

# Answers to questions about the captives survey

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## Why is this study needed?

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Washington state does not currently have a regulatory framework for Washington-based companies who use captive insurance companies to purchase insurance coverage. Captive insurance activity is presently considered unauthorized insurance activity in Washington State. As a result of the lack of regulation, captive insurance companies are currently acting without regulatory oversight and are not paying premium taxes to the Office of the Insurance Commissioner (OIC). Although persons in the insurance business are generally exempt from the State Business & Occupation (B&O) tax under RCW 82.04.320, that exemption is limited to entities that have paid premium tax on that activity. If a business has failed to pay premium tax on such activity in Washington, it owes B&O tax. The extent to which captive insurance companies have been voluntarily reporting and remitting B&O taxes to the Department of Revenue (DOR) on their Washington business activities has not been determined.

The information collected in this study is needed to help understand the captive insurance market in Washington. Redacted and de-identified information collected through this study will be provided in a report to the Washington state Legislature to help inform, evaluate, and formulate a taxation framework for Washington companies using captive insurance companies. The study's goal is to assist the legislature in developing a framework that will appropriately and equitably regulate and tax companies using captive insurance companies in a manner that promotes and stabilizes the Washington insurance market.

## What is captive insurance?

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A "captive insurer" is generally defined as an insurance company that is controlled by its insureds. A captive insurer's primary purpose is insuring the risks of its owners or members. Forms of captive insurance include pure captives (owned by a single entity, including micro captives), group captives (owned by a group of entities), sponsored captives and agency captives.

If you are not sure if you are using a captive insurer please talk to the person who purchases your insurance for confirmation.

## **Who will have access to the detailed information I provide in the survey?**

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All detailed information provided in this survey will be treated as confidential tax information under RCW 82.32.330 by DOR and Milliman Inc., and will not be made available in un-redacted form to OIC or to the general public.

## **Will OIC use the information I provide in this survey to take enforcement action against my company?**

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OIC has suspended enforcement activity and litigation related to captive insurance pending the outcome of this survey and while working with the legislature to develop a regulatory framework. Additionally, OIC will not have access to the details provided in this survey, only redacted or de-identified information. This means that OIC will not know exactly which Washington companies are using captives to purchase insurance as a result of this survey.

## **What happens if I don't respond to this survey request?**

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You are receiving this survey because there are indications that you may be using a captive insurer. If you do not respond to the survey further investigation and enforcement will be pursued.

## **Who can I contact if I have additional questions about the survey or I'm having trouble with the survey document?**

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Please contact Craig Brophy of Milliman by email at [craig.brophy@milliman.com](mailto:craig.brophy@milliman.com) or by phone at 781-213-6280.