



## Offshore Domiciles Still a Draw for Captives

*Written By Karrie Hyatt*

While U.S. captive domiciles have become more numerous and competitively inviting, offshore domiciles are still a major draw for new captives. Even as U.S. states have become more active in the captive insurance arena, offshore domiciles are still growing, albeit with fewer captives from the U.S. In recent years, growth in those markets have been driven by China and South America—two regions just entering into the captive marketplace.

An offshore captive domicile is any entity—territory, nation, or region—that is not a state in the U.S. and has the ability to regulate captive insurance companies through captive law on its books. When the formation of captive insurance companies expanded rapidly during the early 1980s, there was only a few states that were trying to establish themselves as captive regulators. Also, at the time regulations in the U.S. made forming and operating an onshore captive prohibitively expensive.

Most states did not earnestly enter the captive marketplace until the mid to late-1980s, when expense and regulatory considerations were easing in the U.S. Offshore captives were still a big draw as they tended to have less onerous regulation and capital requirements. Because of this, U.S.-based companies interested in establishing captives still looked offshore to domicile their captive. Captive formations took off in offshore domiciles such as Bermuda, the Cayman Islands, and Barbados, which were early adopters of captive law.

The regulatory environment in offshore domiciles, primarily those in the Caribbean, is generally considered less rigorous than U.S.-based captive domiciles. The perception is that offshore domiciles are “tax havens” for those companies wishing to avoid paying taxes. Most of these domiciles are working towards dispelling that reputation.

The Caribbean Financial Action Task Force (CFATC) works with member nations and territories to address the problem of money laundering, terrorist financing and other illegal financial transactions. The CFATC operates similarly to the National Association of Insurance Commissioners by evaluating their members' ability to effectively regulate insurance and other financial dealings.

While it is a work-in-progress for offshore domiciles to build up their reputations, these domiciles don't get to be the largest domiciles, as in the case of Bermuda and Cayman Islands, without diligently monitoring their domesticated captives or without cooperating with foreign governments.

For U.S.-based companies, offshore captives don't hold the lure that they once did. With so many states now acting as captive domiciles, it often makes sense to domicile a captive in a more convenient locale. Additionally, many captives domiciled offshore elect federal tax code 953(d) which treats them as a domestic insurance company and taxes them appropriately.

The attractions that remain for domiciling captives offshore are the often lower start-up costs, the lower capital requirements—as low as \$10,000 for a single owner captive in one case, low or no taxes, flexible regulation, and the opportunity for a broader range of investments. There are also some specific third-party risks that can be insured offshore more readily. Another added benefit is that many offshore domiciles have been regulating captives far longer than most U.S.-based state domiciles and have the infrastructure to support their work.

## Offshore Domiciles Overview

As of the end of 2016, of the captive domiciles ranked in the top 10, five are offshore territories, three are U.S. states, and two are sovereign countries, according to the rankings published by *Business Insurance* in March 2017. Ranked from one to ten are: Bermuda, Cayman Islands, Vermont, Utah, Delaware, Guernsey, Anguilla, Nevis, Barbados, and Luxembourg. Each of these domiciles have their differences and specialties. Below are profiles of the seven domiciles not located in the United States.

Barbados



Bermuda is a British Territory in the North Atlantic and a two-hour flight from the U.S. It has a long history of domiciling companies investing in self-insurance, including what is considered the first modern captive in 1952. By the early 1970s, the domicile was believed to have more than 100 captive self-insurance entities. In 1978, Bermuda enacted captive legislation and standardized licensing and regulatory procedures, becoming the first country to do so. Boasting itself as a "blue chip financial centre," Bermuda is one of the leading reinsurance centers in the world. With its easy access to both the United States and to Europe, its long history of stability, and solid reputation as a financial center, Bermuda will likely dominate captive rankings for some years to come.

Cayman Islands claims to have "robust, commercially-minded regulation," according to the Insurance Managers Association of Cayman. A Caribbean British territory, located south of Cuba, the Cayman Islands has usually ranked number two or three in captives during the last ten years. Following closely on Bermuda's footsteps, this domicile began seriously courting captives in 1979 and since its entrance into the captive marketplace has focused heavily of healthcare-related captives. Also like Bermuda, Cayman has a unique infrastructure built to facilitate and support captives, which is why it can hold its own as one of the top captive domiciles.

The Bailiwick of Guernsey is a British Crown dependency composed of three islands located in the English Channel near the French coast. Guernsey has long been a financial center for Europe, especially in regard to reinsurance. It officially began courting captives with legislation passed in 2002, although the dependency did have captive insurance companies domiciled there previously. It is a leading captive domicile in Europe and, as it is not a member of the European Union, it is not subject to Solvency II rules. Instead, it has adopted similar rules that are more suitable to their needs as an offshore regulator. The domicile prides itself on its innovation and claims to have developed protected cell captives in the late 1990s.



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Anguilla is relatively new to the captive marketplace in comparison with many other offshore domiciles, having enacted captive legislation in 2003. However, the British territory located east of Puerto Rico, has steadily become one of the most talked about domiciles. It specializes in small to mid-sized captives by creating a regulatory environment that is cost-effective for small and medium-sized companies. Captives are not required to appoint local directors or to hold annual meetings in the territory and the fee structure is lower than that of comparable offshore domiciles, which makes it an attractive destination domicile for companies that are far from the *Fortune 500* list.

many of its captives insuring Canadian companies. Unlike other offshore domiciles, Barbados does charge some premium taxes.

Specializing in reinsurance captives, Luxembourg is the leading captive domicile in the European Union. Located in the heart of Europe, between France and Germany, the small country of Luxembourg took the lead as a captive domicile with legislation passed in 1984 allowing for the formation of reinsurance captive insurance companies. The costs of starting and maintaining a captive in this domicile can be quite expensive, with both fees and taxes levied on domiciled companies. However, as part of the EU, being domiciled in Luxembourg allows the captive to cover risk throughout EU member countries without prior authorization. ■

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The Federation of Saint Kitts and Nevis, generally referred to as Nevis in its capacity as an offshore domicile, is also new to the captive arena, having passed legislation to host captives in 2004. The dual island nation, located east of Puerto Rico, is making a name for itself as a strict regulator while charging only moderate fees and having low capital requirements.

Barbados began licensing captives in 1984. It is an independent island nation located in the southern part of the Caribbean, north of Venezuela. It is a leading international business center, as well as being a top ten domicile for captives. Its proximity to South America gives it an edge in that region. However, one of the countries that it is closely allied with is Canada, with

