

FSM Captive Insurance Seminar 2009/11/18

(Translation from Hoken Mainichi Shimbun article dated 2009/12/11)

*Captive Insurance Seminar for Japanese Corporations was held on November 18, 2009 at Aoyama Diamond Hall, sponsored by FSM Captive Insurance Council.*

The seminar updated the audience on the FSM captive insurance system and present situation as well as multiple corporate captive, to be introduced in December, and the taxation system. From the FSM government, several VIPs attended the seminar for public relations purpose, including the Speaker of the FSM Congress and Chairman of the Banking and Insurance Board whose function is equivalent to Japan's Financial Services Agency.

In an opening speech, Mr. Alexander Narruhn, Chairman of Banking and Insurance Board, said that since the enactment of the captive insurance law in 2006 the FSM has been trying to improve captive insurance system as the nation's important issue and that the FSM is a domicile capable of providing captive insurance infrastructure most advantageous to Japanese corporations. Next, representing FSM Captive Insurance Council, Mr. Kenichiro Hamada, CEO of Micronesia Insurance Management Company, stated that the FSM captive insurance law, which presently allows Class 1 captive writing parent risks only and Class 2 captive writing related third-party risks, is expected to introduce Class 3 captive (Multiple Corporate Captive) with the amendment of the current law. He also referred to Japan's Taxation Reform 2009 in which Foreign Dividend Exclusion Rule was implemented, attracting the interest of Japanese corporations to FSM captives.

Concerning MCC, which is formed with the minimum capital of \$100,000 and similar to protected cell companies or rent-a-captives, Ms. Wakaba N. Taitano, USCPA and Director & Vice President of Micronesia Registration Advisors, Inc., detailed the merits as follows:

- From a core member captive perspective:

- Promotion without worrying about tax issues,
- Start as Class 1 or 2, then develop into Class 3 (MCC) while maintaining its own risk management as Class 1 or 2,
- Make possible of risk management by the same standpoint as its clients,
- From each member captive (client) standpoint:
  - Make use of captive know-how of the core member captive,
  - Gaining of its own independent income tax merit,
  - Segregation of clients' risks by the independency of each member captive,
  - Member captive(s) can spin out of MCC efficiently to become independent Class 1 or 2 captive.
- Tax advantages for MCC:
  - Both core member captive and member captive(s) can enjoy the same tax advantages,
  - Utilization of Foreign Dividend Exclusion Rule introduced in 2009,
  - No double taxation on dividends received by core member from member captive(s) in FSM,
  - Free of currency risk on corporate income tax, through filing, determination and payment in functional currency.

Ms. Taitano cited the following merits of MCC system for attracting Japanese captives:

- Simple system of MCC enables easy explanations of captives to those who are unfamiliar with captive concept,
- FSM's long-term commitment toward Japanese corporations, unique and advantageous tax system and pro-Japanese environment,

In addition, several experts on captives, law and accounting spoke on the following topics:

- FSM Captive Insurance Council and Current Topics by Mr. Tony Schmidt, Micronesia Insurance Management Co. Ltd.
- Legal System in FSM by Mr. Kasio Kembo Mida of Fredrick Ramp

- Tax System of FSM by Mr. Masanobu Takayama, Tax CPA
- Basics of Captives, Gist of Japanese Captive Establishment by Mr. Kenichiro Hamada.

(Translation from Hoken Mainichi Shimbun article dated 2009/12/14)

### *FSM Aiming for Top Domicile for Japanese Captives*

The FSM government has eagerly pursued to promote a captive domicile specifically suited for Japanese corporations. Geographical proximity, historical background, economic cooperation in fisheries and economic assistance as well as a number of the nation with Japanese ancestry and pro-Japanese environment are all contributing FSM in attracting Japanese corporations. Originally, invitation of Japanese captives was initiated by Emanuel Mori, President of the FSM Government, as one of the nation's long-term policy aiming at a hub of Japanese corporate investment overseas. As regards the formation of a captive insurance company, Mr. Isaac V. Figir, Speaker of the FSM 16<sup>th</sup> Congress, endorsed his every support along with a forward-looking attitude of the government. The Banking and Insurance Board is authorized to issue a license on an application after investigation by the insurance examiner. Mr. Alexander Narruhn, Chairman of the Board, said that any application which has met legal requirements including disclosure of necessary information will be permitted, and that the Board, as supervisors, will be lavish with help if necessary in the process of establishment. According to Mr. Jesse Giltamag, Insurance Examiner, a license may be issued within 30 days or not beyond 45 days at longest, provided an application be prepared with all the necessary documentation.

Updating of captive insurance and regulatory systems is in progress. MCC, introduced at May 26, 2009 seminar as an idea, will be incorporated into the law in December as the new Class 3 captive. Currently, a minimum capital

requirement for Class 1 or 2 captive is \$1,000,000, while a member captive under the core member captive can be established at minimum capital of \$100,000.

Since a member captive is given corporate status, contrary to a cell in a rent-a-captive arrangement, MCC can take full advantage of Foreign Dividend Exclusion Rule enacted in 2009 Japan Tax Reform.

Looking back to the last seminar in May 2009, Ms. Taitano of MRA mentioned that there was the positive reaction to MCC with an increased number of inquiries. According to Mr. Narruhn, the Board has been approached directly from Japanese corporations who were considering relocation of their existing captives to FSM from other domiciles such as Hawaii, Singapore, Guernsey and Bermuda. Mr. Hamada evaluates this trend saying that MCC is a unique system capable of differentiating FSM from other domiciles and that it would support the Japanese government policy for flowing back home of retained funds overseas through the introduction of foreign dividend exclusion rule.

Work has been in progress for drafting a new corporation law, which is likely to be ratified in the Congress in March 2010 at the latest. This law, if enacted, will facilitate the incorporation process without the involvement of notary public, in the same way as in the U.S., making the captive formation more easier.

“At present, the Pohnpei International Airport runway expansion project is under way, which is scheduled to be completed in the spring of 2011, when direct flights from Tokyo (taking only 4 hours for one-way trip) will bring increased convenience for visitors. Also, with undersea cable network across Micronesian territory being established, modernization of communication system is nearing completion”, said Mr. Roger Mori, Chairman of Resources and Development Committee.

Lastly, Mr. Narruhn added “We will make our efforts to improve laws and regulations helping many Japanese corporations establish captives in FSM. It is our aim to become number one domicile for Japanese captives in 10 years”.

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