



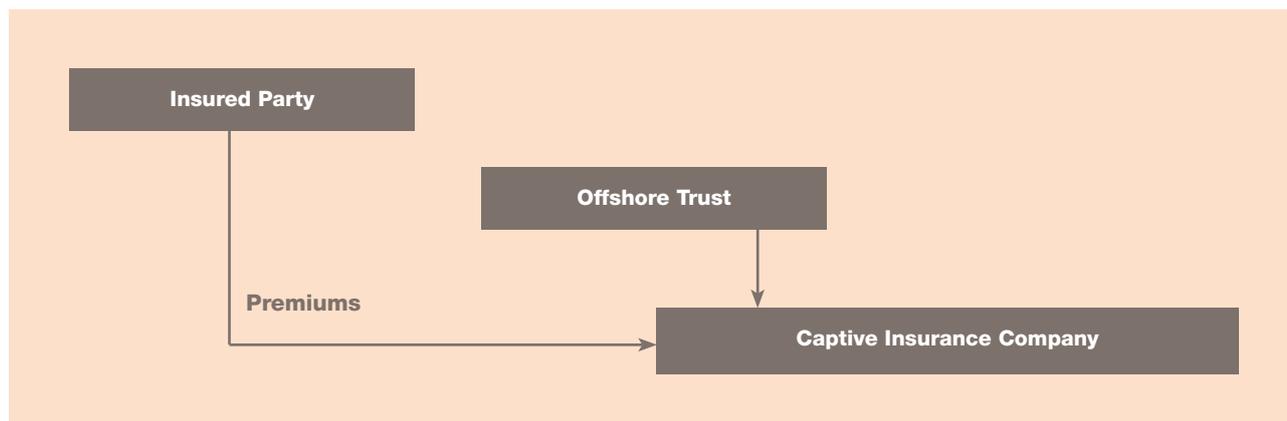
Wealth Planning using Captive Insurance

Captive insurance as part of an estate plan

Where family wealth is derived from an active business, captive insurance can provide significant opportunities to retain and transfer that wealth to other members of the business owner's family. Funds that would otherwise have been paid to a third party to purchase insurance cover are retained within the family, either by the business owner, an associated company, or a trust set up for the benefit of the owner's family. In some cases, it may also be appropriate for the captive to be held through a pension plan.

What is captive insurance?

Captive insurance is basically self-insurance using a company owned directly or indirectly (eg through a trust) by the insured person or business. Most captives are formed in jurisdictions that specialise in this type of business, including Guernsey, the Isle of Man and Bermuda. Where the captive company is held by a trust, a typical structure is set out below:



Captive insurance as part of an estate plan

Lower insurance costs

The use of a captive insurance company can result in a potential reduction in insurance costs. The costs of commercial market insurance takes into account the claims, overheads, and profit retained by the insurance company. In the case of a captive, the profit will remain with the business of the owner, in effect allowing the owner to share in the underwriting profit on its own insurance. A captive may also reduce insurance premiums by charging a premium that more accurately reflects the claims history of the parent/owner.

Form of investment

As with any other kind of investment, profits of the captive's business can be paid out to its owners.

Access to the reinsurance market

Reinsurers are the international wholesalers of the insurance world. The captive's ability to deal directly with reinsurers can produce additional cost savings. The reinsurance market can also have additional capacity and a willingness to insure more difficult risks.

Unavailability of coverage

A captive may be able to provide insurance coverage where none is available in the commercial market, or only at a prohibitive cost.

Captive insurance can also be used to fill gaps where commercial insurance providers will not provide cover, or where the cost is uneconomic: it rarely replaces commercial insurance. Common areas of risk that can be included in a captive are the deductibles

and exclusions of the business' commercial insurance cover. Other risks that are often uninsured by commercial policies but could be covered by captive insurance include business interruption, loss of key customers, credit default, extended warranty claims, directors and officers, errors and omissions, litigation defence, construction defects, pollution and natural disasters.

A captive may also be worth considering for more specialist coverage that is not necessarily connected to a business, for example, to insure an art collection.

Cash flow

The use of a captive can give a business cash flow advantages, as well as increasing the control of the business over claims and the insurance process in general.

Taxation

There may be tax advantages. A captive may prove to be a more tax-effective approach than simply self-insuring on a formalised basis. The extent of this advantage will depend partly on the tax residence of both the captive and its owners. Generally speaking, arm's length insurance premiums of captives, as with any other insurance company, are an allowable expense for tax in the country from which they are paid.

Conclusion

A captive insurance company can provide some businesses with an effective means of funding self-insured risks, lowering the cost of certain types of insurance, and maintaining greater control of the risk management process. There may also be opportunities for individual business owners to transfer substantial wealth to younger generations or key management personnel in a tax-efficient manner.

Contact

For further information contact:



Katharina Byrne

Senior Associate

+44 (0)117 307 6889

katharina.byrne@burges-salmon.com

For further information about our commercial and insurance trust practices, please follow these links:

Commercial Trusts

Insurance

Burges Salmon LLP, One Glass Wharf, Bristol BS2 0ZX Tel: +44 (0) 117 939 2000 Fax: +44 (0) 117 902 4400
6 New Street Square, London EC4A 3BF Tel: +44 (0) 20 7685 1200 Fax: +44 (0) 20 7980 4966

www.burges-salmon.com

Burges Salmon LLP is a Limited Liability Partnership registered in England and Wales (LLP number OC307212) and is authorised and regulated by the Solicitors Regulation Authority. A list of members, all of whom are solicitors, may be inspected at our registered office: One Glass Wharf, Bristol BS2 0ZX.

© Burges Salmon LLP 2014. All rights reserved. Extracts may be reproduced with our prior consent, provided that the source is acknowledged. Disclaimer: This briefing gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.

Data Protection: Your details are processed and kept securely in accordance with the Data Protection Act 1998. We may use your personal information to send information to you about our products and services, newsletters and legal updates; to invite you to our training seminars and other events; and for analysis including generation of marketing reports. To help us keep our database up to date, please let us know if your contact details change or if you do not want to receive any further marketing material by contacting marketing@burges-salmon.com.