

COMMISSIONER OF SECURITIES & INSURANCE

MONICA J. LINDEEN
COMMISSIONER



OFFICE OF THE MONTANA
STATE AUDITOR

January 13, 2012

NOTICE

To: All Captive Managers

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

SUBJECT: 2011 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. 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.

Non-risk retention groups ("non-RRGs") may use the "Montana Short Form" for the annual filing. The prescribed and approved 2011 "Montana Captive Insurance Company Annual Report" ("Montana Short Form") can be found on the CSI website at <http://sao.mt.gov/captives/cap2010.pdf>.

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

All Montana-domiciled **risk retention groups ("RRGs")** are required to file GAAP based annual and quarterly statements with the CSI and with the NAIC using the NAIC Property & Casualty Annual and Quarterly Statement Blanks and Instructions (again, SAP reporting may be permitted in the yellow blank when required by the Commissioner, or when requested by the RRG and approved by the Commissioner).

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.) Certain GAAP assets and liabilities shall be reflected separately on the respective lines of the yellow blank as follows:

GAAP Classification	Yellow Blank
Deferred Acquisition Costs	Page 2 – Line 23 – Aggregate write-in for other than invested assets as a separate item.
Prepaid Reinsurance (i.e. ceded unearned premium)	Page 2 – Line 23 – 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 14.1 – Amounts recoverable from reinsurers.
Reinsurance recoverable on <u>unpaid</u> losses and loss adjustment expenses	Page 2 – Line 14.3 – Other amounts recoverable under reinsurance contracts.
CSI approved Letters of Credit (LOC) reported as an asset	Page 2 – Line 23 – Aggregate write-in for other than invested assets as a separate line item.
CSI approved Surplus Notes	Page 3 – Line 31 – Surplus Notes

b.) A GAAP to SAP reconciliation must be included in the Notes to Financial Statements and shall include a “grossing up” of reinsurance. The CSI prefers reporting loss reserves and unearned premium net of ceded amounts, but GAAP prefers grossing up liabilities and reporting offsetting assets. **See example note shown below.**

Please Note: The example shown below should be followed as a guide with respect to format. The entries shown are examples.

Example Note:

CSI GAAP to SAP reconciliation 2011:

The reconciliation of total assets, total liabilities, shareholders’ equity and net income as reflected in these GAAP financial statements to statutory accounting practices prescribed by the National Association of Insurance Commissioners (“NAIC SAP”) is as follows as of and for the year ending December 31, 2011:

	Total Assets	Total Liabilities	Shareholders’ Equity	Net Income (Loss)
Balance per these (2011) financial statements (GAAP)	\$6,500,000	\$3,700,000	\$2,800,000	\$50,000
Adjustments to NAIC SAP:				
Fixed maturity securities				
– unrealized gain	(60,000)	0	(60,000)	0
Deferred policy acquisition costs	(600,000)	0	(600,000)	(300,000)
Reinsurance recoverable on unpaid losses	(1,300,000)	(1,300,000)		
Deferred tax asset	200,000	0	200,000	(60,000)
Letters of credit	(1,000,000)	0	(1,000,000)	0
NAIC SAP balance	\$3,740,000	\$2,400,000	\$1,340,000	(\$310,000)

c.) Please be advised that the reporting requirements may result in the following NAIC cross-check errors:

1. Page 3 – Line 1 – Column 1 -- no longer agrees to Part 2A – Line 35 – Column 8 (pertains to ceded loss reserves).
2. Page 3 – Line 1 – Column 1 -- no longer agrees to Schedule P – Part 1 – Summary – Line 12 – Column 35 (pertains to ceded loss reserves).
3. Page 3 – Line 9 – column 1 -- no longer agrees to Part 1A – Line 38 – Column 5 (pertains to UPR).
4. Page 3 – Line 9 – parenthetical amount -- no longer agrees to Schedule F – Part 3 – Column 13 (pertains to ceded UPR).
5. Additional cross-check errors not noted above also may result.

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:

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. The audited financial report for RRGs is due June 1 for the year ending December 31 immediately preceding.

The annual 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 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 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 annual audit shall be conducted in accordance with generally accepted auditing standards.

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 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 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.

For RRGs, 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 on or before March 15. The opinion and summary must comply with the NAIC Annual Statement Instructions. [Mont. Code Ann. § 33-28-107(4)(a)]

For non-RRGs, 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 Non-RRG Protected Cell Captive Insurance Company (PCC or core) and each protected cell (cell) affiliated with the PCC shall file separate unaudited financial statements on the Montana Short Form on or before April 1st of each year. In other words, the core and each cell are required to file separate unaudited financial statements reflecting each entity's own business. For example, if there is a PCC and two cells, then the PCC 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 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 and each cell. The detailed assets (e.g., Bonds, Prepaid Reinsurance Premiums, etc.), liabilities (e.g., Losses, Unearned Premiums, etc.) and capital and surplus (e.g., Common Stock, etc.) balances of the PCC and each cell shall be disclosed in a Note to the financial statements. The combined totals of each of these balances should equal the totals of the respective balances in the consolidated or combined audited financial statements and the individual balances and totals for the PCC and each cell should agree to the totals in the separate unaudited financial statements filed for the PCC and each cell.

Each PCC shall file a combined actuarial opinion certifying the adequacy of the loss reserves and LAE reserves on or before June 30 of each year. The actuary shall opine on the loss reserves and LAE reserves in each cell, and the PCC (if applicable). In addition, the opinion shall include a Note showing the loss reserves and LAE reserves for each cell, and PCC (if applicable).

The loss and LAE reserve balances in the Note should equal the loss and LAE reserve balances reported in the combined audited financial statements. In addition, these amounts should agree to the amounts in the separate unaudited financial statements filed for the PCC and each cell.

NOTE: For purposes of the above information, "combined" refers to combined statements/opinion of the PCC and cells. "Combined" does not refer to "consolidation" with the statements/opinion of the parent of the PCC as contemplated by "consolidated" GAAP reporting.

5. Filing Instructions:

One hard copy of the annual statement and one copy of quarterly statements (RRGs only) 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.

For RRGs required to file with the NAIC, effective January 1, 2008, hard copy annual and quarterly statements and supplemental filings are no longer required to be filed with the NAIC. Requirements for electronic filings to the NAIC have not changed.

6. 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 same as for all captive insurers. See next section for additional instructions for fiscal year filers.**

7. 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 effective July 1, 2009, a law change implemented a quarterly proration of the minimum premium tax. This only impacts 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.

Protected cell captive insurers (core companies) should submit a single premium tax return that includes the combined premium/assumed reinsurance numbers for the core and each cell.

8. Premium Reporting:

The CSI is providing the clarification below regarding the reporting of gross direct written premium. Note that this is a clarification and not a change. There are no exceptions.

When gross direct written premium is reported in either the Montana Short Form (for non-RRGs) or the yellow blank (for RRGs and others choosing to file on the yellow blank), the captive insurer should include, within the gross direct written premium amount, the charge to a policyholder for premium tax.

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.

10. 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* (attached).

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

d.) Pursuant to Mont. Code Ann. § 33-28-207(4), an RRG that is part of a holding company system shall file with the Commissioner on or before April 30 each year, a form documenting information as required in Mont. Code Ann. § 33-2-1111.

e.) **IMPORTANT NOTE**- Due to the change in Mont. Admin. R. 6.6.6805 pertaining to permitted reinsurance, RRGs are required to submit a written report to the Commissioner describing how the captive RRG is in compliance with the amended rule. This is a one time submission due on or before March 1, 2012.

11. Montana Filing Checklist for Captive Insurers:

For easy reference with regard to required filings and deadlines, please utilize the attached document titled: "**Montana Filing Checklist for Captive Insurers**".

12. CSI Contacts for Questions Regarding Filings:

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SMack@mt.gov

Paula Oswald
(406) 444-3566
POswald@mt.gov

Tal Redpath
(406) 444-0765
TRedpath@mt.gov

Montana Filing Checklist for Captive Insurers

	Due Date	RRGs	Non-RRGs	Cell Captive (Core)	Individual Cells
UNAUDITED FINANCIAL STATEMENTS					
Annual Financial Statement: RRGs	3/1	√			
Annual Financial Statement: Non-RRGs	4/1		√	√	√
	5/15				
	8/15				
Quarterly Financial Statement: RRGs	11/15	√			
AUDITED FINANCIAL STATEMENTS					
Audited Financial Statements: RRGs	6/1	√			
Report of Evaluation of Internal Controls: RRGs	6/1	√			
Accountants Letter: RRGs	6/1	√			
Audited Financial Statements: Non-RRGs	6/30		√	√*	*
Report of Evaluation of Internal Controls: Non-RRGs	6/30		√	√*	*
Accountants Letter: Non-RRGs	6/30		√	√*	*
ACTUARIAL OPINION					
Statement of Actuarial Opinion: RRGs	3/1	√			
Actuarial Opinion Summary: RRGs	3/15	√			
Statement of Actuarial Opinion: Non-RRGs	6/30		√	√**	**
OTHER REQUIRED FILINGS					
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	√			
Holding Company Filing	4/30	√			

√ Denotes required filing.

* Each Protected Cell Captive (Core) must file "combined" audited financial statements, meaning combined statements/opinion of the core and cells. Refer to "Reporting Instructions" memo.

** Each Protected Cell Captive (Core) must file a "combined" actuarial opinion, meaning the actuary shall opine on the Loss/LAE reserves in each cell, and the core (if applicable). Refer to "Reporting Instructions" memo.

*** Each Protected Cell Captive (Core) must file a "combined" Premium Tax Return, meaning the written and assumed reinsurance numbers reported on the tax return are combined or "rolled up" from the results of the core and each cell.

Note: For captives using a non-calendar year (fiscal year), the due dates in the above checklist do not apply. Instead, the unaudited financial statements are due 90 days after fiscal year end. The audited financial statements, report of evaluation of internal controls, accountants letter, and statement of actuarial opinion are all due 180 days after fiscal year end. The premium tax return & certificate of authority renewal fee are due March 1.



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2011 PREMIUM TAX STATEMENT-CAPTIVE INSURANCE COMPANIES

Due on or before March 1st

For Captives Filing the Annual Report on the NAIC Yellow Blank

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

INSTRUCTIONS: A reinsurance premium tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis. For example, assume captive insurer "X" has gross direct premiums collected of \$5,000,000 and cedes \$1,500,000 of that business to captive insurer "Y". Captive insurer "X" is subject to premium tax on the entire \$5,000,000 of gross direct premiums collected, but captive insurer "Y" is not subject to a reinsurance tax on the \$1,500,000 of assumed reinsurance because the premiums were already taxed on a direct basis. If captive insurer "Y" assumed other reinsurance premiums not subject to tax on a direct basis, then a reinsurance tax would apply to those premiums.

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, Cols 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 2011, the minimum tax is prorated using date licensed. (1 st qtr \$5,000; 2 nd qtr \$3,750; 3 rd qtr \$2,500; 4 th qtr \$1,250) | \$ _____ | [14] |
| 15. Captives licensed prior to 2011, 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: <u>Commissioner of Insurance</u> (sum of lines 17 and 18) | \$ _____ | [19] |

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



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2011 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 Fax Number	Contact Person Telephone Number		

INSTRUCTIONS: A reinsurance premium tax does not apply to premiums for risks or portions of risks that are subject to taxation on a direct basis. For example, assume captive insurer "X" has gross direct premiums collected of \$5,000,000 and cedes \$1,500,000 of that business to captive insurer "Y". Captive insurer "X" is subject to premium tax on the entire \$5,000,000 of gross direct premiums collected, but captive insurer "Y" is not subject to a reinsurance tax on the \$1,500,000 of assumed reinsurance because the premiums were already taxed on a direct basis. If captive insurer "Y" assumed other reinsurance premiums not subject to tax on a direct basis, then a reinsurance tax would apply to those premiums.

SCHEDULE A – TAX ON DIRECT PREMIUMS WRITTEN

- | | | |
|---|----------|------|
| 1. Gross Direct Premiums (Annual Report, Page 8, 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 8, 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 2011, the minimum tax is prorated using date licensed. (1 st qtr \$5,000; 2 nd qtr \$3,750; 3 rd qtr \$2,500; 4 th qtr \$1,250) | \$ _____ | [14] |
| 15. Captives licensed prior to 2011, 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: <u>Commissioner of Insurance</u> (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> _____ Signature of Officer	Name of Officer (Type or Print)	
	Title of Officer	
_____ Date		