

**STATE OF VERMONT**  
COMMITTEE ON FINANCE

February 17, 2015

The Honorable Patrick Leahy  
United States Senator  
Post Office Box 933  
Montpelier, Vermont 05602

The Honorable Bernard Sanders  
United States Senator  
1 Church Street, 2nd floor  
Burlington, Vermont 05401

The Honorable Peter Welch  
Representative in Congress  
30 Main Street, 3rd floor, Suite 350  
Burlington, Vermont 05401

Dear Senator Leahy, Senator Sanders, and Representative Welch:

On behalf of the Senate Committee on Finance, I am writing regarding a matter brought to our attention by David F. Provost, CFE, Deputy Commissioner, Captive Insurance, Vermont Department of Financial Regulation.

As explained to us by Deputy Commissioner Provost, there is a significant federal tax liability incurred by tax-exempt health care providers who self-insure through captive medical malpractice insurance companies, and seek to extend such coverage to non-employee practitioners. Most hospitals attain tax-exempt status under Internal Revenue Code Section 501(c)(3), and often effectively use captive insurance to manage their professional liability exposure. However, if premiums attributable to non-employee physicians become “substantial” – ten percent or more of the captive’s premiums – then all of the captive’s income may be considered “Unrelated Taxable Business Income” and result in a significant tax liability. As a result, American hospitals often domicile their captives offshore, where non-employee physician premiums can be up to 50 percent of the total without jeopardizing the hospital’s tax-exempt status.

Vermont and other states with captive legislation are losing a considerable amount of business to domiciles such as the Cayman Islands, resulting in a loss of tax revenue and jobs, and added costs to the health care system.

Therefore, we respectfully request that you seek an amendment to this particular provision of the Internal Revenue Code. Such action would greatly benefit American health care providers, the Vermont captive insurance industry, and our economy as a whole.

Thank you in advance for your time. Please let us know if we can provide more information or if you would like to discuss this issue with us by contacting our staff, Maria Royle at 828-2289. In addition, please feel free to contact Deputy Commissioner Provost directly at 828-3304.

Sincerely,

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Senator Tim Ashe, Chair  
Committee on Finance