

Captives for the Healthcare Industry

What is a healthcare captive insurance company?

A healthcare captive insurance company can be owned by hospitals, nursing homes or physicians, in fact anyone that can be sued for medical malpractice. The captive is used to retain all or a portion of the risk that would traditionally be insured elsewhere, thus enabling the owner to keep those insurance premiums which would otherwise have been lost to the group. In other words, if there are no claims, the owner of the captive insurance company keeps all the money. Risks insured can include the medical practice's significant risks such as malpractice, or high liability non-malpractice risks like wrongful termination, sexual harassment, or loss of electronic medical records. A captive also has the flexibility to add coverage for other types of risks ranging from property insurance to employee benefits for staff.

Who should have a captive?

Generally speaking, any organisation that has a good risk management programme in place, and feels that its insurance company is charging it too much, should consider the captive alternative. The usual reason for setting up a



captive is the unavailability of insurance protection at a reasonable cost. This happens when the insurers increase their premiums, and is referred to as a hard market. A soft market occurs when insurers reduce their rates to attract more business. Historically, when there has been a hard market the number of new captives increases.

Location – Onshore vs Offshore?

When comparing potential domiciles for a new captive there are a number of important factors to be considered. These include the stability of the domiciles' regulations, the level of supervision, and the willingness of the regulator to accept new and different business. The experience of service providers (managers,



attorneys & auditors), the cost of doing business, the reputation of the jurisdiction, and the convenience of travel to meetings also need to be considered.

Probably one of the main determinants of whether to be onshore or offshore is the tax status of the new company. Expert tax advice is recommended for this. Generally speaking, onshore domiciles are less flexible in their regulatory approach, and in some cases less stable and predictable. In most US states, the insurance commissioner is a political appointee who often changes every few years, and the revenues generated from insurance are not large enough to be a political priority. These points alone may encourage a more detailed look at offshore domiciles, and the Cayman Islands still remains the most popular domicile for healthcare captives.

The Cayman Islands

The healthcare captive insurance industry in the Cayman Islands took off in 1976 after a new insurance company, set up by Harvard Medical Institutions, was incorporated. Other healthcare systems have been pouring in ever since making the Cayman Islands the premier centre for healthcare captives in the world.

There are now over 260 healthcare related captives in Cayman, representing one-third of the total number of captives domiciled in the jurisdiction.

Healthcare captives in Cayman generate annual premiums in excess of US\$3 billion, and have accumulated assets under management of approximately \$10.5 billion.

What next?

Before a decision can be made about whether or not to set up a captive insurance company, it is strongly recommended that a full feasibility study be commissioned. This single document provides actuarial conclusions of claims data, proposed insurance programme design, premium forecasts, capitalization requirements, financial projections, tax implications and choice of domicile.

Captiva Managers can refer you to any number of suitable consultants in your area who will be able to help with this important exercise.

Partners

It is a legal requirement in most jurisdictions that the captive company has an approved insurance manager to look after the day-to-day activities of the company, and liaise with the regulator. Captiva Managers fills this insurance management role, and once appointed will help the client find a local lawyer, auditor and actuary, and open a bank account. Most importantly, we will help with the submission of the original company application to the regulator. In Cayman, this is the Cayman Islands Monetary Authority.

Captiva

Captiva has been managing captives in the Cayman Islands since the 1970s, and its oldest remaining captive was incorporated over thirty years ago in 1981. For further details, please go to our website at:

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