

How will a Trump presidency affect captive insurance?

Tags: [captive tax](#), [Donald Trump](#), [IRS](#), [Micro-captives](#), [US legislation](#)

Captive Review assesses how Donald Trump's stated policies and ambitions for the US, combined with Republican control of the Senate and House, could affect the captive insurance industry

The return of Donald Trump to the White House in January could mark a significant shift in the landscape for captive insurance, according to a panel of experts who spoke to Captive Review in the wake of Trump's election victory last week.

Captive leaders are closely watching ongoing political developments, expecting Trump's policies—particularly around tax reform, IRS funding, and deregulation—to affect how captive insurance companies are regulated and utilised, particularly by small and mid-sized businesses.

One anticipated outcome of Trump's presidency is a friendlier environment for 831(b) micro-captives, bolstered by the incoming GOP-majority Congress.

Dustin Carlson, president of SRA 831(b) Admin, said that Republicans had been particularly receptive to messaging from the 831(b) industry, and felt they recognised the necessity for small businesses to have access to the 831(b) tax election as an alternative risk financing option. With GOP support he said it could lead to reforms in the 831(b) sector.

"The outcome of the 2024 general election represents a positive development for micro-captive owners," he said.

"The time is ripe for the industry to leverage a GOP congressional majority to advocate for reforms to 831(b) and provide much-needed clarity for small businesses."

Carlson said these reforms could realistically be incorporated into a 2025 tax bill, which is expected to extend Trump's 2017 tax cuts, which are set to expire next year.

In addition, Carlson pointed to an interview during his presidential campaign in which Trump refers to the increasing cost of insurance, and briefly mentions self-insurance as an alternative option.

"I find this perspective encouraging and am hopeful that under a Trump administration with a GOP majority, we will see reforms related to 831(b)," he said. "It is my belief that 831(b) plans will become a standard business practice, similar to how companies widely utilise 401(k) plans."

Small business benefits

Sean King of CIC Services believes that Trump's pro-business stance could encourage more small and medium-sized companies to explore the benefits of captives.

King points to Trump's commitment to decentralising power and his skepticism toward the "administrative state" as potentially favourable conditions for captives.

King argues that captive insurance enables small businesses to decentralise risk, ultimately benefiting the US economy.

"Trump is very much pro-small business and against the administrative state," King said. "We remain hopeful and confident that his administration will better understand how captive insurance arrangements decentralise risk and power, aid small businesses, and generally benefit the US economy."

IRS approach

The IRS is perceived by many in the industry to have taken an [aggressive stance against the micro-captive industry](#), with nearly 1,300 tax court cases still pending, some dating as far back as 2012.

Carlson is hopeful that both chambers will "hold the IRS accountable" and that this support may lead to a friendlier regulatory environment, with fewer IRS resources dedicated to auditing captives due to possible funding cuts to the

agency.

However, some other industry experts caution against assuming a major reduction in IRS enforcement.

Bailey Reese, a partner at Dentons, highlights that the IRS has been pursuing micro-captives across both Republican and Democratic administrations.

“The functioning of the IRS doesn’t typically change much with the change of administrations,” she explained, noting that the IRS’s focus on captives has remained constant through both Trump’s and Biden’s terms.

“That is a good thing, because we would not want the IRS to be political. Also, the IRS Commissioner has a 5-year term, which is independent of the presidential election cycle, so the commissioner will remain the same.”

Even with a GOP Congress, Reese doesn’t expect the IRS to back away from [auditing captives](#), especially with ongoing scrutiny around tax compliance.

IRS funding cuts

A factor that could affect the IRS’ ability to scrutinise captives is the potential for Congress to reduce the IRS budget.

The IRS was allocated an additional \$80 billion by the Biden presidency over a 10-year period under the Inflation Reduction Act, which was intended to enhance IRS audit capabilities – an amount which was later reduced by \$20 million.

Reese said it is possible that Congress may reduce that extra amount further, but that this would not necessarily reduce the resources devoted to small captives, as the IRS focus on small captives began long before this additional amount was authorised.

“The IRS has identified issues that it plans to audit more, including large partnerships and use of corporate aircraft. If there were a shift in focus away from small captives, it would not likely be as a result of the outcome of the Presidential election,” she said.

New regulations

Of particular importance are the IRS’s proposed new micro-captive regulations first put forward in April 2023. These [controversial regulations](#) are poised to categorise some micro-captive arrangements as “listed transactions,” which the IRS classifies as high-risk for tax evasion.

Carlson thinks that having “set the stage for the Supreme Court to significantly limit the administrative state” in his first term through [cases like Loper Bright](#) and *Corner Post* that were decided this year, Trump will continue on this trend, making it unlikely the proposed regulations will be issued.

“Given the outcomes and precedents established in these cases, it seems unlikely that the IRS will proceed with issuing the proposed regulations,” he said. If they do, those regulations are likely to be swiftly struck down in federal court.

But Reese disagrees, noting that the IRS’ “[Business Plan](#)” released in October for 2024-2025 includes the goal of finalising these regulations next year.

“This implies that the [IRS will continue to pursue these captives](#),” Reese said, emphasising that Trump’s return to office may not necessarily change the agency’s enforcement priorities.

Green Book

One area where Trump’s administration could make a more immediate impact on captive legislation is in the shelving of policies in the [Treasury’s Green Book](#).

Carlson explained that the Green Book reflects the outgoing administration’s wish list, which will likely lose relevance under Trump’s leadership.

“The Green Book serves as a wish list for the current administration, making its relevance moot under the incoming Trump administration,” Carlson noted.

This may prevent new restrictive regulations on captives, which would otherwise have been under consideration had the Biden administration continued.

Tax Reforms

While other direct changes to captive insurance regulations are not anticipated, Trump's broader tax policy could still indirectly affect the captive market.

Paul Phillips, EY's global captive tax network leader, explains that if Trump's tax reforms can create a more business-friendly environment, and deliver the intended economic growth, he expects it will indirectly result in greater captive numbers and premium volume.

"The Presidency should not be and is not a factor that directly encourages the establishment of captives," he added. "However, we expect that due to the movement and increase in companies in America, a positive correlation will exist and the captive insurance industry will benefit from additional companies considering setting up new or additional captives in an economically favourable environment."

He added that while taxes should not be the primary reason for implementing a captive, the 2025 expiration of the Tax Cuts and Jobs Act could prompt Republican legislators to revisit and potentially reduce corporate tax rates.

If corporate rates decrease, the relative tax savings a captive provides may diminish, but Phillips believes that the core benefits of captives—such as improved risk management and capital efficiency—will remain valuable to businesses. This, he predicts, will help sustain growth in the captive market regardless of specific tax changes.

"Captives are a powerful planning tool for insurance, risk and capital management purposes and those efficiencies and benefits will remain," he said, highlighting that a more detailed approach may be required in feasibility studies on the soft costs, cost reduction and risk management benefits of a new captive.

Inflation and interest rates

The potential for inflation and rising interest rates under Trump's administration is another factor that could shape the captive insurance landscape.

Phillips noted that captives become more attractive in a high-interest rate environment, as the savings and efficiencies offered by captive programmes increase with higher rates.

Trump's tariff policies could increase inflation, which could drive businesses to consider captives as a cost-saving measure.

"if inflation and higher interest rates do occur then the expectation is that captives would increase in value and be more widely implemented," Phillips explained. However, he added that broader economic trends and market stability would ultimately influence captive formation rates.

Global impact

Phillips also commented on Trump's potential impact on captive domiciles, particularly for those considering offshore versus onshore options.

While Trump's administration is not expected to push specific policies that would affect the use of offshore domiciles, the broader global tax landscape – including policies such as the Base Erosion and Profit Shifting (BEPS) framework – will likely play a role in companies' decisions.

Phillips believes that while the change in the white house should not have direct impact on domiciles, "companies will need to evaluate the pros and cons of each potential domicile to determine best possible option."

However, on a broader scale, Phillips notes that Trump's potential influence on global stability could affect captive insurance trends internationally.

"If change in political regime brings more global stability, we may see realignment on risks insured in captives and refocus on the next risks that may be looming," he said.

This could translate into captives covering emerging risks and adapting to international regulatory changes as more countries begin to introduce captive legislation.