

Recent Captive Tax Developments, Concerns, and Trends

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November 8, 2021, Houston TX

Agenda

- Recent IRS Audit Activity
- Federal Income Tax Matters
- Federal Income Tax Cases (Micro Captives)
 - What It Means For Larger Captives
- PFIC Matters
- State Premium Taxes
- The Crystal Ball Predictions of Biden
Administrative Tax Reform

RECENT IRS AUDIT ACTIVITY & FEDERAL INCOME TAX MATTERS

USA v. DELAWARE DEPARTMENT OF INSURANCE

□ BACKGROUND

- ❖ IRS HAD REQUESTED/SUBPOENAED DOCUMENTS FROM ARTEX RELATING TO CERTAIN CAPTIVES FORMED IN DELAWARE TAXABLE UNDER IRC § 831(b)
- ❖ ARTEX COMPLIED
- ❖ IRS THEN REQUESTED DOCUMENTS RELATING TO SAME CAPTIVES AND CELLS
- ❖ DELAWARE DEPARTMENT OF INSURANCE (“DDOI”) REFUSED TO PROVIDE SOME MATERIAL WHICH WAS CLIENT SPECIFIC BASED ON DELAWARE INSURANCE CODE § 6920 RELATING TO CONFIDENTIALITY OF CERTAIN DOCUMENTS SUBMITTED TO THE DDOI
- ❖ IRS ISSUED A SUMMONS FOR DOCUMENTS AND BROUGHT ACTION TO ENFORCE IT
- ❖ DDOI FILED RESPONSES

USA v. DELAWARE DEPARTMENT OF INSURANCE

❑ DECISION

- ❖ MAGISTRATE JUDGE (“MJ”) STATED, BASED ON *U.S. v. POWELL*, 379 U.S. 48 (196), THAT U.S. HAD BURDEN TO PROVE FOUR FACTORS:
 - LEGITIMATE PURPOSE TO INVESTIGATION
 - INQUIRY RELEVANT TO SUCH PURPOSE
 - THE INFORMATION SOUGHT IS NOT WITHIN GOVERNMENT’S POSSESSION
 - ADMINISTRATIVE STEPS REQUIRED BY THE CODE HAVE BEEN FOLLOWED
- ❖ DDOI ARGUED THAT THIRD FACTOR NOT MET AS CERTAIN DOCUMENTS SOUGHT HAD BEEN PRODUCED BY ARTEX
- ❖ MJ NOTED THAT USUALLY AN AGENT’S DECLARATION THAT THE DOCUMENTS ARE NOT IN GOVERNMENT POSSESSION MAKES A *PRIMA FACIE* CASE (CITING SEVERAL CASES)
- ❖ DDOI THEN ARGUED THAT McCARREN FERGUSON ACT (“MFA”) WOULD GOVERN, AS IT, IN GENERAL, STATES THAT INSURANCE IS SUBJECT TO THE LAWS OF THE VARIOUS STATES

USA v. DELAWARE DEPARTMENT OF INSURANCE

❑ DECISION

- ❖ MJ NOTED THAT MFA WILL PROVIDE FEDERAL PREEMPTION ONLY IF THREE FACTORS ARE MET
 - STATE LAW IN QUESTION WAS ENACTED “FOR PURPOSE OF REGULATING INSURANCE”
 - WHETHER THE FEDERAL LAW DOES NOT “SPECIFICALLY RELATE TO THE BUSINESS OF INSURANCE”, AND
 - WHETHER FEDERAL LAW WOULD “INVALIDATE, IMPAIR OR SUPERSEDE” THE STATE’S LAW
- ❖ HOWEVER, IRS ARGUED THAT ONE DOES NOT GET TO THE THREE FACTORS UNLESS THERE IS A DETERMINATION THAT THE ACTIVITY CONSTITUTES “THE BUSINESS OF INSURANCE”
- ❖ THE MJ SAID THAT ALTHOUGH THE DELAWARE STATUTE HAS SOMETHING TO DO WITH LICENSING A CAPTIVE, IT REALLY IS ABOUT KEEPING INFORMATION CONFIDENTIAL AND CONCLUDED MFA DOES NOT CONTROL, AND THIS RECOMMENDED THE IRS MOTION BE GRANTED

USA v. DELAWARE DEPARTMENT OF INSURANCE

NOTE: THE DECISION OF THE MJ WAS
CONFIRMED BY THE DISTRICT COURT JUDGE.

CAYLOR v. COMMISSIONER

- ❑ ANOTHER 831(b) CASE
- ❑ CAYLOR REFUSED TO PARTICIPATE IN A POOL. HOWEVER, ALTHOUGH MORE THAN TEN ENTITIES WERE INVOLVED, MOST OF THE ENTITIES RECEIVED THEIR REVENUE FROM A SINGLE ENTITY, CAYLOR CONSTRUCTION
- ❑ THE COURT MADE A NUMBER OF INTERESTING COMMENTS ABOUT RISK DISTRIBUTION, PRICING AND OTHER ISSUES THAT MAY BEAR CONSIDERATION WITH RESPECT TO CAPTIVES TAXED UNDER IRC § 831(a) AS WELL AS § 831(b)
- ❑ TP ARGUED RISK DISTRIBUTION IS MET ONE OF THREE WAYS: (a) UNRELATED RISKS, (b) REV. RUL. 2002-90, (c) SUFFICIENT INDEPENDENT RISKS (EXPOSURE UNITS)

CAYLOR v. COMMISSIONER

- ❑ NO INDEPENDENT RISKS (UNRELATED BUSINESS)
- ❑ REV. RUL. 2002-90 DID NOT APPLY BECAUSE TWO ENTITIES WERE 60% AND IN THE OTHERS WERE LESS THAN 5% AND BASED ON IRS EXPERT ALL RISKS IN SOME WAY RELATED TO CAYLOR CONSTRUCTION
- ❑ INDEPENDENT EXPOSURES

❖ IN CONSIDERING *RENT-A-CENTER* – THE COURT SAID:

“There is no precise number of independent risks that must exist for risks to be sufficiently distributed – we’re not a legislature or regulator, and that is not the way common-law concepts become clearer over time. The problem for Consolidated is that it faces a number of independent risks that are at least of couple of orders or magnitude smaller than the captives in cases where we’ve found sufficient distribution of risk. . . . We find on the basis of this record that the law of large numbers doesn’t apply to such small numbers.”

CAYLOR v. COMMISSIONER

❑ INDEPENDENT EXPOSURES

- ❖ THE RISKS WERE NOT INDEPENDENT. ALL WERE DEPENDENT ON CAYLOR CONSTRUCTION

“... It was like having a bunch of mice on one side and an 800 pound gorilla on the other.”

❑ CLAIMS WERE PAID WITHOUT ANY DOCUMENTATION

❑ THE “MACRO ISSUE”

- ❖ CAYLOR HAD CLAIMS NOT COVERED BY COMMERCIAL POLICIES OVER TEN YEARS EQUALLING ABOUT \$500,000. EVEN IF \$50,000 PER YEAR WERE REASONABLE, \$1,150,000 PER YEAR LOOKS UNREASONABLE AND LIKE SOMETHING “OTHER THAN INSURANCE”

❑ THE “MICRO” ISSUE. HISTORICAL LOSS DATA WAS NOT THE STARTING POINT FOR PREMIUM CALCULATION. INSTEAD, TP LOOKED FOR THE AMOUNT THEY WANTED TO PAY. THE COURT STATED THEY TOOK A “BASE RATE” AND THEN “TOOK A DETOUR TO CRAZY TOWN” NOTING A “CAPTIVE RISK FACTOR” WAS APPLIED TO GROW FINANCIAL STRENGTH THAT INCREASED PREMIUM BY 300%.

- ❖ THE GOVERNMENT EXPERT SAID SUCH THINGS WERE NOT KNOWN IN THE COMMERCIAL MARKETPLACE

CAYLOR v. COMMISSIONER

☐ CLAIMS PAID CLAIMS WITHOUT ANY DOCUMENTATION

❖ WHAT DO WE LEARN

- COURT LOOKED TO **OLDER CASES AND CITED EXPOSURE UNITS**
- WHAT ABOUT A SITUATION IN WHICH **THE FACTS OF REV. RUL. 2002-90 ARE MET, BUT FEW EXPOSURE UNITS**
- WHAT ABOUT THE MACRO COMMENT? DOES THIS MEAN THAT THE **COURT WILL LOOK MORE CLOSELY AT COVERAGES** AND WHETHER ONE NEEDS THEM AS WELL AS PRICING?
- WHAT IF INSURED HAS A CAPTIVE AND WRITING A CAT-TYPE RISK, AND THE ACTUARY TELLS YOU A FULL LIMIT LOSS WILL HAPPEN ONLY **ONE IN FOUR YEARS** AND PAYING PREMIUMS AT ARM'S-LENGTH IT WILL TAKE FOUR YEARS TO BE ABLE TO PAY A CLAIM IN FULL

PASSIVE FOREIGN INVESTMENT COMPANIES (“PFIC”)

PASSIVE FOREIGN INVESTMENT COMPANIES (“PFIC”)

□ BACKGROUND

- ❖ PFIC RULES WERE DESIGNED TO “ENCOURAGE” PERSONS TRYING TO AMASS FUNDS IN OFFSHORE ENTITIES WITH LOW TAX BURDEN TO DO OTHERWISE
- ❖ PFIC RULES IMPOSED PENALTY TAX ON SHAREHOLDER WITH RESPECT TO “EXTRAORDINARY” DISTRIBUTIONS AND GAIN ON A SALE OR DISPOSITION OF AN INTEREST IN THE ENTITY
- ❖ PFIC ORIGINALLY DEFINED TO BE A FOREIGN ENTITY IF EITHER (a) 50% OR MORE OF ASSETS WERE HELD FOR PASSIVE INVESTMENT, OR (b) MORE THAN 75% OF INCOME WAS FROM PASSIVE SOURCES IN ANY TAX YEAR
- ❖ BUT, THERE WAS AN EXCEPTION FOR SUCH ENTITIES WHICH WERE IN THE “ACTIVE CONDUCT OF AN INSURANCE BUSINESS”
 - ACTIVE UNDEFINED
 - INSURANCE BUSINESS DEFINED
- ❖ ISSUE BECAME AN INSURANCE ENTITY WITH LITTLE RISK AND A VERY LARGE INVESTMENT PORTFOLIO

PASSIVE FOREIGN INVESTMENT COMPANIES (“PFIC”)

❑ CURRENT ISSUES

- ❖ REQUIRE FOREIGN ENTITY TO BE A QUALIFIED CORPORATION
- ❖ FINAL REGULATIONS CURRENTLY EFFECTIVE, AMONG OTHER ISSUES, REQUIRE LIABILITIES (EXCLUDING UNEARNED PREMIUM) TO EQUAL 25% OF ASSETS, WITH SPECIAL RULES FOR COMPANIES IN RUNOFF

❑ CONCERNS. SOME PERSONS WHO ARE SHAREHOLDERS IN FOREIGN INSURANCE ENTITIES WILL NOT BE AFFECTED

- ❖ 10% SHAREHOLDER IN A CONTROLLED FOREIGN CORPORATION (“CFC”) **NOT AFFECTED**
- ❖ LESS THAN 10% SHAREHOLDER IN A CFC OR NON-CFC, OR 10% SHAREHOLDER IN A NON-CFC **ARE AFFECTED**
- ❖ SHAREHOLDER IN A FOREIGN INSURANCE COMPANY WITH AN IRC § 953(d) ELECTION **NOT AFFECTED**

PASSIVE FOREIGN INVESTMENT COMPANIES (“PFIC”)

❑ CONCERNS

- ❖ SHAREHOLDER IN A FOREIGN ENTITH WITH AN IRC § 953(c)(3)(C) ELECTION **MAY BE AFFECTED**
- ❖ SHAREHOLDER IN A RELATED PERSON INSURANCE INCOME (“RPII”) CFC **AFFECTED AS OF NOW**

STATE PREMIUM TAX MATTERS

WASHINGTON STATE

□ BACKGROUND

- ❖ WASHINGTON TOOK POSITION BASED ON THEIR LAW THAT THEY CAN IMPOSE 2% PREMIUM TAX ON NON-ADMITTED INSURERS, INCLUDING CAPTIVES, WRITING “WASHINGTON STATE RISKS”
 - SETTLED SOME CASES IMPOSING TAX, INTEREST AND PENALTIES
 - SOUGHT TO TREAT WASHINGTON STATE RISK AS ALL RISK INSURED BY CERTAIN TAXPAYERS, *i.e.* NOT JUST EVENTS OCCURRING IN WASHINGTON.

□ NEW LAW

- ❖ LOBBYING EFFORT RESULTED IN AMENDMENT OF INSURANCE LAW WHICH LIMITED LOOK BACK TO TEN YEARS, ELIMINATED FINES, PENALTIES AND INTEREST AND DEFINED WASHINGTON RISK AS RELATING EFFECTIVELY ONLY TO RISKS OCCURRING IN WASHINGTON STATE

WASHINGTON STATE

☐ NEW LAW

- ❖ REQUIRES THAT WITHIN 120 DAYS OF ISSUING POLICY COVERING WASHINGTON STATE RISK CAPTIVE MUST REGISTER WITH OFFICE OF INSURANCE COMMISSIONER (“OIC”)
- ❖ MUST BE “ELIGIBLE CAPTIVE”
 - OWNED BY A CAPTIVE OWNER
 - INSURES RISKS OF CAPTIVE OWNER AND AFFILIATES
 - ONE OR MORE ENTITIES INSURED MUST HAVE A PRINCIPAL PLACE OF BUSINESS IN WASHINGTON STATE
 - MUST HAVE NET ASSETS OF \$1 MILLION AND ABILITY TO PAY DEBTS AS THEY BECOME DUE (BOTH CONFIRMED BY A INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT)
 - CAPTIVE LICENSED IN ITS DOMICILE

WASHINGTON STATE

□ NEW LAW

❖ MUST BE “ELIGIBLE CAPTIVE”

- INITIAL FEE OF \$2,500 (AND POSSIBLE SUBSEQUENT ANNUAL FEES NOT TO EXCEED \$2,500)
- 2% PREMIUM TAX
- COMMISSIONER CAN REQUEST ADDITIONAL INFORMATION TO CONFIRM ASSETS AND ABILITY TO PAY DEBTS
- CAN ONLY WRITE PROPERTY AND CASUALTY DIRECTLY, BUT APPARENTLY NO LIMITATION ON REINSURANCE (NOTE: NO MEDICAL STOP LOSS)

WASHINGTON STATE

☐ RECENT DEVELOPMENTS

❖ \$2,500 FEE AND NOTICE COMMISSIONER CAN ISSUE ADDITIONAL ANNUAL FEES

❖ REGISTRATION

- REQUEST CREATION OF AN ACCOUNT
- SUBMIT APPLICATION
 - SIGNED BY CORPORATE OFFICER
 - INFORMATION MISSING THEY WILL CONTACT
 - PUBLIC INFORMATION
 - TAXPAYER WILL BE ASKED TO PROVIDE INFORMATION REGARDING THE PERSON RESPONSIBLE FOR PREMIUM REPORTING AND ONCE REGISTERED THAT PERSON WILL BE CONTACTED RE: REPORTING AND PAYMENT
- SUBMIT FEE PAYMENT ON REQUEST

JOHNSON AND JOHNSON

- ❑ JOHNSON AND JOHNSON (“J&J”) PAID \$55,000,000 IN DIRECT PLACEMENT TAX TO THE STATE OF NEW JERSEY BASED ON PREMIUM PAID TO ITS VERMONT CAPTIVE
- ❑ NEW JERSEY STATUTE WHICH SOUGHT TO FOLLOW NRRA DID NOT AND ONLY COVERED SURPLUS LINES TAXES EFFECTIVELY ELIMINATING NEW JERSEY DEPARTMENT
- ❑ NEW JERSEY COURTS TOOK POSITION THAT J&J NOT RESPONSIBLE FOR THE TAX AND GRANTED REFUND
- ❑ TO DATE, NO NEW JERSEY LEGISLATION TO ADDRESS THIS

NEW YORK FRANCHISE TAX

- NEW YORK “OVERSTUFFED CAPTIVE”
- MOODY’S

MINNESOTA- UNITARY FRANCHISE TAX

- ❑ CAPTIVE EXEMPT FROM UNITARY FRANCHISE TAX UNLESS IT IS A DISQUALIFIED CAPTIVE INSURANCE COMPANY
- ❑ SUBDIVISION 5C. DISQUALIFIED CAPTIVE INSURANCE COMPANY
 - ❖ (A) “CAPTIVE INSURANCE COMPANY” MEANS A COMPANY THAT:
 - ❖ (1) IS LICENSED AS A CAPTIVE INSURANCE COMPANY UNDER THE LAWS OF ANY STATE OR FOREIGN COUNTRY; OR
 - ❖ (2) DERIVES LESS THAN 50% OF ITS TOTAL PREMIUMS FOR THE TAXABLE YEAR FROM SOURCES OUTSIDE OF THE UNITARY BUSINESS
 - ❖ (B) A CAPTIVE INSURANCE COMPANY IS A “DISQUALIFIED CAPTIVE INSURANCE COMPANY” IF THE COMPANY:
 - ❖ (1) PAYS LESS THAN 0.5% OF ITS TOTAL PREMIUMS FOR THE TAXABLE YEAR IN TAX UNDER CHAPTER 2971 OR A COMPARABLE TAX OF ANOTHER STATE; OR
 - ❖ (2) RECEIVES LESS THAN 50% OF ITS GROSS RECEIPTS FOR THE TAXABLE YEAR FROM PREMIUMS.
 - ❖ (C) FOR THE PURPOSES OF THIS SUBDIVISION, “PREMIUMS” MEANS AMOUNTS PAID FOR ARRANGEMENTS THAT CONSTITUTE INSURANCE FOR FEDERAL INCOME TAX PURPOSES, BUT EXCLUDES RETURN PREMIUMS, PREMIUMS FOR REINSURANCE ASSUMED FROM OTHER INSURANCE COMPANIES, AND ANY OTHER PREMIUMS THAT ARE OR WOULD BE EXEMPT FROM TAXATION UNDER SECTION 2971.05 AS A RESULT OF THEIR TYPE OF CHARACTER, IF THE INSURANCE WAS FOR BUSINESS IN MINNESOTA

OREGON- CAT TAX

- ❑ THE CAT IS IMPOSED ON BUSINESSES FOR THE PRIVILEGE OF DOING BUSINESS IN THIS STATE. IT IS MEASURED ON A BUSINESS'S COMMERCIAL ACTIVITY, WHICH IS THE TOTAL AMOUNT A BUSINESS REALIZES FROM TRANSACTIONS AND ACTIVITY IN OREGON. CERTAIN ITEMS ARE EXCLUDED FROM THE DEFINITION OF COMMERCIAL ACTIVITY AND THEREFORE, WILL NOT BE SUBJECT TO THE CAT. IN ADDITION, OREGON'S CAT ALLOWS A 35% SUBTRACTION FOR CERTAIN BUSINESS EXPENSES.
- ❑ THE CAT IS APPLIED TO TAXABLE OREGON COMMERCIAL ACTIVITY IN EXCESS OF \$1 MILLION. THE TAX IS COMPUTED AS \$250 PLUS 0.57% OF TAXABLE OREGON COMMERCIAL ACTIVITY OF MORE THAN \$1 MILLION. ONLY TAXPAYERS WITH MORE THAN \$1 MILLION OF TAXABLE OREGON COMMERCIAL ACTIVITY WILL HAVE A PAYMENT OBLIGATION.

OREGON- CAT TAX

- 317A.100 DEFINITIONS. AS USED IN ORS 317A.100 TO 317A.158
 - ❖ (1)(a) “COMMERCIAL ACTIVITY” MEANS:
 - ❖ (A) THE TOTAL AMOUNT REALIZED BY A PERSON, ARISING FROM TRANSACTIONS AND ACTIVITY IN THE REGULAR COURSE OF PERSON’S TRADE OR BUSINESS, WITHOUT DEDUCTION FOR EXPENSES INCURRED BY THE TRADE OR BUSINESS;
 - ❖ (B) IF RECEIVED BY A FINANCIAL INSTITUTION:
 - ❖ (C)(I) IF RECEIVED BY AN INSURER, AS REPORTED ON THE STATEMENT OF PREMIUMS ACCOMPANYING THE ANNUAL STATEMENT REQUIRED UNDER ORS 731.574 TO BE FILED WITH THE DIRECTOR OF THE DEPARTMENT OF CONSUMER AND BUSINESS SERVICES, ALL GROSS DIRECT LIFE INSURANCE PREMIUMS, GROSS DIRECT ACCIDENT AND HEALTH INSURANCE PREMIUMS AND GROSS DIRECT PROPERTY AND CASUALTY INSURANCE PREMIUMS; AND
 - ❖ (C)(II) THE GROSS AMOUNT OF SURPLUS LINES PREMIUMS RECEIVED ON THE OREGON HOME STATE RISKS AS SHOWN IN THE REPORT REQUIRED BY ORS 735.465.
 - ❖ (1)(b) “COMMERCIAL ACTIVITY” DOES NOT INCLUDE:
 - ❖ (C) IF RECEIVED BY AN INSURER, FEDERALLY REINSURED PREMIUMS OR INCOME FROM TRANSACTIONS BETWEEN A RECIPROCAL INSURER AND ITS ATTORNEY IN FACT OPERATING UNDER ORS 731.142;
 - ❖ (H) COMPENSATION, WHETHER CURRENT OR DEFERRED, AND WHETHER IN CASH OR IN KIND, RECEIVED OR TO BE RECEIVED BY AN EMPLOYEE, A FORMER EMPLOYEE OR THE EMPLOYEE’S LEGAL SUCCESSOR FOR SERVICES RENDERED TO OR FOR AN EMPLOYER, INCLUDING REIMBURSEMENTS RECEIVED BY OR FOR AN INDIVIDUAL FOR MEDICAL OT EDUCATION EXPENSES, HEALTH INSURANCE PREMIUMS OR EMPLOYEE EXPENSES OR ON ACCOUNT OF A DEPENDENT CARE SPENDING ACCOUNT, LEGAL SERVICES PLAN, ANY CAFETERIA PLAN DESCRIBED IN SECTION 125 OF THE INTERNAL REVENUE CODE OR ANY SIMILAR EMPLOYEE REIMBURSEMENT
 - ❖ (J) PROCEEDS RECEIVED ON THE ACCOUNT OF PAYMENTS FROM INSURANCE POLICIES OWNED BY THE TAXPAYER, EXCEPT THOSE PROCEEDS RECEIVED FOR THE LOSS OF BUSINESS REVENUE;

OREGON- CAT TAX

Who is subject to the CAT?

Any business, or unitary group of businesses, doing business in Oregon may have responsibilities under the CAT. This includes all business entity types, such as C and S corporations, partnerships, sole proprietorships, and other entities.

The CAT sets four thresholds to determine whether a business or unitary group has CAT responsibilities. These thresholds are based on the amount of commercial activity the business or unitary group earns in Oregon over the course of the year.

Threshold	Amount	Explanation
Excluded–No Requirement	\$750,000 or less	Business or unitary group with \$750,000 or less of Oregon commercial activity is excluded from all CAT requirements.
Registration Threshold	\$750,000+	Business or unitary group with Oregon commercial activity in excess of \$750,000 must register for the CAT.
Filing Threshold	\$1 million+	Business or unitary group with Oregon commercial activity in excess of \$1 million must file a return.
Tax Payment Threshold	More than \$1 million	Business or unitary group with taxable Oregon commercial activity in excess of \$1 million must file a return and pay tax.

If you are unsure whether your business is part of a unitary group, please see our Unitary Group FAQ.

COLORADO

- ❑ DISQUALIFIED CAPTIVES DEFINED AS:
 - ❖ LICENSED AS A CAPTIVE INSURANCE COMPANY
 - ❖ HAD GROSS RECEIPTS CONSISTING OF 50% OR LESS IN PREMIUMS AS DEFINED BY THE FEDERAL CODE

- ❑ EXCLUDED FROM EXEMPTION FROM INCOME TAXES

- ❑ DISQUALIFIED CAPTIVE WOULD BE EXEMPT FROM PREMIUM TAX

OTHER STATE TAX ISSUES:

- ❑ RELATED PARTY ADD BACK STATUTES:
 - ❖ ALWAYS CHECK TO SEE IF THERE IS A POTENTIAL ADD BACK OF RELATED PARTY EXPENSES SUCH AS INSURANCE PREMIUM. FOR EXAMPLE, ILLINOIS ADDS BACK PREMIUMS TO RELATED PARTY INSURANCE COMPANIES 35 ILCS Sec 5/203(b)(2)(E-14)
- ❑ WHETHER CAPTIVE IS INCLUDED IN UNITARY FILINGS AND WHETHER INTERCOMPANY CHARGES ARE ELIMINATED. OFTEN DEPENDS ON STATE'S INTERPRETATION OF "IN LIEU" STATUTE
 - ❖ RECENT DEVELOPMENT IN ILLINOIS, NEW YORK, MINNESOTA AND OREGON
 - ❖ EFFECT OF COMBINATION IS TO TAX THE CAPTIVE'S INVESTMENT AND TO OFTEN DISALLOW THE DEDUCTIONS FOR PREMIUMS PAID TO THE CAPTIVES
 - ❖ NY AND MN ARE USING THE FEDERAL DEFINITIONS OF "INSURANCE" WHEREAS MOST STATES FOLLOW THE STATE LAW DEFINITION (EX. LEADVILLE)

THE CRYSTAL BALL PREDICTIONS OF BIDEN ADMINISTRATIVE TAX REFORM

Questions

