



Utah Captive Insurance Association

Delivery Via Email – omb.unit@irs.gov

June 13, 2022

Andres Garcia
Internal Revenue Service
Room 6526
1111 Constitution Avenue, N.W.
Washington, D.C. 20224

Re: OMB number 1545-1800

Proposed Collection; Comment Request on Information Collection for Form 8886, Reportable Transaction Disclosure Statement, 21700 *Federal Register*, Vol. 87, No. 70, April 12, 2022 (“Request for Comments”)

To the Internal Revenue Service:

The Utah Captive Insurance Association (the “Association”) respectfully submits this letter to the Internal Revenue Service (“IRS”) in response to the above-captioned Request for Comments.

The Association is a voluntary membership organization representing the interests of captive insurance industry stakeholders in the state of Utah. Reflected in the Association’s membership are fifty-three captive insurance company professionals and twenty-one owners of captive insurance companies.

The Association provides information to the IRS that the IRS Form 8886¹ is burdensome and redundant of the IRS Form 1120-PC.² The Association provides the following information by the categories outlined in the Request for Comments.

- (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility;

The Association respectfully responds that the Form 8886 requests information that is also required on the Form 1120-PC for the captive insurance company. Therefore, the Form 8886 is redundant. Examples of the redundancy are as follows:

¹ IRS Form 8886 – Reportable Transaction Disclosure Statement (OMB No. 1545-1800).

² IRS Form 1120-PC – U.S. Property and Casualty Insurance Company Income Tax Return (OMB No. 1545-0123).

1. The captive manager listed on Form 8886, line 6a is also noted in the annual statement which is required to be attached to Form 1120-PC;
2. The dollar amount of tax benefits requested on Form 8886, line 7a can be obtained from the Sch M-1 book-to-tax differences noted on Form 1120-PC; it would have to be accumulated for the years of operation to obtain the cumulative total;
3. The owner of the captive is already listed on Form 1120-PC, page 7;
4. The premiums written are already noted on the annual statement attached to Form 1120-PC;
5. The loss ratio and claims paid can be computed or obtained from the annual statement; and
6. The assets held by the captive are already noted in the annual statement attached to the Form 1120-PC

The Association requests the IRS to remove from the Form 8886 those items which are redundant from the Form 1120-PC (which are the items 1 through 6 in the above paragraph). Removal of those categories of information from the Form 8886 would lessen the review of repetitive information by the IRS and make the IRS review of the filings more efficient.

Additionally, the information requested on the Form 8886 does not assist the IRS in identifying transactions that constitute insurance versus those transactions that do not constitute insurance. Therefore, the usefulness of the Form 8886 is not clear.

The Association respectfully suggests the IRS is able to obtain the relevant information it requires on captive insurance companies without the burden of requiring wholly duplicative information from all related taxpayers.

(b) the accuracy of the agency's estimate of the burden of the collection of information;

The experience of the members of the Association is that the IRS has underestimated the burden of time and expense to the taxpayer for the collection of the information. For example, a CPA's time to prepare the Form 8886 can range from 2 hours to 25 hours depending on the number of insureds and owners of insureds. Additionally, the owners also must prepare their own Forms 8886, thereby increasing the burden and cost of compliance with Form 8886.

Furthermore, the Association members state that it is expensive to file the Form 8886, as retaining the accounting firms necessary to file the Form 8886 are charging thousands of dollars to clients to collect and file information required on the Form 8886. For example, the experience of Association members for these accounting firm costs ranges from \$2,500 to \$250,000.

It is noted that fees increased when the IRS expanded the questions on Form 8886, line 7. The increase was the result of both additional time and effort to obtain the information as well as the additional discussions generated among Attorneys, CPAs and captive owners to, essentially, guess what the IRS was requesting in the absence of any guidance from the IRS.

Compliance with Form 8886 requires the expertise, on an annual basis, from multiple advisors to provide the requested information, as well as prepare the Form 8886 and attachment.

Notably, as each insured, and each insured's owners, are required to file the Form 8886, there is no limit to the number of Forms 8886 that a particular captive insurance transaction may require to be filed on an annual basis.

Therefore, this filing burden far exceeds the utility for the IRS obtaining the information because the IRS could obtain the relevant information without the burden of requiring wholly duplicative information from all related taxpayers.

(c) ways to enhance the quality, utility, and clarity of the information to be collected:

The Association respectfully requests the IRS to issue additional guidance and clarity of how to compute the total tax benefits of the transaction. It is redundant to have the captive list the insureds and owners of the insureds, in addition to requiring the owner and insureds to file a Form 8886. The Notice 2016-66 lacked clarity regarding the captive insurance company background information that was being requested.

The Association respectfully submits to the IRS that it require the captive insurance company to only file a Form 8886 that is narrowly tailored to provide information not already on the Form 1120-PC. Additionally, the IRS should not require all the insureds – and their owners (including pass through owners and all shareholders of C corporation owners) – to respond with a Form 8886.

The IRS should limit the requests for information to those categories and entities that would inform and assist the IRS in identifying transactions that are insurance, as opposed to those transactions that are not insurance.

The Association also informs the IRS that the Form 8886 results in hundreds of filings by remote shareholders. However, these remote shareholders are already reflected on the Form 1120-PC, thus causing additional redundancies between

these two IRS forms.

- (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and

The Association does not have specific suggestions for application of information technology for the Form 8886. However, the experience of the Association members is that the information requested on the Form 8886 focuses too heavily on ownership. For example, entities with no ownership interest in the captive insurance company, but which may have a fractional ownership in a business insured by the captive, must be reflected in the Form 8886 filing. The Association contends such ownership focus is inefficient and does not yield useful information for the IRS.

The Association additionally respectfully suggests the IRS principally use and rely on the Form 1120-PC and limit the required respondent on the Form 8886 to only the captive insurance company.

- (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information

As stated in the Association's response to (b) above, the costs vary widely because Form 8886 requires all insureds and all owners of insured entities to respond on the Form 8886.

The Association applauds the IRS for its outreach via the *Federal Register* to the captive insurance industry through the Request for Comments. The Association stands ready to answer questions the IRS may have about this letter and to engage in a dialogue with the IRS to improve the Form 8886 filing process and experience for the taxpayer.

Sincerely,

The Utah Captive Insurance Association
P.O. Box 114
Riverton, Utah 84065
ucia@utahcaptive.org