

The captive domiciles

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A captive domicile competes on several dimensions at once. Groups look for a supervisor that understands captives and applies proportionate capital and reporting requirements. They need a pool of captive managers, actuaries, auditors and lawyers, a stable legal and tax system and good access to the reinsurance markets. Membership of the European Economic Area matters for groups that want to write direct business in Europe, because an EEA captive can use the single licence. Reputation matters as well, since a captive in a jurisdiction associated with tax avoidance invites the scrutiny of the tax authorities of the parent company.¹

Within Europe, Luxembourg has the largest population of reinsurance captives, many of them owned by French, German and Scandinavian groups. Its attraction lies above all in the equalisation reserve, a technical provision that a reinsurance captive may build up from its profits to absorb future fluctuations in losses. The reserve is deductible for tax purposes, so that the captive can accumulate funds over many years with little current taxation. The reserve is released, and taxed, when losses occur or when the captive is liquidated or moves away.² Under Solvency II the equalisation reserve is no longer recognised as a liability for regulatory purposes, but it remains relevant for tax accounts.

Ireland hosts captives of many American and British groups, attracted by its corporate tax rate, its EEA membership, the English language and a supervisor experienced in insurance. Malta, which joined the European Union in 2004, introduced protected cell legislation in the same year and became the only EU member state with a full cell company regime for insurance. Guernsey and the Isle of Man, both Crown Dependencies outside the European Union, have long served British groups. Denmark and Sweden host captives of their large industrial groups. Liechtenstein, finally, offers an EEA licence within the Swiss currency area.³

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Liechtenstein deserves particular mention from a Swiss perspective. As a member of the European Economic Area since 1995 and of the Swiss customs and currency area since the 1920s, the principality allows a Swiss group to set up an insurer that can write direct business throughout the EEA under the single licence while keeping its operations close to the group's headquarters. A number of Swiss groups have used Liechtenstein captives for this purpose. The Financial Market Authority supervises them under the Liechtenstein insurance supervision law, which implements Solvency II and applies the principle of proportionality to small captives.⁴ After the vote of 1992 against the European Economic Area, Liechtenstein became the natural door to the European insurance market for Swiss industrial groups that wanted a direct captive.

1 Notes

1. On the criteria for choosing a captive domicile, see the publications of the captive owners' associations (ECIROA, FERMA) and the comparative studies of the captive managers. To be verified. ↩
2. On the Luxembourg equalisation reserve (provision pour fluctuation de sinistralité) for reinsurance companies, its tax treatment and the supervision of reinsurance captives by the Commissariat aux Assurances, see the publications of the Commissariat aux Assurances and the Luxembourg tax literature. To be verified. ↩
3. On captive insurance in Ireland (Central Bank of Ireland), Malta (Malta Financial Services Authority; Protected Cell Companies regulations of 2004), Guernsey (Guernsey Financial Services Commission) and the Isle of Man, see the publications of these supervisors and the comparative literature on European captive domiciles. To be verified. ↩
4. On Liechtenstein as a captive domicile, see the Insurance Supervision Act of Liechtenstein (Versicherungsaufsichtsgesetz, VersAG, LGBL. 2015 No. 231) and the publications of the Financial Market Authority Liechtenstein (FMA). To be verified. ↩

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