

Study on Use, Regulation and Taxation of Captives

Overview of Comments Submitted to MIA by Centers for Better Insurance, LLC

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Full comments submitted to MIA available at www.betterins.org.

Use, Regulation and Taxation of Captive Insurers

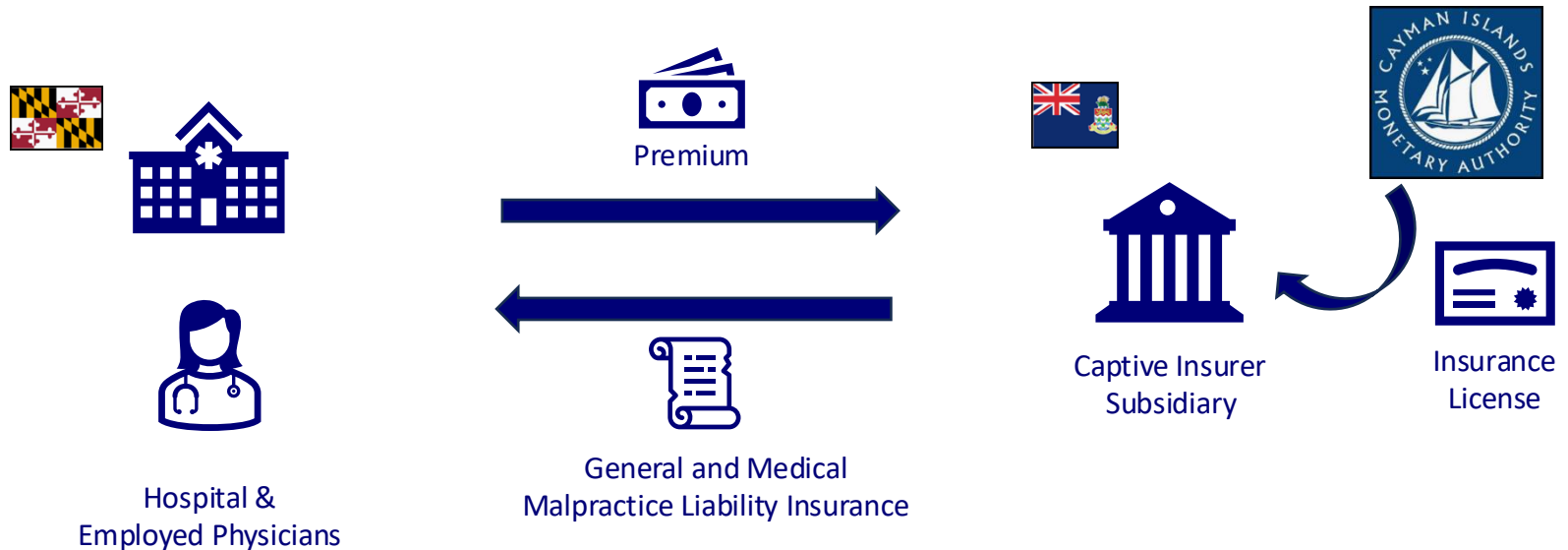
About Centers for Better Insurance

- CBI is a wholly independent organization that takes no outside funding.
- CBI's mission is to provide unbiased analysis to promote the value the insurance industry should deliver to all stakeholders (including policyholders, employees, and society at large).
- CBI actively tracks and investigates more than 10,000 captive insurers domiciled in over 80 jurisdictions.
- CBI's founder is a former chief compliance officer for one of the largest global insurance companies.
 - Works with state revenue agencies to identify nonpayment of taxes in captive transactions
 - Testified before U.S. Congress on abuse of Terrorism Risk Insurance Program by captive insurers
 - Researches the abusive use and lax regulation of captive insurers

Use, Regulation and Taxation of Captive Insurers

What is a Captive Insurer?

In general, a captive insurer is a specially licensed insurance company permitted to issue insurance only to its corporate parent and affiliates. A captive is basically an in-house insurance company.



Captive insurers may also be licensed as group captives, rent-a-captives, agency captives, association captives and other variations.

Use, Regulation and Taxation of Captive Insurers

Why Set Up a Captive Insurer?

There is only one reason to set up a captive insurer – **to get hold of an insurance license.**

An insurance license allows the corporate parent to use its captive insurer subsidiary to access:

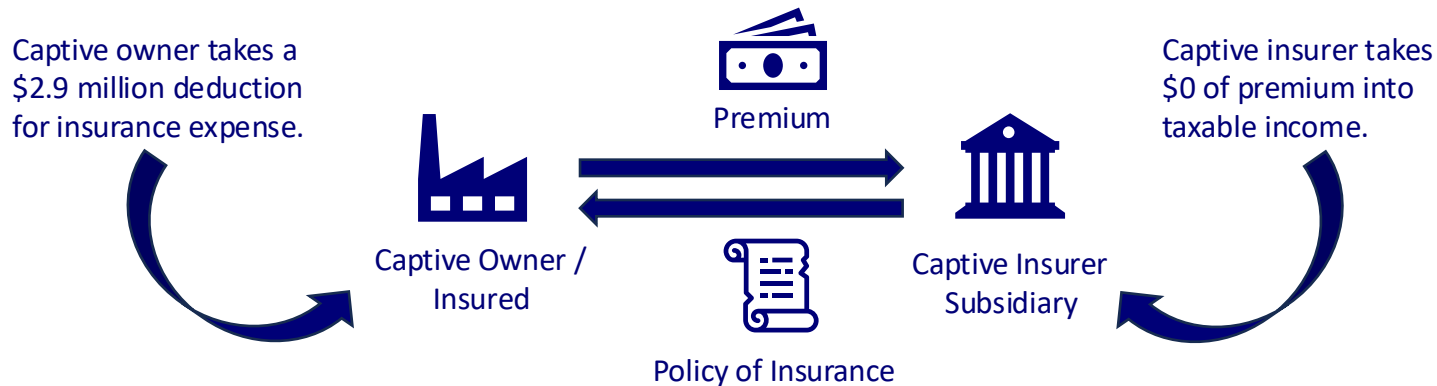
1. Special tax rules available only to insurance companies 
2. Special accounting rules only available to insurance companies 
3. Reinsurance only available to insurance companies 
4. Proof of insurance that only an insurance company can provide 

Every other function a captive insurer might perform for its parent could be performed without an insurance license.

Use, Regulation and Taxation of Captive Insurers

Tax Issue #1 – Abuse of IRC 831(b)

Internal Revenue Code 831(b), known as the micro-captive rule, allows insurance companies that write less than \$2.9 million per year in premium to elect to exclude underwriting profits from **federally** taxable income.



A businessowner can create a \$2.9 million federal income tax deduction (worth \$609,000 per year at the 21% corporate income tax rate) simply by moving money from one corporate pocket to another.

This scheme only works if the captive insurance company issues legitimate insurance.

The IRS has included abusive micro-captive in its Dirty Dozen List of Tax Scams in 2022, 2023, and 2024 and has over 1000 open investigations. In 2025, the IRS designated certain micro-captive insurance arrangements “transactions of interest” requiring special reporting.

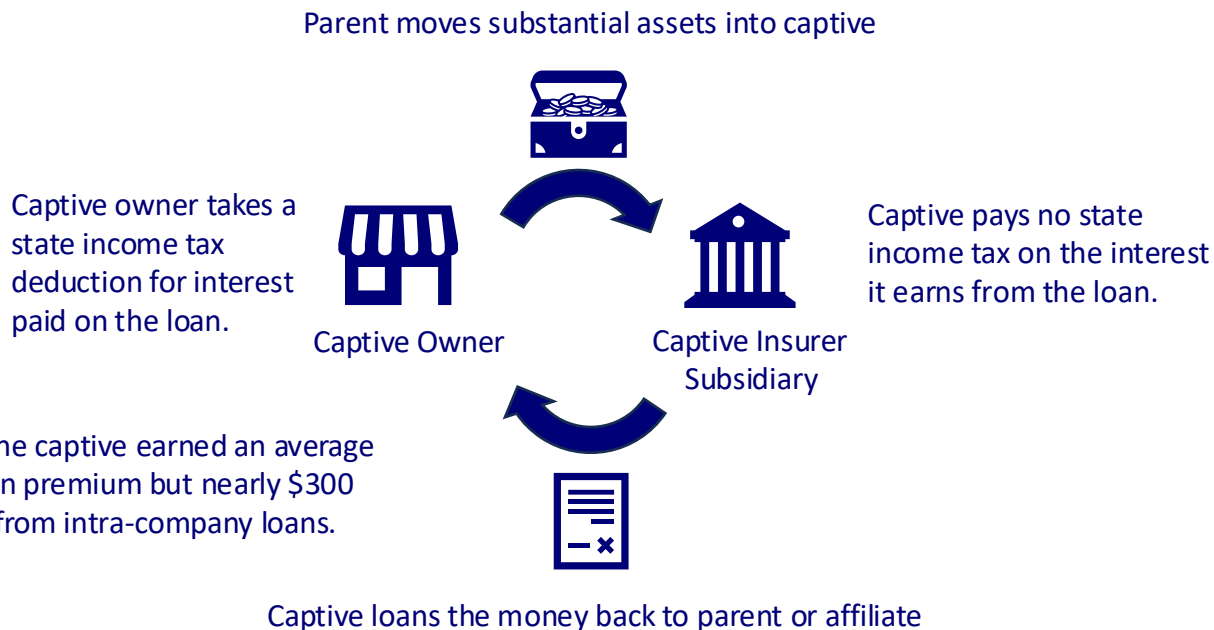
Use, Regulation and Taxation of Captive Insurers

Tax Issue #2 – Insurance Stuffing

Insurance companies (including captive insurers) are generally exempt from **state** corporate income tax. Instead, insurance companies or their insureds pay a premium tax based on written premium.

In an insurance stuffing scheme, the parent “stuffs” its captive with excessive income producing assets exempt from state corporate income tax while minimizing the captive’s taxable premium income.

Maryland recently lost \$22 million in corporate income tax revenue from just one such scheme.



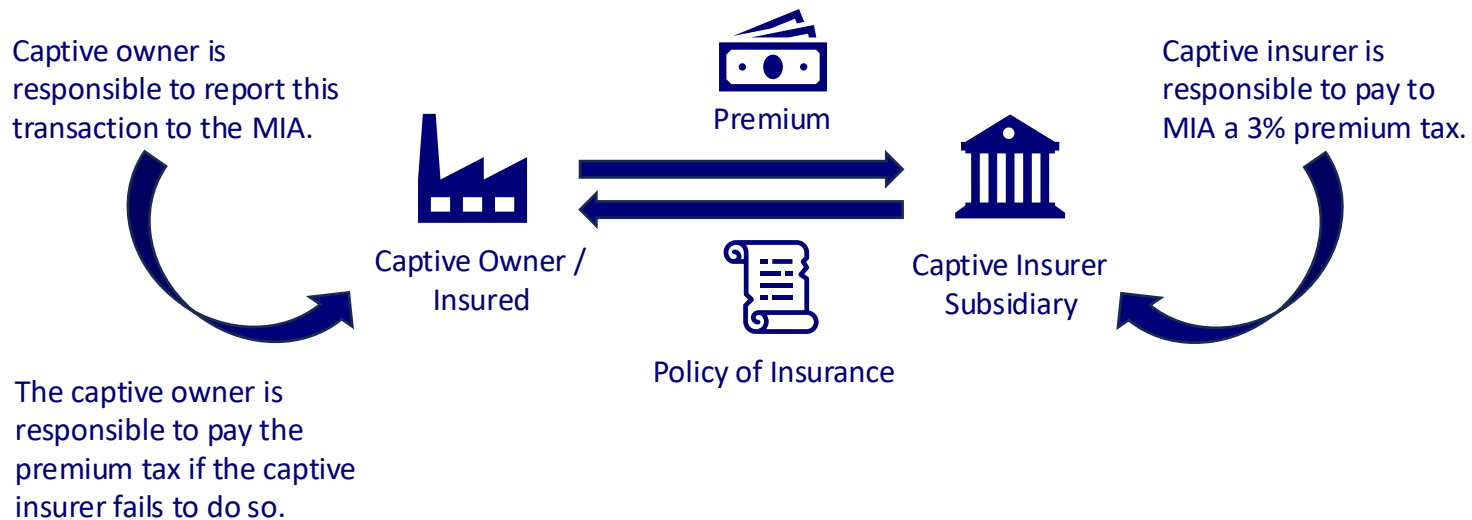
In the Maryland example, the captive earned an average of only \$8 million per year in premium but nearly \$300 million per year in interest from intra-company loans.

Use, Regulation and Taxation of Captive Insurers

Tax Issue #3 – Non-Reporting of Captive Transactions

Under Maryland law, the insured of an independently procured non-admitted insurance contract is required to report that transaction to the Maryland Insurance Administration so the transaction can be taxed.

Because captive transactions are difficult for MIA to detect, compliance is essentially on the honor system.



The major accounting firms, captive insurance trade publications and captive insurance conferences frequently discuss the obligation to pay the independent procurement tax.

Use, Regulation and Taxation of Captive Insurers

Other State Enforcement Actions

A number of states have announced enforcement actions to recover unpaid captive insurance taxes.



Amnesty program launched in 2018 with recoveries in excess of \$10 million



Amnesty program launched in 2020 with recoveries in excess of \$30 million.



Amnesty program launched in 2024 with current recoveries in excess of \$3 million.



Amnesty program reportedly launched in 2024.



Amnesty program launched in 2026.

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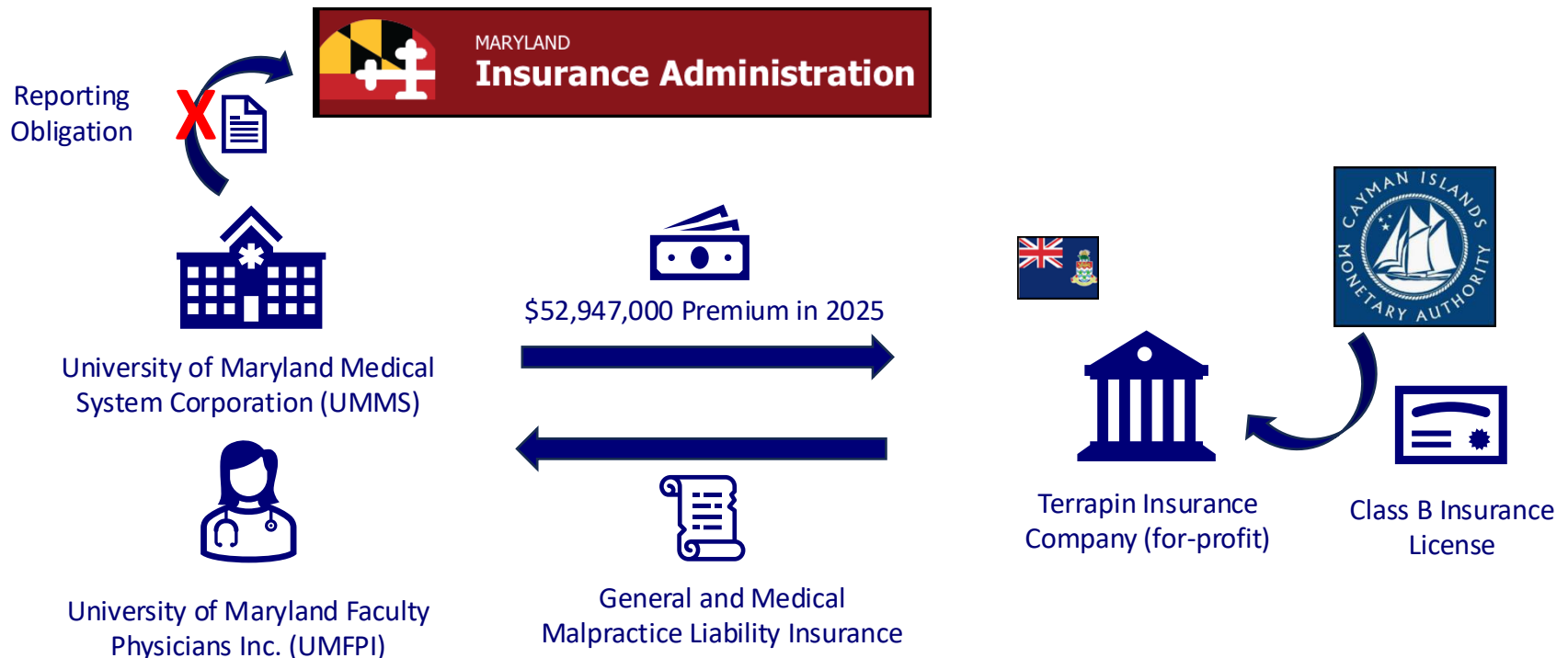
Maryland's Nonprofit Hospitals and their For-Profit Captive Insurers

Nonprofit Hospital	Captive	Captive Domicile	Formation
Atlantic General Hospital Corp.	Freestate Healthcare Insurance Company, Ltd.	Cayman Islands	2004
Calvert Health System	Freestate Healthcare Insurance Company, Ltd.	Cayman Islands	2004
Dimensions Health (UMMS)	Dimensions Insurance, Ltd.	Cayman Islands	1995
Frederick Regional Health	Monocacy Insurance Ltd.	Cayman Islands	2011
Garrett Regional Medical Center	Freestate Healthcare Insurance Company, Ltd.	Cayman Islands	2004
GBMC HealthCare	Ruxton Insurance Company	Bermuda	2003
Holy Cross Health	Trinity Assurance Ltd.	Cayman Islands	1989
Johns Hopkins Health System	Health Enterprises Insurance Company Ltd.	Cayman Islands	2005
Lifebridge Health	Lifebridge Insurance Company, Ltd.	Cayman Islands	2002
Luminis Health	Cottage Insurance Company, Ltd.	Cayman Islands	2005
Medstar Health	Greenspring Financial Insurance, Ltd.	Cayman Islands	2004
Mercy Medical Center	Greenleaf Insurance Company, Ltd.	Cayman Islands	1997
Meritus Medical Center	Meritus Insurance Company, Ltd	Cayman Islands	2003
Sheppard Pratt Health	Sheppard Pratt Assurance Company	Cayman Islands	2022
TidalHealth	Delmarva Peninsula Insurance Company	Cayman Islands	2013
University of Maryland Faculty Physicians	Terrapin Insurance Company	Cayman Islands	1991
University of Maryland Medical System	Terrapin Insurance Company	Cayman Islands	1991
Union Hospital of Cecil County	Christiana Care Insurance Company Ltd.	Cayman Islands	2019
UPMC Western Maryland Health	Western Maryland Insurance Company Ltd.	Cayman Islands	2004

Use, Regulation and Taxation of Captive Insurers

UMMS Case Study

For 2025, UMMS should have reported its transactions with its captive insurance company to MIA and paid a premium tax of more than \$1.5 million based on UMMS's financial statements.



Use, Regulation and Taxation of Captive Insurers

UMMS Case Study

Based on UMMS filings and the testimony of the Maryland Hospital Association on behalf of UMMS:

Terrapin provides “insurance” for the purposes of:

1. **Licensure.** Terrapin holds a Class B insurance license from the Cayman Islands Monetary Authority.
2. **Reinsurance.** Terrapin purchases reinsurance, which is only available to insurance companies.
3. **Form 990 Reporting .** UMMS characterizes its payments to Terrapin as for “captive insurance”. UMMS characterizes Terrapin’s revenue as for “malpractice insurance”. UMFPI characterizes Terrapin as a “liability insurance provider.”
4. **Accounting.** UMMS’s financial statement accounts for premium paid to Terrapin as “operating revenue”.
5. **Malpractice Insurance Requirements.** UMMS and UMFPI rely on insurance issued by Terrapin to satisfy malpractice insurance reporting and patient disclosure requirements.

Terrapin does not provide “insurance” for the purposes of:

1. **Paying Taxes.** Terrapin claims it does not owe Maryland’s independent procurement tax because it does not issue insurance.

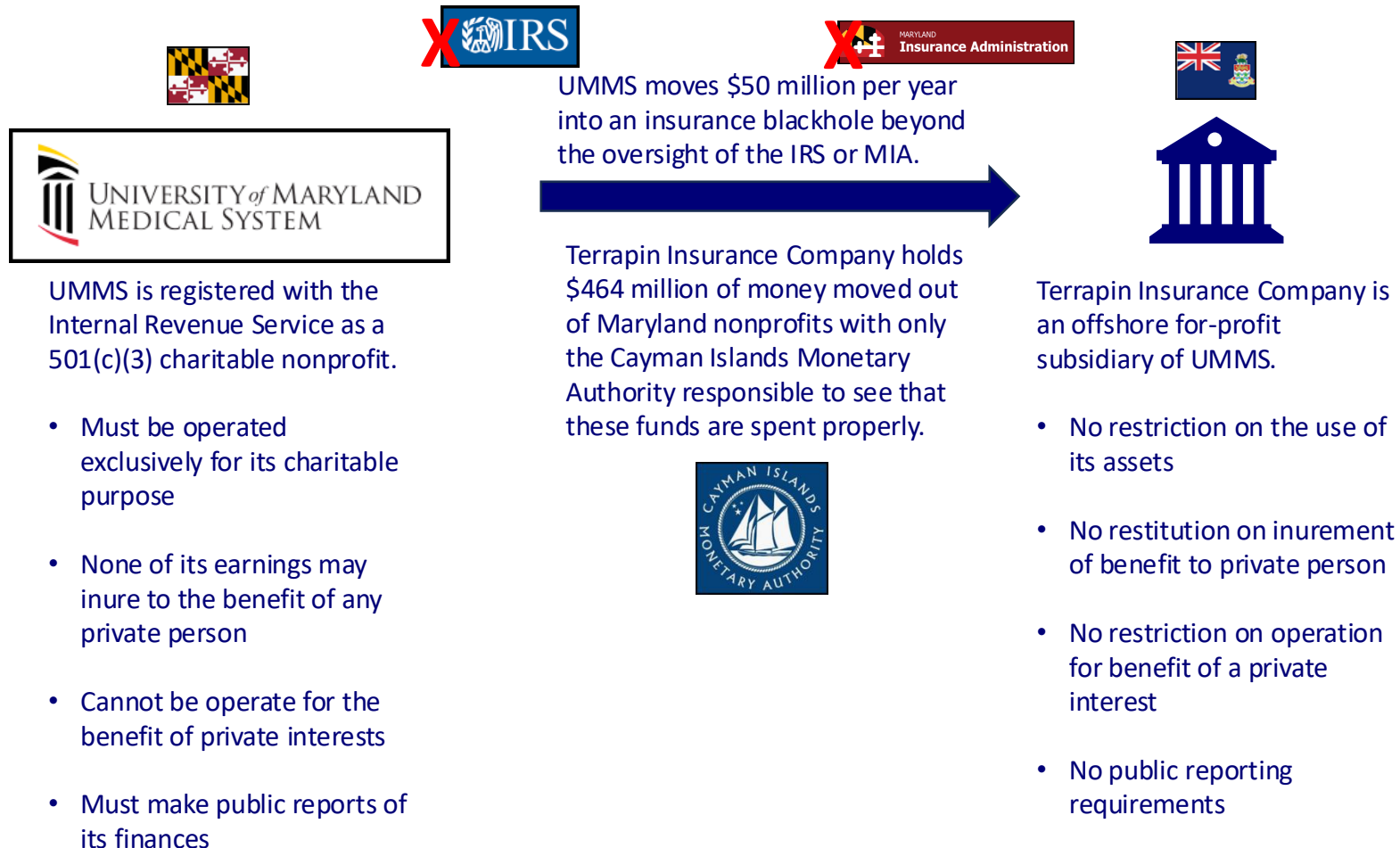
Maryland’s hospitals receive all the benefits and but take none of the responsibilities of buying insurance from a for-profit Cayman Islands insurance company.

Maryland defines “insurance” as “a contract to indemnify or to pay or provide a specified or determinable amount or benefit on the occurrence of a determinable contingency.” Md. Ins. Code § 1-101(s).

Use, Regulation and Taxation of Captive Insurers

UMMS Case Study

UMMS has transferred hundreds of millions of dollars in non-profit funds to its for-profit offshore subsidiary.



Use, Regulation and Taxation of Captive Insurers

UMMS Case Study

The Board of Directors of Terrapin Insurance Company consists of the most senior executives of UMMS and UMFPI.

Terrapin Board Member	UM Health System Role
Mohan Suntha	President & CEO - UMMS
Andrew Pollock	Chief Clinical Officer - UMMS
Bert O'Malley	President - UM Medical Center
Kathleen McCollum	President - UM Balt. Wash. Med. Center
Aaron Rabinowitz	President - UM Upper Chesapeake Health
William Regine	President - UMFPI
Rachel Hoover	CEO – UMFPI
Sarah Mechanic	General Counsel – UMFPI
Jacqueline Farrell	CFO – UMFPI
Irina Burd	Chair, Obstetrics - UMFPI
Mark Gladwin	Dean - UM School of Medicine

Under Cayman Islands law, board members are expected to meet in the Cayman Islands at least annually.

Use, Regulation and Taxation of Captive Insurers

Beyond Tax Scandals

LONG ISLAND / POLITICS

NUMC board votes to end Cayman Islands trips

Nassau University Medical Center had been sending its executives for annual two-week trips to visit its Cayman Islands captive insurer.

Powerful State Senator Got Caribbean Trips, Campaign Donations And Cash Through Loretto Hospital

Loretto Hospital in Chicago used its Cayman Islands captive insurer to make payments to a legislator personal and to her campaign and fund her travel to Cayman Islands meetings where she stayed in luxury accommodations.

LOCAL

2 Investigates: Local non-profit hospitals doing business in the Cayman Islands

Wellstar in Georgia used its Cayman Islands captive insurer to provide hospital executives credit cards that showed charges for “airfare, five-star hotel stays and fancy restaurants in the Caymans, Puerto Rico and the Bahamas.”

Settlement reveals decadeslong medical malpractice scheme involving some of state's largest hospitals

Three New York hospitals used Cayman Islands captive insurer to “hide the surplus funds from state regulators” and “avoid[] oversight because the state cannot regulate offshore accounts”.

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Options for Hospitals to Insure Onshore

A Cayman Islands captive insurer is a choice, not a necessity.

Johns Hopkins Medicine participates in a Vermont-based risk retention group together with other prestigious hospitals.



Other participating hospital systems include:

- Yale New Haven Health
- University of Rochester Medicine
- New York Presbyterian
- Columbia University
- Weill Cornell Medicine

Adventist HealthCare established a self-funded insurance retention trust.



Adventist funds the trust based on actuarial projections of liabilities for professional and general liability losses. The trust currently holds in excess of \$21 million – right here in Maryland.

Use, Regulation and Taxation of Captive Insurers

Captive Regulators – D.C. Case Study

“The challenge for state insurance regulators is how to establish and nurture a captive insurance industry in the current ‘race to the bottom’ regulatory environment. States openly compete with one another to attract business by eliminating ... regulatory safeguards to attract business.” -- Maryland Insurance Administration, Study of Captive Insurance Industry (Dec. 2013).

The District of Columbia’s Department of Insurance, Securities and Banking launched its captive insurance program in 2000. D.C. is a top-fifteen provider of captive insurance licenses globally with over 150 licensed captives holding \$11 billion in assets and writing \$3 billion of premium annually.

Only twice in its 25-year history has D.C.’s captive program contributed more than \$1 million to the District’s General Fund. It is unrealistic to expect Maryland could generate any meaningful revenue by enacting special captive licensing laws.

Fiscal Year	Total Revenue	DISB Expenses	Transfers to General Fund
2021	\$3,381,780.79	\$2,401,442.55	\$980,338.24
2022	\$3,324,579.86	\$2,662,785.29	\$661,794.57
2023	\$3,422,119.57	\$2,784,075.19	\$638,044.38
2024	\$3,774,421.59	\$2,722,935.23	\$1,051,486.36
2025	\$3,940,001.17	\$2,630,753.58	\$1,309,247.59

D.C.’s expenses include \$300,000 per year sending its captive regulators on trips and conferences.

“[T]he District competes with other states for captive insurers and protected cell companies.... If the Department is required to release captive insurer and protected cell companies' financial information, it will place the District at a competitive disadvantage vis a vis the approximately 35 states that compete for these companies.” D.C. Associate Commissioner Patrick O’Donnell (Feb. 2025).

Use, Regulation and Taxation of Captive Insurers

Would Maryland's Hospitals Bring their Captive Insurers Onshore?

D.C. has been licensing captive insurers for 25 years and has grown to become a top-fifteen player in captive insurance regulation. However neither of D.C.'s nonprofit hospital systems has domiciled its captive in D.C.



Hospital System	Captive	Domicile
Howard Univ. Hospital	Howard University Capitol Insurance Company, Ltd.	Cayman Islands
Medstar	Greenspring Financial Insurance Limited	Cayman Islands

Delaware is in the top-five captive domiciles globally but it, too, could not lure its nonprofit hospitals away from the Cayman Islands.



Hospital System	Captive	Domicile
Christiana Care	Christiana Care Insurance Company, Ltd.	Cayman Islands
Bay Health	Bayhealth Insurance Company, SPC	Cayman Islands
Tidal Health	Delmarva Peninsula Insurance Company	Cayman Islands