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## Insurers Want U.S. to Curb Competitors' Fund Transfers to Bermuda

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Some of the nation's biggest insurance companies will urge the Senate Finance Committee today to change rules that enable some of their competitors to avoid billions of dollars in federal taxes by sending money to themselves in Bermuda and other tax havens.

At issue are federal rules that allow insurance premiums to be shifted from the United States to offshore affiliates -- which reduces taxes -- and allow the proceeds to be invested tax free, increasing the profit to parent companies. The companies that do this say they are following the letter of the tax code.

The core of the dispute is an unusual tax treaty with Bermuda. It allows insurance companies based on the island to deduct from their American taxes premiums that their subsidiaries in the United States collect from American customers and send back to the headquarters abroad. In Bermuda and other tax havens, the money is invested tax free.

This money is moved, under the law, through the purchase of reinsurance by the affiliates from their parent companies.

Americans and American businesses paid \$499 billion for property and casualty insurance in 2006, nearly 4 cents out of each dollar of the gross national product.

Nearly all insurance companies buy reinsurance, or insurance on their own policies, to reduce the amount they have to pay to cover claims. Reinsurance is a tax-deductible business expense.

But the insurers that want the tax law changed contend that when an American affiliate buys reinsurance from its Bermuda parent, the company is merely moving money from one pocket to another. A result, they say, is an unfair profit for the offshore company and less taxes paid to the federal government.

Usually, insurers try to keep business expenses to a minimum. But for those companies with units in the United States and Bermuda, the more reinsurance they purchase from the parent company, the lower their United States taxes and the more money the parent company is able to invest tax free.

In a report issued Monday, the Congressional Joint Committee on Taxation, which advises the Senate Finance Committee, said that from 2001 through 2006, purchases by American subsidiaries of reinsurance from their parent companies in Bermuda rose by \$16.6 billion, to \$32.5 billion.

That is more than 20 times the rate of growth in similar spending by companies based in the United States, which do not qualify to transfer money as their Bermuda competitors do. Their purchases from unrelated offshore companies rose just \$700 million, to \$22.2 billion.

Insurers like Liberty Mutual, Hartford and Chubb, which cannot easily capitalize on the rule, want Congress to close what they see as a loophole so they can better compete with rivals like Ace, XL and Arch.

William R. Berkley, the chief executive of W. R. Berkley and a leader of the coalition of insurers appealing to Congress for a change, said that unless the law is changed, "in 10 or 15 years all the domestic property and casualty insurance companies are going to have to go offshore."

Mr. Berkley and the others in the coalition are using two appeals to lawmakers: moral outrage and threats to take their money to Bermuda themselves.

"I think it's morally wrong," he said, "but if we can't get the government to change the rule, we may ultimately have to do it."

ACE, XL and other Bermuda companies are fighting back under the banner of the Association of Bermuda Insurers and Reinsurers. Other companies reinsuring American subsidiaries' policies through parents in Bermuda include Everest Re, Arch Capital, Endurance Specialty Holdings and Allied World Assurance.

ACE and some of the other companies declined to comment on the tax issue. But through their trade group they contend that they are doing nothing wrong and are following the United States tax code. Moreover, they say, the tax law is a valuable tool for attracting foreign investment to the United States and should not be changed. The foreign investments, the companies say, are far more important to the American economy than any taxes forgone in the transactions.

"If a company in Germany is making widgets to sell to buyers in the United States, the profits on those widgets are not taxed in the United States but in Germany," said Kenneth J. Kies, a tax lawyer and former chief of staff of the Congressional Joint Committee on Taxation who has worked for some of the Bermuda companies. "It's the same concept with the insurance."

Donald Kramer, the chief executive of Ariel Reinsurance, plans to testify on behalf of the Bermuda insurers today. He said in an interview yesterday that critics of the tax law often overstate the benefits to Bermuda insurers. Mr. Kramer said a strong insurance industry in Bermuda helps the United States economy by providing coverage for catastrophes like Hurricane Katrina that is otherwise scarce. Also, he said, a change in the tax law would probably mean higher insurance prices for many Americans.

"If you tried to shut this down," he said, "the U.S. economy would suffer."

Ending the tax treaty with Bermuda is among the solutions proposed in the report by the joint tax committee.

Congressional aides said several members of the Senate Finance Committee favor revising the federal tax law to force companies like Ace and XL, which have become important insurers of corporate America and are based in Bermuda, to pay taxes at the standard corporate rate of about 35 percent. Last year, Ace reported a federal tax rate of 17.9 percent. XL's rate was 11.4 percent, and Arch Capital Group's was 3.4 percent.

Insurance experts say one reason the companies in the coalition have not moved to Bermuda, now one of the world's most important insurance centers, is that those companies have been in business for decades, and to reorganize in Bermuda they would have to pay billions of dollars in capital gains taxes.

On the other hand, the companies that are reaping the tax benefits are relative upstarts. ACE and XL, for example, were started in Bermuda in the early 1980s. Dozens of insurers are now based in Bermuda, including some transplants from London. A few Bermuda insurance companies were started with largely American financing after the Sept. 11, 2001, attacks to capitalize on the soaring prices of property and casualty insurance.

Because companies using the Bermuda arrangement earn bigger after-tax profits, they enjoy a higher stock price relative to their profits and they build financial muscle much more quickly. They could, instead, charge lower premiums to gain market share, but executives on both sides of the dispute said that had not been the practice.

The committee report does not specify the federal taxes forgone, but if the premiums sent to sister

companies in Bermuda earn a 10 percent annual return, then each \$30 billion transferred to a sister company in Bermuda or other tax haven costs the government -- on investment earnings alone -- about \$1 billion a year. That loss compounds as more premiums are moved out of the United States and investment returns swell offshore assets.

In 18 years, the committee said, the assets of Bermuda insurers grew tenfold, to \$172.7 billion in 2001. The report showed, by other measures, that since then the transfer of funds to Bermuda has been accelerating.