



STATE OF CONNECTICUT

INSURANCE DEPARTMENT

FAQs about [Public Act 22-118](#) Sections 437 – 448 Concerning New Connecticut Captive Insurance Legislation

(Effective Date: July 1, 2022)

Q1. What major changes does the new legislation make?

- Lowers the minimum capital and surplus requirement and gives the Commissioner the authority to set a higher required level of capital and surplus to meet policy obligations.
- Permits the Commissioner to waive examinations for pure captives and their branches.
- Removes the limitation on a captive to only assume reinsurance on risks that such captive is authorized to write directly.
- Removes the “association” entity existence time requirement prior to forming an association captive.
- Adds “controlled unaffiliated business” to sponsored captive participants.
- Provides for a three-year look-back tax amnesty program for Connecticut businesses that own captives outside of the state.

Q2. How does the three-year look-back tax amnesty program work?

For Connecticut captive insurance company’s insureds that have not paid the non-admitted insurance premium tax under section 38a-277 of the General Statutes, if they meet the following requirements by June 30, 2023, the Connecticut Department of Revenue Services (“DRS”) Commissioner shall waive any taxes, interest and penalties that would otherwise be due under section 38a-277 of the General Statutes for any taxable period ending prior to July 1, 2019 and all penalties that would otherwise be due for any taxable period beginning on or after July 1, 2019, and ending prior to July 1, 2022:

- establish a branch captive insurance company in this state or transfer the domicile of its alien captive insurance company or foreign captive insurance company to this state; and
- pay all currently due and outstanding taxes and interest to DRS for taxable periods ending on or after July 1, 2019, but before July 1, 2022.

Q3. How does the three-year look-back tax amnesty program benefit Connecticut captive insureds/owners?

- The three-year non-admitted premium taxes and interest (penalty waived) would be significantly lower than 11 years of taxes, interest, and penalties.
- In return, Connecticut businesses will have peace of mind regarding their unpaid non-admitted premium tax liabilities owed to the state since 2011.

Q4. If a captive re-domesticates to or sets up a branch in Connecticut, will the process be costly and difficult?

No.

- The legislation provides a streamlined process with negligible fees.
- The Insurance Commissioner has the authority to make the process more flexible and more cost effective based on a captive's risk profile.

Q5. Is this legislation beneficial to Connecticut and its businesses?

Yes.

- The legislation will yield economic growth through increases in premium tax, capital, activities, and jobs.
- It will be more cost effective for Connecticut businesses: fewer fees, less travel, potential for reduced taxes, and more allowed coverage.

Q6. If a captive re-domesticates to Connecticut, could its future operations be less costly?

Yes.

- Connecticut only charges a one-time license application fee of \$800, a formation fee no greater than \$250, and an annual license fee of \$375.
- A re-domesticated captive may avoid paying other domiciles' fees and/or taxes, federal taxes such as federal excise taxes, and taxes for base erosion payments to foreign related parties for offshore captives.
- Although offshore locations and few states don't collect premium taxes, they may charge significant fees for licensing and operations, thus reducing those tax benefits.
- Captive owners would save money and travel time by not having to send service providers and board members to travel to meet offshore or in other domestic locations.
- The Connecticut Insurance Department utilizes internal staff for captive application reviews and examinations which saves captive owners both time and money.

Q7. Which future operation costs the most: setting up a branch in Connecticut, re-domestication to Connecticut, or remaining domiciled outside of Connecticut?

Remaining domiciled outside of Connecticut costs the most. Setting up a branch in Connecticut is more costly compared to re-domestication to Connecticut.

- If remaining domiciled outside of Connecticut, owners will miss this cost-saving opportunity and continue to incur non-admitted premium taxes at 4 percent per year.
- If setting up a branch in Connecticut, the captive would pay fees and taxes in both domiciles (Connecticut taxes and negligible fees are competitive in comparison to those of other domiciles).

Q8. Is it costly to have captives regulated in Connecticut?

No.

- Captives pay negligible fees for licensing and formations. No other fees are anticipated. Examinations for pure captives and their branches can be waived according to the new legislation.
- Captives pay annual state premium taxes at sliding scale rates no greater than 0.38% for direct writing and 0.214% for reinsurance with a tax credit of \$7,500, and a maximum limit for all captives. Only some states don't have a cap and most states don't offer tax credits.

Q9. Why should offshore captives move onshore?

- Evolving federal tax reforms and burdensome reporting requirements are discouraging U.S. owners from keeping subsidiary captives offshore.
- An anticipated 15 percent global minimum tax rate with a 2023 targeted effective date would reduce advantageous tax status that companies, including captives, have by being offshore.
- Owners of an offshore captives may be subject to federal excise taxes of 4 percent for property and casualty ("P&C") direct written premiums and 1 percent for reinsurance premiums, and additional taxes such as base erosion and anti-abuse tax. These tax rates are higher than the U.S. state sliding scale captive insurance premium tax rates of less than 0.4 percent for direct writing and 0.214 percent for reinsurance.
- Although offshore captives may elect to be taxed as a U.S. company, these offshore captives may be required to collateralize their federal tax liabilities or delay in recognizing their losses for federal tax return filings, and they are still subject to high fees to domicile offshore and incur additional operational costs.
- Their U.S. owners may still be subject to an additional non-admitted insurance premium tax rate between 3 to 5 percent.
- Certain types of captives and coverage, such as employee benefits and federally sponsored terrorism coverage, need to be provided onshore.
- U.S. captive owners may be subject to non-admitted insurance premium tax if their captive is offshore.

Q10. If out of state captives use traditional carriers for fronting, can the non-admitted insurance premium taxes be avoided?

Yes, but the costs are much higher.

- Using admitted carriers for fronting might help to avoid non-admitted premium taxes, but the costs for collateral, fronting fees, and premium tax are much higher.

NOTE: The questions and answers provided on this page are not intended to be exhaustive and do not constitute legal or other professional advice for any particular question, issue or concern. Please refer specifically to [Public Act 22-118](#), sections 437-448, for any question or issue you may have.