Eversheds Sutherland’s captives practice combines two of the firm’s strongest areas—insurance and tax—creating a powerful team to serve a complex industry.

Eversheds Sutherland’s captives practice melds the considerable strengths of our insurance and tax practices to provide unmatched experience in this sector. Our attorneys are trusted by major industry players and long-term clients, and we have been recognized by several industry organizations. We remain committed to staying on the cutting edge of industry, tax and regulatory trends so that we can anticipate any issues our national and multinational clients may face and minimize any challenges that arise. We advise clients on all available structures and options, offering creative solutions so that they can minimize risks and realize business objectives through captives.

We work with virtually every type of captive and are deeply familiar with captives domiciled domestically and outside of the United States, including Barbados, Bermuda and the Cayman Islands. Eversheds Sutherland advises captives owned by single parents and by multiple unrelated entities, including risk retention groups and those sponsored by governmental entities. We also assist in forming captives as stock companies, mutual companies and reciprocals. In addition, we have been involved in forming, and continue to represent, a number of cell and similar operations. From their inception, we have represented the two earliest pooling arrangements among captives.

Along with our knowledge in insurance and tax, we draw on our colleagues who work in finance, securities, commodities and accounting. This multidisciplinary approach enhances Eversheds Sutherland’s ability to effectively and efficiently represent clients.

**Why Eversheds Sutherland**

**Global reach.** Eversheds Sutherland works with captive entities and arrangements around the world, in domestic jurisdictions that include Arizona, Delaware, Hawaii, Nevada, New Jersey, New York, South Carolina, Tennessee and Vermont and foreign jurisdictions that include Bahamas, Barbados, Bermuda, Cayman Islands, Guernsey, Ireland and Luxembourg.

**Wide range of industries.** Our advice encompasses different sectors, including health care, construction, real estate, telecommunications,
energy, stevedoring, retail, manufacturing, auto manufacturing and sales, insurance, financial services, banking, securities, railroad, mining, petroleum marketers and transportation.

**Full scope of services.** We advise on every aspect of captives, including taxation and tax benefits of captives, insurance risk and risk distribution/shifting, Internal Revenue Service (IRS) regulations and issues, rent-a-captives, cell companies and safe harbor rulings that provide a roadmap for IRS compliance, including Revenue Ruling 2002-89, Revenue Ruling 2002-90 and Revenue Ruling 2002-91.

**Cutting-edge solutions.** We are renowned for our creative solutions, including the Department of Labor’s first prohibited transaction exemption issued with respect to reinsurance of welfare benefits (e.g., group term life, accidental death and dismemberment, short and long-term disability) with a captive that insured less than 50% unrelated business constituted insurance for tax purposes; the first captive authorized by the Department of Labor to cover U.S. Longshoremen and Harbor Workers compensation and structuring the two earliest pooling arrangements formed to permit captives to exchange risks.

**Thought leaders.** Our attorneys regularly speak on captive insurance topics at industry seminars, such as those sponsored by the New Jersey Department of Banking and Insurance, Vermont Captive Insurance Association, Hawaii Captive Insurance Council, Bermuda Insurance and Reinsurance Association, Captive Insurance Companies Association, World Captive Forum, Nevada Captive Insurance Association, as well as at tax programs like Bloomberg/BNA/CITE, the Federal Bar Association and the American Bankers Association. Bruce Wright, who is consistently recognized as a top thought leader in the industry, is the touchstone of our captives practice.

**Familiarity with all insurance and risk options:** Along with captives, we also advise clients on BOLI/COLI/STOLI/stable value and bespoke insurance coverage. We know and understand other alternative risk vehicles where companies raise capital by issuing registered and unregistered securities.

**Nuts and Bolts**

We provide the full range of legal services in connection with captives, including:

- Captive formation and oversight of ongoing operations
- Rendering insurance regulatory advice to the captive and its insureds
- Advising corporate with structuring and documenting the captive entity
- Addressing industry-specific regulatory and antitrust law concerns
- Advising on securities law
- Assisting with insurance and reinsurance policy drafting
- Tax planning, including securing private letter rulings from the Internal Revenue Service
- Tax controversy work
- Advising on redomesticating captives
- Advising regarding handling policy claims and captive disputes with fronting entities, reinsurers and shareholder/insureds
- Counseling on insurance risk and risk distribution/shifting

• Regulatory and agency experience
  - Overseeing XXX and AXXX reserve securitization transactions
  - Structuring syndicated and bilateral letter of credit facilities
  - Establishing onshore captive reinsurers and issuing surplus notes by the captive to support the Regulation XXX/AG 38 reserve of its insurance subsidiaries
  - Working with the U.S. Department of Labor regarding captives that seek to reinsure certain employee benefits
  - Advising on compliance for IRS Revenue Ruling 2002-89, Revenue Ruling 2002-90 and Revenue Ruling 2002-91
  - Counseling on securities regulation, including the Securities Act of 1933, the Securities Exchange Act of 1934 and the Investment Company Act of 1940

Take Action
Entities looking to establish and oversee captives turn first to Eversheds Sutherland for our creative solutions, global reach and renowned advice. We are wholly committed to developing solutions that meet all our clients’ needs.

Experience
Assists insurer in captive insurance arrangements.

Advised on structuring and forming World Trade Center Captive Insurance Company.

Advised industry and corporate groups on captive insurers regulations and tax policy.