

Preserve Equitable Tax Treatment for All Segments of the U.S. Property & Casualty Insurance Industry

No new tax legislation is needed. A contingent of U.S.-based property and casualty (P&C) insurers claims that the U.S. is in danger of losing its P&C insurance industry because of unfair competition from foreign insurers. *This claim is flatly contradicted by the facts: In recent years U.S.-based P&C insurers have earned record profits and their capital base has grown dramatically.*

Essentially, the U.S.-based coalition of P&C insurers seeks “protection” from competition. It is simply misleading to assert, as this coalition does, that U.S. tax law permits foreign-based groups to engage in arms length affiliate reinsurance transactions that “strip” underwriting income and investment income, and thereby avoid U.S. tax that would have to be paid by a U.S.-based group writing the same business at the same price. *When the U.S. subsidiary of a foreign-based group cedes premium and risk to a foreign affiliate, it receives a ceding commission that includes compensation for **all** components of income from the ceded insurance, and that ceding commission is subject to U.S. corporate tax at the 35% statutory rate, in addition to the 1% excise tax on gross premiums that is imposed without regard to whether transactions result in profit or loss.*

There is no evidence that current law has a revenue cost. The U.S.-based coalition’s assertion that Treasury is losing billions of dollars in tax revenue is unsubstantiated and questionable. *Indeed, publicly available data show that affiliate reinsurance frequently results in the realization of large losses offshore (so no one gets the benefit of a U.S. tax deduction for those losses).*

Why is it fair to discriminate against foreign-based groups? *Even as the U.S.-based coalition rails against the use of foreign insurance capital obtained through transactions with affiliates, it advocates a proposal that would preserve the ability to utilize foreign sources of insurance capital to fund the domestic insurance needs of U.S.-based companies. U.S.-based groups also enter into reinsurance arrangements with foreign affiliates, despite the application of the anti-deferral rules of Subpart F – a practice that underscores the underlying business reasons for affiliate reinsurance.*

Bermuda P&C Insurers and Reinsurers Contribute to the U.S. Economy. *(The U.S. coalition may cite insurers based offshore in “low- or no-tax countries,” but the examples used in written statements and oral testimony invariably reference Bermuda.)* **Bermuda companies--**

- Employ nearly 10,000 people in the United States who generate work for nearly 100,000 U.S. service providers.
- Paid \$25 billion in U.S. property catastrophe claims in the last six years—the largest share of any non-U.S. market.
- Provide 56% of the insurance and reinsurance for U.S. crops; covering all types of U.S. agricultural commodities for farmers across the country.
- Are the largest providers of U.S. property catastrophe reinsurance protection: 18 of the top 30 reinsurers protecting Florida risk are Bermuda companies; Bermuda carriers provide 50% of the reinsurance to Florida based insurers, 61% of the reinsurance purchased by the Texas Windstorm Insurance Association, and 27% of the reinsurance purchased by the California Earthquake Authority.

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