

International comparison of insurance taxation

Belgium

General insurance – overview

Definition	Accounting	Taxation
Definition of property and casualty insurance company	A company that performs non-life and casualty insurance operations.	Not defined by tax legislation, reference is consequently made to insurance and regulatory laws.
Commercial accounts/ tax and regulatory returns	Accounting	Taxation
Basis for the company's commercial accounts	Special regulations set out in the Royal Decree of 17 November 1994. In principle, the accounting period is the calendar year. Definitions of the various types of technical reserves are also specified in the Regulatory Act (9 July 1975) and the General Rules (Royal Decree of 22 February 1991).	Taxation is based on statutory accounts (Belgian General Accepted Accounting Principles (GAAP)). Then, specific tax retreatment has to be made (e.g. tax disallowed expenses, dividends-received deduction, and notional interest deduction).
Regulatory return	Returns to the Insurance Regulator ("Autorité des services et marchés financiers", "Autoriteit voor Financiële Diensten en Markten" – Financial Services and Markets Authority (FSMA) (former CBFA)) are made as follows: <ul style="list-style-type: none"> Quarterly: quarterly reporting consists of a balance sheet and an interim solvency margin, as well as a summary of qualifying assets and technical reserves. Annually: annual accounts, additional information (solvency margin, adjusted solvency margin (on a consolidated basis), inter-company transactions, summary of qualifying assets, etc.) and annual statistics. 	N/A.
Tax return	N/A.	An annual tax return must be filed with the tax authorities by the end of the 6th month following the closing date of the accounting year. In practice, for companies closing on Dec 31: tax return to be filed in September.
Technical reserves/ equalisation reserves	Accounting	Taxation
Unearned premiums reserve (UPR)	Calculated by time-apportionment (policy-by-policy, so-called 8th, 12th and 24th flat-rate methods), pro rata temporis method or global method. Based on gross premiums (fewer taxes) from which only related commissions may be deducted. To be adjusted, if necessary, for premium deficiency.	Deduction, policy-by-policy (up to the quota of gross reinsurance premiums, less the acquisition commissions to cover the charge of claims, administration costs and investment management costs), further to a pro rata temporis method. However, in certain circumstances, the tax authorities accept the flat rate "24th" time-apportionment method.
Unpaid claims reported	Corresponds to the total estimated cost of the settlement of all incurred damages after deduction of already paid out damages.	Deductible if the allowance for damages is properly estimated.

Belgium: General insurance – overview (continued)

Technical reserves/ equalisation reserves	Accounting	Taxation
Claims incurred but not reported (IBNR)	IBNR can be calculated by a review of claims notified after year end. It can also be assessed on the basis of the claims that have been declared late in previous years, or on the basis of any other statistical method.	Are deductible within certain limits, based upon by insurance class of risks calculated on a statistical and historical basis.
Unexpired risks	Recorded together with the unearned premium reserves. To be calculated based on the combined loss ratio.	According to the Belgian tax authorities, taxable in principle.
General contingency/ solvency reserves	Provision for longevity risks.	General provisions are not tax deductible.
Equalisation reserves	Specific rules have been laid down by the Insurance Regulator. Minimum charge required each year until the target level of the reserve is reached. Specific rules are defined per type of risks.	Tax exempt under certain given conditions (notably quantitative, i.e. both in terms of annual reserves allocation and in terms of aggregate amount).
Expenses/ refunds	Accounting	Taxation
Acquisition expenses	Recorded immediately in the profit and loss (P&L).	In principle, tax deductible when taken into the P&L as expense.
Loss adjustment expenses on unsettled claims (claims handling expenses)	Credited when earned or may be booked as a receivable if prudently assessed.	In principle, tax deductible when taken into the P&L as expense.
Experience-rated refunds	Recorded on the P&L account.	In principle, if received, taxable and, if paid, tax deductible.
Investments	Accounting	Taxation
Gains and losses on investments	In principle realised gains and losses are recorded in the P&L account. Unrealised capital losses on investments in equity securities are not recorded/ recognised unless they are of a permanent nature. Write-off has to be reversed if later no longer justified. Value allowances on bonds are recorded in case the recuperation of the nominal value is compromised. Unrealised investment gains are not recorded/ recognised.	In principle realised capital gains and losses are taxed and deductible, respectively, except for those on shares. Subject to conditions, net realised capital gains on shares could be fully exempted. Inversely, except in some specific circumstances, realised losses on shares are not tax deductible. In principle, in most cases, unrealised gains are taxable as conditions for immunisation (intangibility condition) are generally not satisfied. Tax deduction of unrealised losses is subject to different conditions; in any case, unrealised losses on shares are never tax deductible.
Investment reserves	N/A.	N/A.
Investment income	Accounted for : <ul style="list-style-type: none">• On an accrual basis: interest income and unearned income (bond and other)• Once declared: on dividends	Gross investment income (less investment expenses) is in principle taxable at the standard corporate income tax (CIT) rate. Under specific conditions, dividends received could justify the application of the so-called dividends-received deduction (deduction equivalent to 95% eligible dividends).
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Premiums paid, claims recovered and claims paid are recorded in the P&L account on a gross basis.	In principle follows accounting treatment. It should be noted that some anti-abuse provisions may apply for tax deduction of reinsurance premiums (e.g. if the transaction is not real/ at arm's length).

Belgium: General insurance – overview (continued)

Mutual companies	Accounting	Taxation
Mutual companies (all profits returned to members)	Same principles that apply to P&C insurance companies.	In principle, they are considered as non-profit making companies, only subject to tax on limitedly listed- income. Withholding taxes are usually their final tax charge. If they are viewed as profits seeking, they will be fully subject to the corporate income taxation.

Belgium: General insurance – other tax features

Further corporate tax features	Taxation
Loss carry-overs	All tax losses may be carried forward for an unlimited period.
Excess dividends-received deduction	Under conditions, dividends-received deduction not effectively used because of insufficient taxable basis may be carried forward for an unlimited period.
Foreign branch income	Foreign branch profit is taxable at the standard rate (33.99%) unless exempted by double-taxation treaty. Under conditions, foreign branch losses may be deducted from Belgian taxable result (but potentially subject to recapture).
Domestic branch income	Domestic branch is taxable on its income. Taxable profit is calculated according to the ordinary tax rules, similar to those applicable to resident entities, with however some specificities (e.g. interest charges paid to the foreign head office are not deductible).
Tax haven payments	Specific reporting obligations may apply in case of direct or indirect payments to counterparties established in tax haven countries.
Corporate tax rate	The nominal CIT rate is 33.99%
Other tax features	Taxation
Premium taxes	Annual premium tax of 9.25% on insurance premiums. For some insurance contracts reduced rates are applicable (4.4%, 1.40%, 1.10%). Some exemptions are also available (e.g. reinsurance contracts).
Capital taxes and taxes on securities	No registration duty on capital contribution. Insurance companies in principle benefit from a tax on stock exchange transaction exemption when acting on their behalf and for their own account.
Captive insurance companies	Belgium is not a favoured location for captive insurance companies as no legislation exists to provide incentives for their set-up. Deductibility of premiums paid to overseas captives may be denied under anti-avoidance provisions, which, inter-alia, counter the transfer of profits by a Belgian firm to a less heavily taxed foreign company.
Notional interest deduction	Basically, the notional interest deduction consists of a lump-sum tax deduction, calculated on the company's "adjusted" equity, i.e. the accounting equity (share capital plus its retained earnings) adjusted/reduced by, amongst others, the following items: (i) the fiscal net value of own shares held by the company, (ii) the fiscal net value of financial fixed assets qualifying as "participations and other shares", (iii) re-evaluation surpluses in respect of assets and capital subsidies or (iv) equity viewed as allocated to foreign branches. For financial year 2011 (assessment year 2012) the notional interest deduction rate is fixed to 3.425% of this "adjusted" equity.
Value added tax (VAT)	Insurance and reinsurance transactions are exempt from Belgian VAT (article 44, §3, 4° of the Belgian VAT Code). This means that a Belgian insurance company does not have a right to deduct VAT with respect to its insurance activities (except for transactions located for VAT purposes outside the EU or related to export transactions). Transactions of insurance companies that in principle do not fall under the VAT exemption are claim handling services (see below), sales of car wrecks, sales of subrogated goods, damage assessment services, actuarial services and back-office activities for other group entities. VAT exemption also applies for the insurance brokers and insurance agents. VAT exemption includes next to the intermediary services also the management of insurance contracts which they have concluded. This entails amongst others handling of insurance applications, receiving premiums and managing claims. Further, the Belgian VAT legislation foresees a specific exemption for the management of claim handling. The management of claim handling are exempt from Belgian VAT under the VAT exemption for insurance intermediaries (even in case the third party rendering the services did not intervene in the concluding of the agreement). This VAT exemption is applicable for the fee requested for the management of claim handling but not for the on-charging of third party costs following the handling of the claims (such as repair, towing, expertise, repatriation, etc.). These third party costs follow their own VAT treatment.

Belgium: Life insurance – overview

Definition	Accounting	Taxation
Definition of life insurance companies	A company that performs life insurance operations.	Not defined in the tax legislation, accordingly, reference is made to the insurance and regulatory laws.
Commercial accounts/ tax and regulatory returns	Accounting	Taxation
Basis for the company's commercial accounts	<p>Special regulations enumerated in the Royal Decree of 17 November 1994. In principle, the accounting period is the calendar year. Definitions of the different types of technical reserves are specified in the Regulatory Act (9 July 1975) and the General Rules (Royal Decree of 22 February 1991).</p> <p>In addition, the method of calculating the mathematical reserves is specified in the Royal Decree of 14 November 2003 on Life Insurance Activities.</p>	Taxation is based on statutory accounts (Belgian GAAP). Then, specific tax retreatment has to be made (e.g. tax disallowed expenses, dividends-received deduction, notional interest deduction, etc.).
Regulatory return	<p>Returns to the Insurance Regulator (“Autorité des services et marchés financiers”, “Autoriteit voor Financiële Diensten en Markten” – FSMA are made as follows:</p> <ul style="list-style-type: none"> • Quarterly: quarterly reporting consists of a balance sheet and an interim solvency margin, as well as a summary of qualifying assets and technical reserves. • Annually: annual accounts, additional information (solvency margin, adjusted solvency margin (on a consolidated basis), inter-company transactions, summary of qualifying assets, etc.) and annual statistics. 	N/A.
Tax return	N/A.	Annual tax return must, in principle, be filed with the tax authorities by the end of the 6 th month following the closing date of the accounting year. In practice, for companies closing on Dec 31, tax return has generally to be filed in Sept.
General approach to calculation of income	Accounting	Taxation
Allocation of income between shareholders and policyholders	Separate accounting for policyholders' and shareholders' profits within the annual accounts.	<p>A total income approach including overall profit from subscription and investment income.</p> <p>Policyholders' income (including bonuses) deducted from taxable profits.</p> <p>Shareholders' income (dividends distributed by the insurance firms) not deducted from taxable profits</p>
Calculation of investment return	Accounting	Taxation
Calculation of investment income and capital gains	Investment income is accounted for on an accrual basis for interest and unearned (bond or other) income and once declared for dividends. Capital gains are recognised as income upon realisation – see remarks on P&C insurance companies.	N/A.

Belgium: Life insurance – overview (continued)

Calculation of investment income and capital gains	Accounting	Taxation
Actuarial reserves	<p>Mathematical reserves are maintained per individual case using actuarial methods as defined by law (mortality tables and interest rates).</p> <p>Given the use of guaranteed rates in the Belgian market, to cover the risk of a fall in the financial returns, an additional reserve (“Provision pour aléas financiers”) should be established when certain criteria are met. The method of calculating this special reserve is specified by the insurance regulator. The calculation method uses an official reference interest rate as opposed to the interest rate guaranteed by the company.</p>	<p>In the market, most actuarial reserves are generally considered as tax deductible as long as duly evidenced.</p> <p>Deduction of some actuarial reserves may be/have already been discussed/challenged by the tax authorities.</p>
Acquisition expenses	Recorded immediately in the P&L account.	In principle, tax deductible when taken into the P&L as expense.
Gains and losses on investments	<p>In principle, realised gains and losses are recorded in the P&L account.</p> <p>Unrealised capital losses on investment in equity securities are not recorded/ recognised unless they are of a permanent nature. Write-off has to be reversed if later no longer justified.</p> <p>Value-allowances on bonds are recorded in case the recuperation of the nominal value is compromised.</p> <p>Unrealised investment gains are not recorded/ recognised.</p> <p>Those investments for which the risk is supported by the policyholder (unit-linked products) are recorded at market value. The fluctuation in market value from one period to another is taken to the income statement.</p>	<p>In principle realised capital gains and losses are taxed and deductible, respectively, except for those on shares. Subject to conditions, net realised capital gains on shares could be fully exempted. Inversely, except in some specific circumstances, realised losses on shares are not tax deductible.</p> <p>In principle, in most cases, unrealised gains are taxable as conditions for immunisation (intangibility condition) are generally not satisfied. Tax deduction of unrealised losses is subject to different conditions; in any case, unrealised losses on shares are never tax deductible.</p> <p>Special rules apply to unit-linked products for share investments.</p>
Reserves against market losses on investments	Unrealised investment losses are not recognised unless they are permanent.	Tax deduction of unrealised losses is subject to different conditions; in any case, unrealised losses on shares are never tax deductible.
Dividend income	Accounted for once declared: on dividends	Under specific conditions, dividends received could justify the application of the so-called dividends-received deduction (deduction equivalent to 95% eligible dividends). Special rules apply, however, to dividend income from unit-linked operations.
Policyholder bonuses	Bonuses are calculated annually on the basis of technical-financial results, and are, in principle, only allowed to the extent the technical-financial result is positive. A separate reserve is maintained until approval of the annual accounts by the shareholders. After approval, an allocation to the individual contracts is performed.	<p>Tax deductible in principle.</p> <p>Alternatively, a 9.25% annual tax is payable by the company. This latter tax is not deductible for CIT purposes.</p>
Other special deductions	As provided for by the company.	If duly supported by evidence, could be deducted under conditions.

Belgium: Life insurance – overview (continued)

Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Premiums paid, claims recovered and claims paid are recorded in the P&L account on a gross basis.	In principle follows accounting treatment. It should be noted that some anti-abuse provisions may apply for tax deduction of reinsurance premiums (e.g. if the transaction is not real/ at arm's length).
Mutual companies/ stock companies	Accounting	Taxation
Mutual Companies	Same principles that apply to life insurance companies.	In principle, they are considered as non-profit making companies, only subject to tax on limitedly listed- income. Withholding taxes are usually their final tax charge. If they are viewed as profits seeking, they will be fully subject to the CIT.

Belgium: Life insurance – other tax features

Further corporate tax features	Taxation
Loss carry-overs	All tax losses may be carried forward for an unlimited period.
Excess dividends-received deduction	Under conditions, dividends-received deduction not effectively used because of insufficient taxable basis may be carried forward for an unlimited period.
Foreign branch income	Foreign branch profit is taxable at the standard rate (33.99%) unless exempted by double-taxation treaty. Under conditions, foreign branch losses may be deducted from Belgian taxable result (but potentially subject to recapture).
Domestic branch income	Domestic branch is taxable on its income. Taxable profit is calculated according to the ordinary rules, similar to those applicable to resident entities, with however some specificities (e.g. interest charges paid to the foreign head office are not deductible).
Tax haven payments	Specific reporting obligations may apply in case of direct or indirect payments to counterparties established in tax haven countries
Corporate tax rate	The nominal CIT rate is 33.99%
Policyholder taxation	Taxation
Deductibility of premiums	Tax deduction rules for premiums will depend on the type of policyholder.
Interest build-up	N/A.
Proceeds during lifetime	<ol style="list-style-type: none"> For individual assurance products, where no tax break has been obtained on the premiums paid for an individual contract: any proceeds during lifetime could be taxed as interest (15%) for life assurance policy providing a guaranteed return, offering death coverage that is less than 130% of the gross premiums paid, or having an actual term of less than 8 years. Profit shares are tax exempt if paid out at the same time as the insured capital sum. For group insurance or an individual contract for which a tax break has been obtained: proceeds are taxed as earned income at the marginal rate. The tax rate is reduced to 33%, 16.5% or 10% (plus local taxes) if certain conditions are met. Profit shares are tax exempt if paid out at the same time as the insured capital sum. <p>Some specific life assurance products may benefit from exemptions and/ or reduced taxation rates (e.g. pension schemes). Those must be analysed on a case by-case-basis.</p>
Proceeds on death	<ol style="list-style-type: none"> When no tax break has been obtained on the premiums, an individual assurance contract is tax exempt from personal income tax; however proceeds may be subject to inheritance tax. For group insurance or for an individual contract for which a tax break has been obtained: proceeds are taxed as earned income at the marginal rate. The tax rate is reduced to 33%, 16.5% or 10% (plus local taxes) if certain conditions are met. Profit shares are tax exempt from personal income tax, but may be subject to inheritance tax. Group insurance capital sums are tax exempt under certain conditions.
Other tax features	Taxation
Premium taxes	Annual premium tax of 9.25% on insurance premiums. For some insurance contracts reduced rates are applicable (4.4%, 1.40%, 1.10%). Some exemptions are available (e.g. reinsurance contracts).
Capital taxes and taxes on securities	No registration duty on capital contribution. Insurance companies in principle benefit from a tax on stock exchange transaction exemption when acting on their behalf and for their own account.
Net asset tax	Under conditions, insurance companies might be liable for net asset tax for specific types of life-insurance products.
Captive insurance companies	Belgium is not a favoured location for captive insurance companies, as no legislation exists to provide incentives for their set-up. The deductibility of premiums paid to overseas captives may be denied under anti-avoidance provisions, which, inter-alia, counter the transfer of profits by a Belgian company to a less heavily taxed foreign company.

Belgium: Life insurance – other tax features (continued)

Other tax features	Taxation
Notional interest deduction	<p>Basically, the notional interest deduction consists of a lump-sum tax deduction, calculated on the company's "adjusted" equity, i.e. the accounting equity (share capital plus its retained earnings) adjusted/reduced by amongst others the following items: (i) fiscal net value of own share held by the company, (ii) fiscal net value of financial fixed assets qualifying as "participations and other shares", (iii) re-evaluation surpluses in respect of assets and capital subsidies or (iv) equity viewed as allocated to foreign branches.</p> <p>For financial year 2011 (assessment year 2012) the notional interest deduction rate is fixed to 3.425% of this "adjusted" equity.</p>
Value added tax (VAT)	<p>Insurance and reinsurance transactions are exempt from Belgian VAT (article 44, §3, 4° of the Belgian VAT Code). This means that a Belgian insurance company does not have a right to deduct VAT with respect to its insurance activities (except for transactions located for VAT purposes outside the EU or related to export transactions).</p> <p>Transactions of insurance companies that in principle do not fall under the VAT exemption are claim handling services (see below), sales of car wrecks, sales of subrogated goods, damage assessment services, actuarial services and back-office activities for other group entities.</p> <p>VAT exemption also applies for the insurance brokers and insurance agents. VAT exemption includes next to the intermediary services also the management of insurance contracts which they have concluded. This entails amongst others handling of insurance applications, receiving premiums and managing claims.</p> <p>Further, the Belgian VAT legislation foresees a specific exemption for the management of claim handling. The management of claim handling are exempt from Belgian VAT under the VAT exemption for insurance intermediaries (even in case the third party rendering the services did not intervene in the concluding of the agreement). This VAT exemption is applicable for the fee requested for the management of claim handling but not for the on-charging of third party costs following the handling of the claims (such as repair, towing, expertise, repatriation, etc.). These third party costs follow their own VAT treatment.</p>

Contact person Belgium

Olivier Hermand

Tel: +32 2 710 44 16

Email: olivier.hermand@be.pwc.com