each March 1 filing date.

**d.)** Pursuant to Mont. Code Ann. § 33-28-207(4)(c), an RRG that is part of a holding company system shall file with the Commissioner on or before April 30 each year, Forms B, C and F, as required in Mont. Code Ann. § 33-2-1111, available at the following link: <http://csimt.gov/insurance/captives>

**e.)** Each RRG must annually submit a written assessment of the independence of each member of the board of directors. This requirement and the criteria for a determination of "independent" are set forth in Mont. Code Ann. §33-11-103(6). This annual submission is due on or before April 1 each year.

#### **8. CSI Contacts for Questions Regarding Filings:**

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# Montana Filing Checklist for Risk Retention Groups

	<i>Due Date</i>	<i>RRG</i>
<b>UNAUDITED FINANCIAL STATEMENTS</b>		
Annual Financial Statement: RRG	3/1	√
Quarterly Financial Statement: RRG	5/15	√
Quarterly Financial Statement: RRG	8/15	√
Quarterly Financial Statement: RRG	11/15	√
<b>AUDITED FINANCIAL STATEMENTS</b>		
Audited Financial Statements: RRG	6/1	√
Report of Evaluation of Internal Controls: RRG	6/1	√
Accountants Letter: RRG	6/1	√
<b>ACTUARIAL OPINION</b>		
Statement of Actuarial Opinion: RRG	3/1	√
Actuarial Opinion Summary: RRG	3/15	√
<b>OTHER REQUIRED FILINGS</b>		
Premium Tax Return	3/1	√
Certificate of Authority Renewal Fee	3/1	√
Medical Malpractice Experience Report	3/1	√
Risk-Based Capital Report	3/1	√
Management's Discussion & Analysis	4/1	√
Annual Affirmation of Board Independence	4/1	√
Holding Company Filing (Forms B, C and F)	4/30	√

√ Denotes required filing.



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**2019 PREMIUM TAX STATEMENT-CAPTIVE INSURANCE COMPANIES**

*Due on or before March 1st*

**For Captives Filing the Annual Report on the NAIC Yellow Blank**

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

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 8, Line 35, Col. 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, Pg 8, Line 35, Col 2+3) \$ \_\_\_\_\_ [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 2019, the minimum tax is prorated using date licensed. (1<sup>st</sup> qtr \$5,000; 2<sup>nd</sup> qtr \$3,750; 3<sup>rd</sup> qtr \$2,500; 4<sup>th</sup> qtr \$1,250) \$ \_\_\_\_\_ [14]
15. Captives licensed prior to 2019, 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]

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

**TO: MONTANA CAPTIVE PREMIUM TAX FILERS**

**RE: OPTins**

**FROM: THE OFFICE OF THE COMMISSIONER OF SECURITIES AND INSURANCE, MONTANA STATE AUDITOR (MONTANA CSI)**

The Montana CSI has implemented OPTins (Online Premium Tax for Insurance) for insurance companies filing and paying the Montana Captive Premium Tax. OPTins, a product of the National Association of Insurance Commissioners (NAIC), has been developed to facilitate captive insurance premium tax forms and payments. The Montana CSI has requested the use of OPTins to file your premium tax return and pay the tax due.

OPTins will be available for your Montana Captive Premium Tax filings and payments beginning on February 1, 2020 for filings and payments due by the March 1, 2020 deadline. **OPTins will be optional for the March 1, 2020 filing deadline, but for the following year (March 1, 2021) OPTins will be mandatory.** By starting to use OPTins this year, you will be ahead of the curve.

The steps to submit your tax filing are very simple and require no formal training. Easy to follow instructions are available at: <http://www.optins.org>. Once registered and set up, you will be able to log in, complete your tax form, and submit your payment online. No more paper checks – everything is electronic and tax forms and payments are received at the Montana CSI immediately upon submission by the company or manager.

Using OPTins allows you to save time and ensure that both the form and payment are received together and on time. **To implement OPTins, contact the OPTins Marketing Team at [optinsmktg@naic.org](mailto:optinsmktg@naic.org) or call (816) 783-8787.** Setup of a new account takes 7-10 business days. If you already use OPTins, you do not have to contact OPTins Marketing. Once you have an account in OPTins, you can file to all state accounts using our application.

Questions or comments applicable to this email should be directed to:

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