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LEGAL UPDATES

PUBLISHED: SEPTEMBER 1, 2026

Non-Admitted Captives Can Take Advantage of Texas Amnesty Offer

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Texas companies that own an out-of-state captive may want to take advantage of the Texas Comptroller of Public Account's (Texas Comptroller) recent insurance premium tax amnesty offer.

The Nonadmitted and Reinsurance Reform Act of 2010 (NRRA) provides that the placement of non-admitted insurance is subject solely to the regulatory requirements of the insured's home state. Thus, only the home state of an insured can impose premium tax on non-admitted insurance.

Under the NRRA, the insured's (not the captive's) home state for an insurance policy issued by a non-admitted insurer generally has the sole authority to regulate and tax the entirety of the transaction, even if the policy covers risks in multiple states. The insured must report and remit premium taxes to its home state for insurance independently procured from a non-admitted insurer, including a captive insurer.

If Texas is the home state, the entire premium is reported and taxed in Texas. Texas imposes a 4.85% unauthorized insurance premium tax on gross premiums charged by non-admitted insurance, including non-Texas licensed captives.

In its July 2026 Tax Policy News, the Texas Comptroller's office announced an amnesty program for non-admitted captive insurance companies and their insureds. See *full announcement here*. Interest and penalties are waived under the amnesty and there is a four-year lookback period (2022 – 2025), corresponding to the statute of limitations for filed returns. While the statute of limitations does not apply if a return has not been filed, a Texas company participating in the amnesty program will no longer have exposure for years prior to 2022, as those years will now be considered closed under the statute of limitations.

The Texas Comptroller's office intends to notify certain franchise taxpayers that may be affiliated with a non-admitted captive insurance company. However, being notified does not mean you are required to participate in the amnesty program.

While the business search feature on the Texas Secretary of State website does not include a filter for captive insurance companies, Texas insureds and their non-admitted captives should consider the risks and benefits of participating in the Texas amnesty. The forms required to participate in the amnesty can be found on the Texas Comptroller's website.

Husch Blackwell's Insurance Regulatory and State & Local Taxation teams are familiar with this process and will continue to monitor related developments. Please contact Lauren Ybarra, Tasha Cycholl, Andrew McNichol, or Bill Schenkelberg with any questions.