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BNA | CITE (Council for International Tax Education) presents its  
**13th Annual**

# Captive Insurance Tax Summit

**February 13 & 14, 2012 ★ Las Vegas  
Treasure Island**

**Chairpersons:**

**Tom Jones**  
McDermott Will & Emery LLP  
Chicago, IL

**Charles "Chaz" J. Lavelle**  
Greenebaum Doll &  
McDonald PLLC  
Louisville, KY

**Roy Sedore**  
Baker & McKenzie LLP  
New York, NY

**P. Bruce Wright**  
Dewey & LeBoeuf, LLP  
New York, NY

**Faculty:**  
**Richard Buggy**  
Saslow, Lufkin & Buggy LLP  
Avon, CT

**H. Michael Byrne**  
Dewey & LeBoeuf LLP  
New York, NY

**George Craven**  
Mayer Brown LLP  
Chicago, IL

**Arthur G. Koritzinsky**  
Marsh USA Inc.  
Norwalk, CT

**Angela Walitt**  
Baker & McKenzie LLP  
Washington, DC

A two day conference with group live instruction featuring a comprehensive update on the legal, tax and financial aspects of the captive insurance industry today

**Some of the benefits you'll receive by attending:**

- ★ Find out whether your company should organize a domestic or offshore captive
- ★ Update your knowledge of how captives operate and provide tax breaks to owners
- ★ Learn how companies manage third party risks – use of cells and rent-a-captives
- ★ Discover the state tax issues in operating a captive
- ★ Let our experienced faculty provide practical examples for many of problem areas
- ★ Learn the latest IRS audit strategies and recent IRS pronouncements and cases

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# Captive Insurance Tax Summit

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## Monday, February 13, 2012

7:30 am Registration & Continental Breakfast

8:15 am Chairpersons' Welcome & Opening Remarks

8:30 am Potential Tax Benefits of an Insurance Affiliate

- Acceleration of risk funding deductions
- Premium deductibility & insurance treatment
- Unrelated business theory - types of business required
- Brother / sister risk - structures and risks
- Evaluation of IRS vs. case law definitions
- Mix of shareholders / insureds
- Group captives and risk distribution

*Roy Sedore, Baker & McKenzie LLP, New York, NY*  
*Angela Walitt, Baker & McKenzie LLP, Washington, DC*

9:30 am Break for Refreshments

9:45 am Review of Business Reasons for Utilizing an Insurance Affiliate

- Internal risk financing
- Profit center opportunity
- Claims, defense and administrative cost reduction
- Access to reinsurance employee benefits and terrorism coverage
- Global based risk distribution

*Arthur G. Koritzinsky, Marsh USA Inc., Norwalk, CT*

10:30 am Break for Refreshments

10:45 am Onshore Captive Tax and Regulatory Considerations

- Onshore tax benefits – onshore management
- Loss and unearned premium reserves
- Stock, mutual or reciprocal format for optimal tax results
- Regulatory concerns and basics of liability risk retention groups

*Thomas M. Jones, McDermott Will & Emery LLP, Chicago, IL*

11:15 am Section 831(b) Election and Consequences

- Qualifications to be taxed under section 831(b)
- Election mechanics and consequences
- Computing investment income
- The other small insurance company – section 501(c)(15)
- Practical guidance for small insurance companies

*Charles "Chaz" J. Lavelle, Greenebaum Doll & McDonald PLLC, Louisville, KY*

11:30 am Offshore Captive Tax and Regulatory Considerations

- Subpart F treatment of insurance income
- Related party insurance income (RPPI)
- Passive foreign investment company (PFIC) rules
- When to make a IRC §953(d) onshore tax election
- Avoidance of a U.S. trade or business
- Update on anti-tax haven initiatives

*Roy Sedore, Baker & McKenzie LLP, New York, NY*  
*Angela Walitt, Baker & McKenzie LLP, Washington, DC*

12:15 pm Luncheon

1:30 pm Risk Distribution: Siblings or Strangers?

- Why a captive wants third party risks – how much is enough?
- Disadvantages of a captive assuming third party risk
- Third party risks in light of the demise of the "economic family" theory
- "Brother-sister" risks as risk distribution
- Homogeneity of risks - a developing requisite?

*Charles "Chaz" J. Lavelle, Greenebaum Doll & McDonald PLLC, Louisville, KY*

2:15 pm Employee Benefits as Third Party Risk

- ERISA benefits - why insure them in a captive
- Obtaining a prohibited transaction exemption
- The "ex pro" option - how to qualify?
- Non-ERISA opportunities and strategies

*P. Bruce Wright, Dewey & LeBoeuf, LLP, New York, NY*

3:00 pm Break for Refreshments

3:15 pm Continued Review of Business Reasons for Utilizing an Insurance Affiliate  
*Arthur G. Koritzinsky, Marsh USA Inc., Norwalk, CT*

3:45 pm Federal Excise Tax Developments

- FET basics
- IRS cascading theory
- Industry response
- Varieties of tax treaty protection

*P. Bruce Wright, Dewey & LeBoeuf, LLP, New York, NY*

4:30 pm Pools and Other Third Party Risks - What, Where and Why

- IRS Authorities on pooling
- Commercial risk exchanging pools
- Other sources of third-party risk
- Understanding the "risk" in third-party risk

*Arthur G. Koritzinsky, Marsh USA Inc., Norwalk, CT*  
*Charles "Chaz" J. Lavelle, Greenebaum Doll & McDonald PLLC, Louisville, KY*

5:00 pm Redomestication of Captive Arrangement

- Business Reasons for redomestication
- Alternative approaches to accomplish redomestication
- Tax and regulatory issues arising from various structures

*P. Bruce Wright, Dewey & LeBoeuf LLP, New York, NY*

5:30 pm Meeting Adjourns for the Day

## Tuesday, February 14, 2012

7:45 am Continental Breakfast

8:15 am Chairpersons' Review of Day One and Preview of Day Two

8:30 am Current IRS Audit Experience and Discussion of Recent Rulings and Cases

- Analysis of Revenue Ruling "safe havens"
- Demise of IRS "economic family" theory and captive court decisions
- In depth analysis of recent rulings attempting to limit the definition of insurance
- Emerging battlegrounds such as independent risk vs. independent entity risk distribution, insurance vs business risks and tax status of LPTs and retro programs
- IRS focus on "fortuity" and "risk distribution" in definition of "insurance"
- Likely IRS cell company guidance in near future

*Richard Buggy, Saslow, Lufkin & Buggy LLP, Avon, CT*  
*George Craven, Mayer Brown LLP, Chicago, IL*

*Tom Jones, McDermott Will & Emery LLP, Chicago, IL*  
*Charles "Chaz" J. Lavelle, Greenebaum Doll & McDonald PLLC, Louisville, KY*

*Roy Sedore, Baker & McKenzie LLP, Washington, DC*  
*Angela Walitt, Baker & McKenzie LLP, Washington, DC*  
*P. Bruce Wright, Dewey & LeBoeuf LLP, New York, NY*

10:00 am Break for Refreshments

10:15 am Overview of Cell and Rent-a-Captives

- Structures for cell and rent-a-captives
- Will courts respect cell walls segregation of risk?
- Testing for tax treatment - cells must share risk
- One taxpayer or many? - factors under IRS guidance
- Preferred stock vs contract rights
- Incorporated cell companies - the next generation

*Tom Jones, McDermott Will & Emery LLP, Chicago, IL*

**Chairpersons:** Thomas M. Jones, McDermott Will & Emery LLP  
Charles "Chaz" J. Lavelle, Greenebaum Doll & McDonald PLLC  
Roy Sedore, Baker & McKenzie LLP  
P. Bruce Wright, Dewey & LeBoeuf, LLP

**11:00 am Repatriation of Captive Profits**

- Dividends
- Loan backs
- Pledges
- Receivables/commercial paper purchases
- Guaranties
- Impact on desired tax results

*Tom Jones, McDermott Will & Emery LLP, Chicago, IL*

**11:30 am FIN 48 / Maintaining Confidentiality**

- New GAAP standard for booking tax positions
- Meaning and application of "more likely than not"
- Potential impact on IRS audits
- Disclosure, privilege and confidentiality issues including recent 1st Circuit reversal of Textron decision in "work product" cases

*Richard Buggy, Saslow, Lufkin & Buggy LLP, Avon, CT*  
*Tom Jones, McDermott Will & Emery LLP, Chicago, IL*

**12:15 pm Luncheon**

**1:15 pm State Taxation of Captives**

- When do insurance company state taxation rules apply?
- Premium or self-procurement taxes
- Nexus considerations – Todd Shipyards, Dow Chemical and similar cases

*H. Michael Byrne, Dewey & LeBoeuf LLP, New York, NY*

**2:15 pm Basics of Captive Tax Compliance**

- Required and optional federal tax filings for offshore captives
- Insurance company federal tax filings for domestic captives
- Dealing with an IRS captive audit at the field or appeals office levels

*Richard Buggy, Saslow, Lufkin & Buggy LLP, Avon, CT*

**3:00 pm Summary and Question & Answer Session**

**3:15 pm Conference Adjourns**

Time/topics subject to change.  
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for current agenda. © Copyright 2012 BNA ICITE

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**Why You Should Attend:**

Recent financial turmoil marks the likely end of a "soft" insurance market. Meanwhile, the captive insurance industry continues to grow exponentially, with scores of new captives formed onshore and offshore last year. Currently, many companies are exploring more intensive use of their existing captives, whether individually or as part of a group, to contain their escalating cost of risk and to take advantage of employee benefits self-insurance opportunities. In addition, closely held businesses are creating captives to achieve tax advantaged family wealth transfer goals. This conference will provide you and your company with key tax, legal and regulatory information on structuring, implementing and operating your captive program. Both single parent and group/association captive arrangements, whether onshore or offshore, will be analyzed. Recent IRS pronouncements will be dissected. In particular, IRS federal excise tax and cell captive guidance, the validity of Rev. Rul. 2005-40, limiting insurance tax treatment in single policyholder situations, and the "event risk" IRS requirement of Rev. Rul. 2007-47 will be scrutinized. Differing taxpayer and IRS interpretations of risk distribution, including the need for "fortuity" and "homogeneity" will be considered. Various sessions will address the major tax and non-tax advantages, including access to more efficient reinsurance markets, enhanced control over cash flows and investments, as well as promotion of a coordinated focus on proactive risk management and loss control. The parameters of developing a well structured captive insurance program to facilitate acceleration of premium tax deductibility from the time claim payments are made to the time premium expenses are incurred will be discussed. Further, benefits of partial sheltering of investment income using insurance loss reserve deductions will be considered. BNAICITE invites you to learn about these and other current developments in the dynamic captive insurance sphere.

**Who Should Attend:**

This conference with group live instruction is intended for: executive vice presidents, senior vice presidents, CFO's, financial controllers, controllers, comptrollers, treasurers, assistant treasurers and secretaries, directors, corporate tax professionals, consulting tax professionals, corporate strategic planners, tax lawyers, legal counsel, lenders, bankers, CPAs, offshore and domestic service providers. No prerequisites/advance preparation is necessary for this basic to intermediate level conference with group live instruction. This program is transitional which is appropriate for newly admitted attorneys.

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