

# BUSINESS INSURANCE

## HOT TOPICS

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*#WorldCaptiveForum*

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# NEW TAX PROVISIONS

## □ Background

- Tax Reform has had an impact on captives
- Provisions enacted that will affect both domestic and foreign entities

# NEW TAX PROVISIONS PC

## ❏ Provisions

- Reduction of corporate rate
- Increase of discount of property casualty discount factors
- Definition of “Qualified Insurance Company” in passive foreign investment company provisions
- 2017 10% US shareholder by vote pick up to 1986
- 2018 change in definition of US Shareholder
- New constructive ownership rules for controlled foreign corporations
- Controlled foreign corporations 30 day rule gone
- Difference in treatment of tax exempt income and dividends subjected to DRD
- Base erosion anti-abuse tax

# CYBER CONCERNS

## ❑ NYS Department of Financial Services (DFS) Cyber Requirements

- Requires licensed entities (including captives) to comply with regulations generally intended to protect certain “non-public” information (“NPI”)
- Captives provided an exemption from certain “mechanical” provisions if it does not directly or indirectly control, own, access, generate, receive or possess non-public information
  - Note some other exemptions apply
    - ❖ Less than \$5,000,000 in gross annual revenue in each of last 3 fiscal years from New York business operations of covered entity and affiliates
    - ❖ Less than \$10,000,000 in year end total assets, per GAAP, including all affiliates
    - ❖ Less than 10 employees including independent contractors of covered entity and affiliates

# CYBER CONCERNS

- ❑ NYS Department of Financial Services (DFS) Cyber Requirements (cont'd)
  - Captives generally will have NPI
  - Need to eliminate access to NPI
  - Note “dual hat” issue
  - Compliance

# CYBER CONCERNS

- ❑ NAIC Insurance Data Security Model Law
  - In many respects mirrors NYSDFS regulation
  - Question what other states will require for captives

# STATE AND LOCAL ISSUES

1. State and local income tax – Illinois
2. New York issues



# MISCELLANEOUS OTHER ISSUES

- ☐ BEPS implementation
- ☐ FASB ASU 2015-9
- ☐ Can offshore captive domiciles avoid the EU Gray List

# Q & A

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