

MODOC NATION INSURANCE CODE

CHAPTER 1

SECTION 1 - GENERAL INSURANCE PROVISIONS AND REGULATIONS

1.1 Citation. This Code shall be known as the Modoc Nation Insurance Code.

1.2 Definitions. For the purpose of this Code, unless the language or context clearly indicates that a different meaning is intended, the words, terms and phrases defined in this Section have the meanings given to them.

1. “Authority” or “Insurance Authority” shall mean the Modoc Insurance Authority, a wholly owned, unincorporated governmental instrumentality of the Tribe.
2. “Address” Means mailing address, including a zip code. In the case of a registered office or principle executive office, the term means the mailing address and the actual office location which shall not be a post office box.
3. “Affiliate” means an entity (e.g., a corporation) in which another entity has no controlling share but all or both are controlled by a separate third party, in most cases a holding company. Affiliates exist in a brother sister relationship.
4. “Captive Insurance Company” means a wholly owned subsidiary created to provide insurance to its non-insurance affiliated company (or companies). Captives are a form of insurance whereby the insurer is owned wholly by a person or entity that holds a controlling interest in other companies affiliated with the captive.
5. “Commercial Insurance Company” means the providers of insurance or reinsurance for first party risks on a regular basis that are not affiliated with or controlled directly or indirectly by CUSTOMER. Control and its derivatives mean, with respect to an entity, (i) the legal, beneficial, or equitable ownership, directly or indirectly, of more than fifty percent (50%) of the capital stock (or other ownership interest if not a corporation) of such entity ordinarily having voting rights, or (ii) the power to direct, directly or indirectly, the management policies of such entity, whether through the ownership of voting stock, by contract, or otherwise.
6. “Commercial Risks” means any risk accepted anywhere in the world as a commercial insurance risk, and also includes all credit-related insurance risks.
7. “Commissioner” means the Insurance Commissioner of the Modoc Nation appointed by the Elected Council but need not be a member of the tribe to serve in that capacity. The Commissioner is conflicted from representing any insurance entity in matters before tribe involving issues between the entity and the tribe. However, the commissioner may represent any insurance entity, including one formed herein-under in matters not pertaining to issues with the tribe.

8. "Council" or "Elected Council" means the Elected Council of the Modoc Nation.
9. "Insurance" means a contract by which one party (the insurer), for a consideration that is usually paid in money either in lump sum or at different times during the continuance of the risk, promises to make a certain payment, usually of money, upon the destruction or injury of "something" in which the other party (the insured) has an interest; any risk transfer contract recognized as insurance within any jurisdiction located within the United States or anywhere in the world or recognized as insurance under the United States Internal Revenue Code, or as otherwise determined by the insurance Authority.
10. "Insurer" means any company whether incorporated or not who at least 50% of its business is the business of insurance as defined herein above.
11. "Legal representative" means a person empowered to act for another person, including, but not limited to, an agent, power of attorney, officer, partner, or associate of, an organization; a trustee of a trust; a personal representative; an executor of a will; an administrator of an estate; a trustee in bankruptcy; and a receiver, guardian, custodian, or conservator of the person or estate of a person.
12. "Organization" means a tribal or foreign:
 - a. Corporation,
 - b. limited liability company,
 - c. limited partnership,
 - d. joint venture,
 - e. association,
 - f. business trust,
 - g. estate,
 - h. trust,
 - i. enterprise, and
 - j. any other legal or commercial entity.
13. "Person" includes a natural person, or an organization.
14. "Principal executive office" means an office where the elected or appointed chief executive officer of a corporation has an office. If the corporation has no elected or appointed chief executive officer, "principal executive office" means the registered office of the corporation.
15. "Registrar" means the Registrar of Organizations and Resident Agents on behalf of the Authority. The Registrar acts at the behest of the Authority, or the Commissioner where necessary.
16. "Registered office" means the place designated in the articles of a corporation as the registered office of the corporation where it may be served with process.
17. "Registered Agent" means a designation by any insurer or reinsurer authorized under this Code. Any person or organization that is domiciled within the Tribal Jurisdiction or has an office thereon may serve as a Resident Agent for insurers or reinsurers authorized under this code. The Registrar shall maintain and publish a list of Resident Agents approved to serve as a Resident Agent for insurers or reinsurers authorized under this Code.
18. "Reinsurance" or "Reinsurer" means an insurer or reinsurer formed pursuant to this Code authorized

in the Tribal jurisdiction may take credit for reserves on risks, or portions of risks, ceded by the insurer or reinsurer if the assuming reinsurer is authorized in the Tribal jurisdiction, or is authorized by the Authority or Commissioner where necessary.

19. “Subsidiary” means an entity (e.g., a corporation) in which another entity has a controlling share. Where the two companies exist in a parent-child relationship to one another.
20. “Tribal Jurisdiction” or “Jurisdiction” means all lands under the jurisdiction of the Tribe pursuant to the Tribal Constitution, including all lands within the boundaries of the Tribe’s Reservation or Ancestral Territory, individual tribal member allotments, whether located on or off the Reservation, and all lands held in trust or restricted fee subject to the United States of America for the benefit of the Tribe.
21. “Tribe” or “Tribal” means the Modoc Nation.

SECTION 2 - APPLICATION

- 2.1 Reservation of right.** The Authority reserves the right to amend or repeal the provisions of this Code. A corporation incorporated under or governed by this Code is subject to this reserved right.
- 2.2 Sovereign immunity of the Tribe not waived.** By the adoption of this Code, the Tribe does not, nor does the Authority, waive its sovereign immunity or consent to suit in any court, federal, other tribal or state, and neither the adoption of this Code, nor the incorporation of any corporation hereunder, shall be construed to be a waiver of the sovereign immunity of the Tribe or a consent to suit against the Tribe in any such court.
- 2.3 License(s) Granted.** All valid licenses issued pursuant to this Code are authorized under the Constitution and laws of the Tribe.
- 2.4 Registered Insurers, Reinsurers, and Insurance Managers.** All Insurers, Reinsurers, and managers formed or filed to do business within the Tribal Jurisdiction and issued valid license.
- 2.5 Commissioner Regulatory Power(s).** The Commissioner is selected by the Modoc Nation Elected Council and serves as an independent regulator for the Authority and serves at the pleasure of the Authority. The Commissioner shall, in this event, effect all rules and regulations adopted by the Authority. The Commissioner shall not have the power to promulgate rules, unless specifically granted by Tribal Resolution of the Elected Council. The Commissioner may adjudicate disputes where the Authority is unable to.

SECTION 3 - AUTHORIZED INSURANCE

- 3.1 Authorized License.** An insurer, reinsurer, or insurance manager must have a valid license issued by the Modoc Insurance Authority in order to do business within the Jurisdiction.
- 3.2 Permissive areas of insurance.**
 1. Authorized Insurance: When permitted by its articles of incorporation or charter, an insurer or reinsurer may apply to the Authority for a valid license to conduct the insurance authorized.
 2. To conduct insurance business from this jurisdiction, an insurer, reinsurer, or insurance

manager shall obtain from a valid license from the Authority permitting it to conduct insurance or reinsurance business from this jurisdiction; and

- a. Designate a Registered Agent as defined herein as the agent of the insurer or reinsurer upon whom process, notice, or demand may be served. The Registered Agent is permitted to charge a fee for their services, including assistance in submitting an application on behalf of the applicant.
 - b. The application and granting of a license is an affirmative agreement creating a nexus relationships that the business unequivocally avails itself to the jurisdiction of the Modoc Nation, including the business or persons agreement to be subject to regulation, adjudication, and taxation as determined by the Tribe, or the Authority.
3. Before receiving a license, an insurer or reinsurer formed as a corporation in this jurisdiction shall file with the Registrar of the Authority:
- a. the articles of incorporation, and
 - b. a statement regarding the financial condition of the corporation.
4. In addition to the information required by 3.2.3, an applicant insurer or reinsurer shall file with the Registrar evidence of:
- a. The amount and liquidity of the assets of the applicant insurer or reinsurer relative to the risks to be assumed by the applicant insurer or reinsurer;
 - b. The adequacy of the expertise, experience, and character of the person who will manage the applicant insurer or reinsurer. Resumes of the management of the company will suffice;
 - c. The overall soundness of the plan of operation of the applicant insurer or reinsurer;
 - d. If the company has done business and is re-domesticating to the tribal jurisdiction, its last federal tax return will satisfy a. & c.
5. Protected Information: Information submitted pursuant this Code shall be protected information not subject to public disclosure. Such information will only be disclosed pursuant to a proper subpoena issued by a court of proper jurisdiction evidencing good cause.
6. An applicant for a license to conduct the business insurer, reinsurer, or insurance manager shall:
- a. Pay a nonrefundable fee as determined by the authority;
 - b. A fee for examining, investigating, and processing of an application for a license made by an insurer or reinsurer: and
 - c. A fee for the renewal of a valid license.
7. If the Registrar, of the Authority, is satisfied that the documents and statements filed by the applicant insurer, reinsurer, or insurance manager comply with Authority regulations, the Registrar of the Authority may grant a valid license permitting the company to conduct insurance or reinsurance business in this jurisdiction and may renew the license on an annual basis.
8. A license granted by the Authority expires three years from the date of issue and shall need to be renewed by April 1 of the fourth year after it was issued. If a license is not renewed by April 1, of the fourth year after it was issued the insurer must re-apply as a new applicant.

3.3 Paid-in capital.

1. The Registrar of the Authority may not issue a valid license to an insurer, reinsurer, or insurance manager unless the insurer or reinsurer possesses and thereafter maintains paid-in capital and surplus of an amount \$5000.00
2. The paid-in capital required under 3.3(1)(a) may be in the form of:
 - a. Cash; or
 - b. Cash equivalent; or
 - c. An irrevocable letter of credit issued by a member bank of the Federal Reserve System, or a

- bank approved by the Commissioner, or
- d. Any other investment approved of by the commissioner.
3. The Commissioner may at any time prescribe additional capital that must be paid in based on the type, volume, and nature of insurance business being transacted.
 4. Dividends and Distributions; An insurer or reinsurer may ~~pay~~ a dividend out of the capital or a distribution to stockholders out of capital without the prior approval of the Commissioner.

3.4 Paid-in or Earned Surplus “Surplus”.

1. Any surplus or assets above minimum capital may be in the form of:
 - a. cash; or
 - b. cash equivalent; or
 - c. an irrevocable letter of credit issued by a member bank of the Federal Reserve System or a bank approved by the Authority, or
 - d. any other investment permitted by the Authority.
2. Dividends and Distributions: An insurer or reinsurer may pay a dividend out of surplus or a distribution with respect to surplus.

SECTION 4 - FORMATION AND AUTHORIZATION

4.1 Incorporation.

1. The Commissioner may issue prohibitory, mandatory, and other orders relating to an insurer, reinsurer, or insurance managers as necessary to ensure compliance with this Code.
2. Applicant Good Standing
 - a. Before a proposed insurer or reinsurer files its articles of incorporation with the Registrar, the incorporator shall obtain a certificate of good standing from the insurer or reinsurer home jurisdiction, if other than the Tribe, finding that the establishment and maintenance of the proposed corporation will promote the general welfare of the Tribe.
 - b. In considering a request for a license to do business, the Authority shall consider:
 - i. The character, reputation, financial standing, and purposes of the incorporators;
 - ii. the character, reputation, financial responsibility, insurance experience, business qualifications of the officers and directors;
 - iii. any information in:
 - (1) the application for a license; or
 - (2) the department’s files; and
 - (3) other aspects the Authority considers advisable.
3. Required Filing
 - a. An insurer, reinsurer, or insurance manager shall:
 - i. file with the Registrar the application to be an insurance manager or the application and articles of incorporation for an insurer or reinsurer; and

- ii. pay the fees required as determined by the Authority;
 - iii. pay any associated taxes as determined by the Authority.
 - b. A Registered Agent may, but does not have to, file the articles of incorporation for an insurer or reinsurer that complies with this section.
4. The capital stock of an insurer or reinsurer may not be issued at less than par value.
5. Application of Laws
- a. An insurer, reinsurer, or insurance manager authorized by license under this Code have the privileges to business and are subject to the provisions of this Code and the laws of the Tribe, including those that govern business entities.
 - b. Except as provided in 4.1(5)(c) the provisions pertaining to a merger, consolidation, conversion, and re-domestication apply in determining the procedures to be followed by an insurer or reinsurer in carrying out any of the transactions described in those provisions.
 - c. Notwithstanding 4.1(5)(b), the Commissioner may waive or modify the requirements for public notice and hearing.
 - d. If a notice of public hearing is required, but no one requests a hearing, the Commissioner may cancel the public hearing.
 - e. Upon issuance of a license (“Issuance”) an insurer or reinsurer shall be bound by, and rely upon, the provisions and requirements of this Code and any amendments as necessary.

4.2 Rating organization. An insurer or reinsurer is not required to join a rating organization.

4.3 Conversion or merger.

- 1. A plan for a merger under this section:
 - a. shall be fair and equitable to the stockholders of the stock insurer or reinsurer; and
 - b. shall provide for the purchase of the shares of any nonconsenting stockholder of a stock insurer or reinsurer in substantially the same manner and subject to the same rights and conditions as are provided a dissenting stockholder.
- 2. If the Commissioner approves the articles of merger under this section:
 - a. The Authority shall endorse approval of the new articles; and
 - b. The surviving insurer or reinsurer shall present the name to the Registrar.

SECTION 5 - REPORTS

5.1 Reports to Authority.

- 1. An insurer or reinsurer is not required to make a report except those provided in this Code.
- 2. Report of Financial Condition by Insurers:
 - a. On or before March 31 of each year, an insurer shall submit to the Registrar a report of the financial condition of the insurer, verified by the oath an executive officer of the insurer.
 - b. The report of the financial condition may be presented:
 - i. using accepted accounting principles or statutory accounting principles;
 - ii. using a useful or necessary modification or adaptation to an accounting principle that is required, approved, or accepted by the Authority for the type of insurance and kind of insurer to be reported upon; and

- iii. including supplemental or additional information required by the Commissioner.
- iv. Provide gross written premiums for the year and claims paid.

SECTION 6 - SUSPENSION OR REVOCATION

6.1 Suspension or revocation—Grounds.

1. The Authority may suspend or revoke the license of an insurer, reinsurer, or insurance manager to conduct insurance or reinsurance from this jurisdiction for:
 - a. insolvency or impairment of capital or surplus;
 - b. failure to meet the requirements of this Code;
 - c. refusal or failure to submit:
 - i. an annual report required by the Authority; or
 - ii. any other report or statement required by law or by lawful order of the Authority;
 - d. failure to comply with the charter, by-laws, or other organizational document of the insurer or reinsurer;
 - e. failure otherwise to comply with laws of this jurisdiction.
2. Notwithstanding any other provision of this title, if the Commissioner finds, that an insurer, reinsurer, or insurance manager has committed any of the acts found to be repugnant to the Authority or Tribe, the Authority may suspend or revoke the license of the insurer, reinsurer, or insurance manager if the Authority or Tribe considers it in the best interest of the Tribe, public, or the policyholders of the insurer, reinsurer, or insurance manager to revoke the license.
3. The party facing suspension will be given adequate notice, as determined by the Authority, and may request an administrative hearing to be heard by the Authority. The party, bearing associated costs, may file for review of the Authority decision in the Court of the Modoc Nation. The Judgment of the Modoc Court is exclusive and final.

CHAPTER 2 - CAPTIVE INSURANCE REGULATIONS

SECTION 1 - PURPOSE, AUTHORITY, APPLICATION, AND RENEWAL

1. The purpose of this regulation is to set forth the financial and reporting requirements which the Authority deems necessary for the regulation of captive insurance companies. Reference hereunder to "company" shall mean captive insurance company or companies, unless otherwise specified. Any company filing with this jurisdiction shall domicile within the Modoc Nation and the non-refundable application fee for licensing and approval. Annual renewal of the company license shall be paid on or before the date(s) as reflected in this Code for payment to be made.

SECTION 2 - ANNUAL REPORTING REQUIREMENTS

1. A risk retention group domiciled in the jurisdiction of the Modoc Nation shall annually submit to the Authority a report of its financial condition. The report shall be required by this Code under General Insurance Provisions and Regulations, Reports, Chapter 1, Section 5.
2. A captive insurance company domiciled in this jurisdiction shall annually submit to the authority a report of its financial condition. The report shall be prescribed by the Authority as "Modoc

SECTION 3 - CAPTIVE INSURANCE COMPANY REPORTING REQUIREMENTS

1. A captive insurance company shall report using statutory accounting principles, unless the Commissioner requires, approves, or accepts the use of generally accepted accounting principles or other comprehensive basis of accounting, in each case with any appropriate or necessary modifications or adaptations required or approved or accepted by the Authority and as supplemented by additional information required by the Authority.
2. A captive insurance company may make written application to file its annual report on a fiscal year basis. If an alternative reporting date is granted, the Commissioner shall establish the due date and content of any filing required by the captive insurance company in addition to its annual report.
3. A captive insurance company shall make its books, records, documents, accounts, vouchers and agreements available for inspection by the Authority, or a designee, at any time. A special purpose financial captive insurance company shall keep its books and records in such manner that its financial condition, affairs, and operations can be readily ascertained and so that the Authority may readily verify its financial statements and determine its compliance with this chapter.

SECTION 4 - REPORTS

1. All captive companies shall have the same reporting requirement as set out in Chapter 1, Section 5.1.

SECTION 5 - REINSURANCE

1. Any captive insurance company authorized to do business in this jurisdiction may take credit for reserves on risks ceded to a reinsurer subject to the following limitations:
 - a. No credit shall be allowed for reinsurance where the reinsurance contract does not result in the complete transfer of the risk or liability to the reinsurer.
 - b. No credit shall be allowed, as an asset or a deduction from liability, to any ceding insurer for reinsurance unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding insurer under the contract reinsured without diminution because of the insolvency of the ceding insurer.
2. Reinsurance under this section shall be affected through a written agreement of reinsurance setting forth the terms, provisions and conditions governing such reinsurance.
3. The Commissioner in its discretion may require that complete copies of all reinsurance treaties and contracts be filed and/or approved by the Commissioner under this Code.
4. For credit for reinsurance and solvency regulatory purposes, the fronting carrier may require an approved funds-held agreement, letter of credit, trust or other acceptable collateral or security based on unearned premium, loss and LAE reserves, and IBNR, if any.

SECTION 6 - INSURANCE MANAGERS & INTERMEDIARIES

1. Any person acting as an insurance manager, broker, agent, salesman, or reinsurance intermediary for captive business shall register with the Modoc Insurance Authority. Registration can be in the form of a letter.

SECTION 7 - RESCISSION OF CAPTIVE LICENSE

1. The Authority may, subject to the provisions of this section, by order rescind the license of the company:
 - a. if the company has not commenced business according to its plan of operation within two years of being licensed; or
 - b. if the company ceases to carry on insurance business in or from within Modoc Nation; or
 - c. at the request of the company; or
 - d. for any reason set out in Chapter 1, Section 6.
 - e. If the Commissioner otherwise deems its continued operation is detrimental to the Tribe.
2. Before the Authority rescinds the license of a company under (a.) or (b.), the Commissioner shall give the company notice in writing of the grounds on which he/she proposes to cancel the license, and shall afford the company an opportunity to make objection in writing within the period of thirty days after receipt of notice. The Commissioner shall take into consideration any objection received within that period and, should the Commissioner decide to cancel the license, cause the order of cancellation to be served on the company.

SECTION 8 - CHANGE OF BUSINESS

1. Any change in the nature of the captive business from that stated in the company's plan of operation shall be noted in its annual report filed with the Authority but does not require approval.

SECTION 9 - LICENSING

1. Any captive insurance company, when permitted by its Articles of Incorporation, may apply to the Authority for a license to do any and all insurance comprised in this Code; provided, however, that:
 - a. no captive insurance company may insure any risks other than those of its parent and affiliated companies or controlled unaffiliated business;
 - b. any captive insurance company may provide excess workers' compensation insurance to its parent and affiliated companies, unless prohibited by the federal law, tribal law, or laws of the state having jurisdiction over the transaction. Any captive insurance company, unless prohibited by federal law, may reinsure workers' compensation of a qualified self-insured plan of its parent and affiliated companies;
 - c. any captive insurance company which insures risks described in this title shall comply with all applicable tribal and federal laws.
 - d. Re-domestication of a company is not permitted. All captive companies shall file as a new-formation.
2. No captive insurance company shall do any insurance business in this jurisdiction unless:
 - a. it first obtains from the Authority a license authorizing it to do insurance business in this jurisdiction;
 - b. its board of directors, or committee of managers holds at least one meeting each year in this jurisdiction. For good cause the Commissioner may waive the in-person requirement in the jurisdiction.; and
 - c. it appoints a registered agent to accept service of process and to otherwise act on its behalf in this jurisdiction; provided that whenever such registered agent cannot with reasonable

diligence be found at the registered office of the captive insurance company, the Secretary of the Tribe or Business Registrar shall be an agent of such captive insurance company upon whom any process, notice, or demand may be served.

3. Before receiving a license, a captive insurance company shall:
 - a. file with the Authority a certified copy of its organizational documents, a statement showing its financial condition, and any other statements or documents required by the Authority;
 - b. submit to the Authority a description of the coverages, deductibles, coverage limits, and rates, together with such additional information as the Authority may reasonably require.
 - c. Each applicant captive insurance company shall also file with the Authority evidence of the following:
 - i. the amount and liquidity of its assets relative to the risks to be assumed;
 - ii. the adequacy of the expertise, experience, and character of the person or persons who will manage it;
 - iii. the overall soundness of its plan of operation;
 - iv. the adequacy of the loss prevention programs of its insureds; and
 - v. such other factors deemed relevant by the Authority in ascertaining whether the proposed captive insurance company will be able to meet its policy obligations.
 - vi. There is no specific form required for such information.
 - d. Information submitted pursuant to this subsection shall be and remain confidential, and may not be made public by the Authority or an employee or agent of the Authority without the written consent of the company, except that:
 - (a) such information may be discoverable by a party in a civil action or contested case to which the captive insurance company that submitted such information is a party, upon a showing by the party seeking to discover such information that:
 - (i) the information sought is relevant to and necessary for the furtherance of such action or case;
 - (ii) the information sought is unavailable from other nonconfidential sources; and
 - (iii) a subpoena issued by a judicial or administrative officer of competent jurisdiction has been submitted to the Authority.
4. Each captive insurance company shall pay to the Authority a non-refundable fee of \$2,000.00 for application to received its license plus a \$75.00 registration fee. If the Authority is satisfied that the documents and statements that such captive insurance company has filed comply with the provisions of this chapter, the Authority may grant a license authorizing it to do insurance business in this jurisdiction until December 31 hereafter, which license may be renewed every.

SECTION 10 - NAME OF COMPANY

1. No captive insurance company shall adopt a name that is the same, deceptively similar, or likely to be confused with or mistaken for any other existing business name registered in the jurisdiction of the Modoc Nation.

SECTION 11 - MINIMUM CAPITAL AND SURPLUS REQUIREMENTS OF THE COMPANY

1. No captive insurance company shall be issued a license unless it shall possess and thereafter maintain unimpaired paid-in capital and surplus of 5,000.00;
2. Capital and surplus may be in the form of cash, a trust approved by the Authority and of which

the Authority is the sole beneficiary, or an irrevocable letter of credit issued by a bank approved by the Authority.

SECTION 12 - TAX ON PREMIUMS COLLECTED

1. Each captive insurance company shall pay to the Modoc Nation, in the month of January of each year, a negotiated tax rate, not to exceed four percent (4%), on each dollar thereafter on the net written premiums collected or contracted for on policies or contracts of insurance written by the captive insurance company during the year ending December 31 next preceding, after deducting from the net written premiums subject to the tax the amounts paid to policyholders as return premiums which shall include dividends on unabsorbed premiums or premium deposits returned or credited to policyholders.
2. No reinsurance tax applies to premiums for risks or portions of risks which are subject to taxation on a direct basis. No reinsurance premium tax shall be payable in connection with the receipt of assets in exchange for the assumption of loss reserves and other liabilities of another insurer under common ownership and control if such transaction is part of a plan to discontinue the operations of such other insurer, and if the intent of the parties to such transaction is to renew or maintain such business with the captive insurance company.

Two or more captive insurance companies under common ownership and control shall be taxed as though they were a single captive insurance company.

3. For the purposes of this section:
 - a. common ownership and control shall mean ownership and control of two or more captive insurance companies by the same person or group of persons.
 - b. ownership and control shall mean:
 - i. in the case of a stock corporation, the direct or indirect ownership of 51 percent or more of the outstanding voting stock of the corporation.
 - ii. in the case of a mutual or nonprofit corporation, the direct or indirect ownership of 51 percent or more of the surplus and the voting power of such corporation.
 - iii. in the case of a limited liability company, the direct or indirect ownership of 51 percent or more of the membership interests in the limited liability company.
 - iv. in the case of a sponsored captive insurance company, for purposes of this section a protected cell shall be treated as a separate captive insurance company owned and controlled by the protected cell's participant, but only if:
 - (1) the participant is the only participant with respect to such protected cell; and
 - (2) the participant is the sponsor or is affiliated with the sponsor of the sponsored captive insurance company through common ownership and control.
 - v. The tax provided for in this section shall be calculated on an annual basis, notwithstanding policies or contracts of insurance or contracts of reinsurance issued on a multiyear basis.