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January 13, 2014

The Honorable Max Baucus
Chair, Senate Finance Committee
US Senate
511 Hart Senate Office Building
Washington, DC 20510
Tax_Reform@Finance.Senate.gov.

Subject: Staff Discussion Draft, International Tax, Proposed Discriminatory Reinsurance Tax

Dear Sen. Baucus:

On behalf of the members of the Captive Insurance Companies Association (CICA) we write to express our views in opposition to the affiliate reinsurance provisions contained in the International Tax Staff Discussion Draft.

CICA is "domicile neutral" and its members come from virtually every state in the United States, along with captive insurance domiciles throughout the world. However, a majority of our members are based in the United States and are important contributors to the US economy by making insurance risk management more efficient for businesses, public entities, and not for profits. CICA members are licensed by the states and regulated as a special class of insurance companies. It is important to point out that reinsurance utilization by captive insurers is subject to regulatory review in the domestic state of the captive insurer.

Since captive insurance companies are a form of self-insurance where a single company or organization (a single parent captive) and a group of companies, organizations or individuals (a group captive) utilize a wholly owned private insurance company to insure risk, captive insurers are efficient and effective managers of insurance risk. They know their markets better than commercial insurers and they minimize their capital costs by using reinsurance. Reinsurance is generally a cheaper form of capital than investor provided capital. Captives use both affiliate and non-affiliate reinsurance. The United States' is the world's largest insurance market and has unique exposures in both liability insurance and property catastrophe insurance. As a result US insurance buyers look to both US markets and global markets to ensure the best competitive pricing and to obtain the necessary coverage limits to meet their risk management needs.

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The proposed reinsurance tax would be destructive to US market access to the most robust source of reinsurance. The impact of the tax is to treat affiliate reinsurance punitively and thus force US insurers to either access a greater amount of non-affiliate reinsurance, to rely on their own capital base (which likely means shrinking the business foot print—non-renewing customers), or to raise new capital. These options will undoubtedly result in higher costs for the US insurer and its ownership group and certainly will lead to less competitive markets. Less competition in the long run means higher prices, which in turn defeats the goal of efficiently meeting the insurance risk management needs of the business entities, public entities, and not for profit organizations (most notably hospitals and health care organizations) that sponsor captive insurers.

As an insurance market veteran I've witnessed the medical liability market crisis of the 1970's, the liability insurance crises of the 1980's, the commercial market property crises of 2001, and the property catastrophe hard markets of the early 1990's and again following Hurricanes Katrina, Rita and Wilma in 2005.

Implementation of the reinsurance tax would be tantamount to a self-inflicted wound that could turn a competitive insurance market into a hard insurance market with higher prices and reduced coverage. That is bad for insurance consumers and is bad public policy.

Sincerely,

Dennis P. Harwick
PRESIDENT

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