

## International comparison of insurance taxation

# United States

### General insurance – overview

Definition	Accounting	Taxation
Definition of property and casualty insurance company	A company to which insurance legislation applies. Property and casualty insurance companies write coverage for an insured whose property is damaged or destroyed by an insured peril, or whose negligent acts or omissions damage or destroy another party's property or cause bodily injury to another party.	More than half of the company's business is issuing insurance or annuity contracts or reinsuring risks underwritten by insurance companies.
Commercial accounts/ tax and regulatory returns	Accounting	Taxation
Basis for the company's commercial accounts	For statutory reporting, accounting practices prescribed or permitted by the company's state of domicile. In addition, companies may be required to prepare financial statements in accordance with generally accepted accounting principles (GAAP). The following accounting descriptions are broadly consistent between statutory-basis accounting and GAAP, unless otherwise noted.	Based on statutory accounts.
Regulatory return	Annual and quarterly separate returns as prescribed by the National Association of Insurance Commissioners.	N/A.
Tax return	N/A.	Annual – due 2½ months after tax year-end. Automatic 6 months extension available upon request.
Technical reserves/ equalisation reserves	Accounting	Taxation
Unearned premiums reserve (UPR)	A Liability is established for the portion of the premium that has been paid in advance for insurance that has not yet been provided. Generally calculated by time apportionment.	Generally 80% of increase deductible.
Unpaid claims reported	Calculated on a case-by-case basis at the expected ultimate cost of settling the claim and considering recoveries attributable to salvage and subrogation. Reserves may only be discounted where payments are considered fixed and determinable, for example, certain workers' compensation liabilities.	Present value (i.e. discounting required) based on company or industry experience, subject to reasonableness test. Losses incurred must be reduced by estimated salvage and subrogation recoverable.
Claims incurred but not reported (IBNR)	Insured losses that have occurred but have not been reported to a primary insurance company. Calculated based on past experience using accepted actuarial methods.	Present value (i.e. discounting required) based on company or industry experience, subject to reasonableness test. Losses incurred must be reduced by estimated salvage and subrogation recoverable.
Unexpired risks	A premium deficiency is recognised, on an undiscounted basis, if expected claim costs, loss adjustment expenses (LAE), unamortised acquisition costs and maintenance costs exceed premiums. Investment income may be considered in evaluating premium deficiencies.	N/A.

## United States: General insurance – overview (continued)

Technical reserves/ equalisation reserves	Accounting	Taxation
General contingency/ solvency reserves	Not allowed.	Not allowed.
Equalisation reserves	Not allowed.	Not allowed.
Expenses/ refunds	Accounting	Taxation
Acquisition expenses	The following new GAAP requirements will be effective 1 Jan. 2012: Internal and external expenses are deferred if they are directly related and incremental to contract acquisition. In addition, a portion of total employee compensation may be deferred along with any other direct costs that would not have been incurred absent the sale. All other acquisition costs are charged immediately to expense. Capitalised acquisition costs are charged to expense in relation to the premium revenue recognised. Deferred acquisition cost assets are not permitted on a statutory accounting basis.	Generally tax deductible immediately.
Loss adjustment expenses on unsettled claims (claims handling expenses)	A liability for costs expected to be incurred in connection with the settlement of unpaid claims (LAE) shall also be accrued.	Present value (i.e. discounting required) allowable based on company or industry experience, subject to reasonableness.
Experience-rated refunds	Return of 1% of premiums paid by an insured if its loss record is better than the amount considered in the premium. A separate liability shall be accrued, based on experience and provisions of the contract.	Tax deductible.
Investments	Accounting	Taxation
Gains and losses on investments	Unrealised gains and losses on available-for-sale securities are recorded as separate component of equity unless the decline is considered to be other than temporary and the decline unrelated to interest rate movements. If management determines that amortized cost will not be recovered due to either credit-related reasons, or because the company intends to sell the security, such losses are realised in earnings.	Realised gains and losses are included in income. Realised net capital gains included in income. Mark-to-market rules apply to dealers in securities; however, generally not applicable to insurers.
Investment reserves	Not allowed.	Not allowed.
Investment income	Included in income.	Included in income. 80% to 100% owned subsidiary dividends are eligible for 100% deduction. At least 20%, but less than 80%, owned corporation dividends eligible for 80% deduction. Less than 20% owned corporation dividends eligible for 70% deduction. However, deduction for losses incurred must be reduced by 15% tax-exempt interest and 15% of the dividends received deduction for bonds and stock acquired after 7 Aug. 1986.
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Unearned premium reserves and loss reserves are recorded gross of reinsurance and assets for prepaid reinsurance premiums and reinsurance recoverable are established.	Tax deductible. However, the Internal Revenue Service (IRS) has authority under certain circumstances to allocate revenue, deductions, credits, etc. between parties to eliminate significant tax avoidance effect.
Mutual companies	Accounting	Taxation
Mutual companies (all profits returned to members)	Mutual companies have generally prepared financial statements in accordance with statutory practices and these statements have been considered GAAP for mutual companies.	Generally the same as stock companies.

## United States: General insurance – other tax features

Further corporate tax features	Taxation
Loss carry-overs	Ordinary losses can be carried back 2 years and carried forward 20 years. Capital losses can be carried back 3 years and carried forward 5 years.
Foreign branch income	Foreign income is included; foreign tax credit permitted with certain limitations.
Domestic branch income	Calculated under ordinary rules. However, minimum effectively connected net investment income is included and calculated as the product of the company's required US assets and the domestic investment yield. Branch profits tax is imposed at the rate of 30% on deemed repatriated earnings of US branches of foreign corporations (unless reduced by a treaty).
Corporate tax rate	Federal rate is 35%. Lower rates apply on the first USD 75,000 of income. Lower rates are phased out on income of \$100,000 to \$335,000. A 34% rate applies to taxable income from USD 335,000 to USD 10 million. The 34% rate is phased out on taxable income from USD 10 million to USD 18,333,333.
Other tax features	Taxation
Premium taxes	State premium taxes are imposed at rates ranging from 1% to 4%, varying from state to state.
Capital taxes and taxes on securities	Imposed by a few states.
Captive insurance companies	Continuing controversy over boundaries between true insurance and self insurance. Some success in claiming insurance tax treatment in brother/ sister scenarios with no unrelated party risk, or parent subsidiary arrangements with unrelated party risk.
Value added tax (VAT)	N/A.

## United States: Life insurance – overview

Definition	Accounting	Taxation
Definition of life insurance companies	A company to which insurance legislation applies.	More than half of the company's business is issuing insurance or annuity contracts or reinsuring risks underwritten by insurance companies and more than 50% of reserves are for life and non-cancellable or guaranteed renewable accident and health contracts.
Commercial accounts/ tax and regulatory returns	Accounting	Taxation
Basis for the company's commercial accounts	For statutory reporting, accounting practices prescribed or permitted by the company's state of domicile. In addition, companies may be required to prepare financial statements in accordance with GAAP. The following accounting descriptions are broadly consistent between statutory-basis accounting and GAAP, unless otherwise noted.	Based on statutory accounts.
Regulatory return	Annual and quarterly separate returns as prescribed by the National Association of Insurance Commissioners.	N/A.
Tax return	N/A.	Annual – due 2½ months after tax year end. Automatic 6 months extension available upon request.
General approach to calculation of income	Accounting	Taxation
Allocation of income between shareholders and policyholders	Generally, policyholder dividends should be accrued using an estimate of the amount to be paid.	To be based on overall income with no distinction between investment/ underwriting income. Paid or accrued policyholder dividends are deductible.
Calculation of investment return	Accounting	Taxation
Calculation of investment income and capital gains	Realised gains and losses as well as investment income are included in income.	The company's share of net investment income is computed for purposes of determining availability of tax-exempt interest exclusion and dividend-received deduction. Realised net capital gains are included in gross income.
Calculation of investment income and capital gains	Accounting	Taxation
Actuarial reserves	A liability for the present value of future policy benefits to be paid and related expenses less the present value of future net premiums is estimated using methods including assumptions for expected investment yields, mortality and terminations applicable at the time the insurance contracts are issued. Assumptions shall include a provision for the risk of adverse deviation. Certain contract features, such as guaranteed benefits, may meet the definition of embedded derivatives and require separate measurement at fair value. Statutory actuarial reserves are generally established using prescribed mortality, morbidity and interest assumptions.	Generally deductible, equal to the greater of the net surrender value or the reserve computed under the Internal Revenue Code prescribed standards on a policy-by-policy basis, limited to reserves reported in the annual statement.
Unexpired risks	A premium deficiency is recognized if experience with respect to investment yields, mortality, morbidity, terminations and expenses indicates that existing contract liabilities plus the present value of future gross premiums are insufficient to cover the present value of future benefits and unamortized acquisition costs.	

## United States: Life insurance – overview (continued)

Calculation of investment income and capital gains	Accounting	Taxation
Acquisition expenses	The following new GAAP requirements will be effective January 1, 2012: Internal and external expenses are deferred if they are directly related and incremental to contract acquisition. In addition, a portion of total employee compensation maybe deferred along with any other direct costs that would not have been incurred absent the sale. All other acquisition costs are charged immediately to expense. Capitalised acquisition costs are charged to expense in relation to the premium revenue recognised. Deferred acquisition costs asset are not permitted on a statutory accounting basis.	Companies are required to capitalise and amortise their policy acquisition expenses (commonly referred to as deferred acquisition costs (DAC)) on a proxy basis. DAC is determined by applying a statutory percentage (capitalisation rate) to the premium derived from specified insurance contracts. Generally, a 10-year amortisation is provided. The rates are 1.75% for annuity contracts, 2.05% for group life insurance contracts and 7.7% for all other specified insurance contracts.
Calculation of investment income and capital gains	Accounting	Taxation
Gains and losses on investments	Unrealised gains and losses on available-for-sale securities are recorded as a separate component of equity unless the decline is considered to be other than temporary and the decline unrelated to interest rate movements. If management determines that amortized cost will not be recovered due to either credit-related reasons, or because the Company intends to sell the security, such losses are realised in earnings.	Realised net capital gains are included in gross income.
Reserves against market losses on investments	Statutory-only reserves are established that are intended to offset potential credit-related investment losses and to defer recognition of capital gains and losses attributable to changes in general investment rates.	None.
Dividend income	Included in investment income.	80% to 100% owned subsidiary dividends are fully deductible. At least 20%, but less than 80%, owned corporation dividends are eligible for 80% deduction. Less than 20% owned corporation dividends are eligible for 70% deduction.
Policyholder bonuses	Generally not applicable.	Generally not applicable.
Other special deductions	None.	Companies with assets below USD 500 million are eligible for a 60% small life insurance company deduction. This deduction is phased out as income increases from USD 3 million to USD 15 million.
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Unearned premium reserves and loss reserves are recorded gross of reinsurance and assets for pre-paid reinsurance premiums and reinsurance recoverable are established.	Tax deductible. However, the IRS has authority under certain circumstances to allocate revenue, deductions, credits, etc. between parties to eliminate significant tax avoidance effect.
Mutual companies/ stock companies	Accounting	Taxation
Mutual Companies	Mutual companies have generally prepared financial statements in accordance with statutory practices and these statements have been considered GAAP for mutual companies.	There are no additional rules.

## United States: Life insurance – other tax features

Further corporate tax features	Taxation
Loss carry-overs	Ordinary losses can be carried back 3 years and carried forward 15 years. Capital losses can be carried back 3 years and carried forward 5 years.
Foreign branch income	Foreign income is generally included, foreign tax credit permitted with certain limitations.
Domestic branch income	Calculated under ordinary rules. However, minimum effectively connected net investment income is included and calculated as the product of the company's required US assets and the domestic investment yield. Branch profits tax is imposed at the rate of 30% on deemed repatriated earnings of US branches of foreign corporations.
Corporate tax rate	Top federal rate is 35%. Lower rates apply on the first USD 75,000 of income. The lower rates are phased out on income of USD 100,000 to USD 335,000. A 34% rate applies to taxable income from USD 335,000 to USD 10 million. The 34% rate is phased out on taxable income from USD 10 million to USD 18,333,333.
Policyholder taxation	Taxation
Deductibility of premiums	Generally not deductible by policyholder.
Interest build-up	If a contract meets the definitional test of a life insurance policy, interest build-up is not taxed.
Proceeds during lifetime	Generally, life insurance and endowment contract proceeds are taxed only after full recovery of investment. Annuity payments are taxed either with gain and investment recovery allocated to each payment or on an income first and recovery of investment last basis. Modified endowment contracts are taxed under the annuity rules.
Proceeds on death	Tax-free to beneficiary provided that the contract meets statutory definition of life insurance at all times.
Other tax features	Taxation
Value added tax (VAT)	N/A.

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