



AUSTRIA

International Comparison of Insurance Taxation

October 2007



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Austria – General Insurance

1 Definition

Definition of property and casualty insurance company

Accounting

A company to which insurance legislation applies other than life and health insurance.

Taxation

Not defined by tax legislation.

2 Commercial accounts/ Tax and Regulatory returns

Basis for the company's commercial accounts

Accounting

General accounting principles according to Austrian Commercial Code and Austrian Stock Corporation Act as well as special accounting principles in accordance with Insurance Supervisory Act (VAG).

Taxation

Tax return has to be filed based on the commercial code as adjusted for tax purposes. Insurance companies are subject to corporate income tax with at least 20% on the profit, excluding the deduction of premium refunds (minimum tax), from life insurance business, from health insurance business, from accident insurance business with premium refund, and from other insurance divisions (calculated separately for each division).

Regulatory return

Domestic insurance companies have to report in detail within five months after the end of the financial year directly to the Insurance Supervisory Authority (Finanzmarktaufsicht) the following documents: long-form report and approval of year-end financial statements. Within six months the following documents have to be reported: certified completed copy of the protocol of the meeting concerning the release of managing board and supervisory board; proof of the publication of the year-end financial statement. Concerning the consolidated financial statement, the insurance company has to file the long-form report and the proof of the publication of the year-end financial statement.

N/A.



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Austria – General Insurance (continued)

<p>Tax return</p>	<p>N/A.</p>	<p>Corporate Income-Tax return: For corporate income tax purposes a tax return is prepared on an annual basis. VAT return: For VAT purposes tax returns are prepared on an annual basis and preliminary tax returns are prepared on a monthly basis. For insurance tax and fire protection tax purposes the insurer has to file an annual tax return, but the payments have to be fulfilled on a monthly basis.</p>
<p>3 Technical reserves/ Equalisation reserves Unearned premium reserves (UPR)</p>	<p>Accounting Generally, the UPR has to be calculated on a policy-by-policy basis. In practice, the 1/24 method is also an accepted reliable apportionment method.</p>	<p>Taxation Generally tax deductible.</p>
<p>Unpaid claims reported</p>	<p>Generally calculated on case-by-case basis. Under certain circumstances, the lump-sum method is possible.</p>	<p>Beginning with the 2005 assessment, 70% (before 30%) of this reserve is considered to be short-term and therefore fully tax deductible. 30% (before 70%) of the reserves are considered to be long-term reserves. Only 80% of long-term reserves are tax deductible. Transitional provisions apply (until 2009).</p>



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Claims incurred but not reported (IBNR)	Estimated according to past years experience.	Beginning with the 2005 assessment, 70% (before 30%) of this reserve is considered to be short-term and therefore fully tax deductible. 30% (before 70%) of the reserves are considered to be long-term reserves. Only 80% of long-term reserves are tax deductible. Transitional provisions apply (until 2009).
Unexpired risks	N/A.	N/A.
General contingency/solvency reserves	Minimum equity capitalisation requirements for insurance companies. For the covering of losses mutual insurance companies have to set up a solvency reserve.	No tax implication.
Equalisation/catastrophe reserve	Equalisation reserves should be established under the formula of the Supervisory Authority (reflecting the standard deviation of net losses for the 15 prior years). Special equalisation reserves are computed for nuclear and pharmaceutical risks.	Beginning with the 2001 assessment, only 50% of the adjustments are tax deductible.
4 Expenses/Refunds	Accounting	Taxation
Acquisition expenses	No capitalisation of acquisition expenses, immediate deductions.	Tax deductible.
Loss adjustment expenses on unsettled claims (claims handling expenses)	Included in the claims reserves.	Tax deductible.
Experience-rated refund	Deduction permitted for refund of premiums due to low claim ratios.	Tax deductible.



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5 Investments

Gains and losses on investments

Accounting

Accounted for pursuant to generally accepted accounting principles (GAAP). Realised gains and realised and unrealised losses are included in profit and loss (P&L) statement.

Unrealised gains are not included in the P&L statement (principle of prudence under the Austrian company law).

Taxation

Generally taxable.

Following special rules are applicable:

National investments

Capital gains on the disposal of national participations are fully taxable in Austria. Capital losses on the disposal and depreciations of national participations are tax deductible in Austria, but have to be spread over seven years.

International investments

Capital gains and losses on the disposal of foreign substantial participations under the foreign participation exemption (participation of at least 10% for at least one year) are generally tax exempt. If the taxpayer has opted for the tax deductibility of capital losses and depreciations of the substantial foreign participation the capital gains are fully taxable in Austria and the capital losses and depreciations have to be spread over seven years. In case of suspected misuse or tax evasion, the capital gains are no longer tax exempted in Austria. In this case the capital gains are taxable, but foreign taxes may be credited against Austrian taxes.



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Austria – General Insurance (continued)

If the requirements for the foreign participation exemption are not met, all capital gains are taxable in Austria and capital losses and depreciations are tax deductible. Foreign source taxes may be credited against Austrian taxes.

Investment funds
Investment income derived from investment funds may be treated differently (as in P&L statement).

Investment reserves	Unrealised gains are not recognised in financial statements but unrealised losses are included in P&L statement.	Allowed as per accounts. Under certain conditions the write-off is spread over seven years.
Investment income	Included in P&L statement.	<p>Generally taxable.</p> <p>Following special rules are applicable:</p> <p>Domestic dividends Dividends received by Austrian corporations from other Austrian corporations are exempt from the Austrian corporate income tax. This exemption applies irrespective of any percentage of holding.</p> <p>Foreign dividends Dividends from participations in foreign operating corporations are exempt from the Austrian corporate income tax (Foreign Participation Exemption – Parent-Subsidiary Directive) if special requirements are met (e.g. minimum holding requirement of 10% for at least one year). If these requirements are not met, the foreign dividends are fully taxable in Austria.</p>



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Foreign source taxes may be credited against Austrian taxes. In case of suspected misuse/tax evasion the foreign dividend income, which would be tax exempt under the foreign participation exemption, is no longer tax exempt in Austria. In case of abuse the foreign dividends are taxable in Austria, but foreign taxes may be credited against Austrian taxes.

In 2005, the Independent Tax Senate (UFS), has clarified that dividend payments from a corporation resident in a foreign country of the European Union (EU) to a domestic corporation shall not be discriminated for tax purposes. According to its decision, current Austrian tax law discriminates against foreign dividends because domestic dividends are always tax exempt, whereas foreign dividends are only tax exempt under certain conditions (see above).

Investment funds

Investment income derived from investment funds may be treated differently (as in P&L statement).

6 Reinsurance

Reinsurance premiums and claims

Accounting

Reinsurance premiums ceded are treated as expenses and are shown as separate line items in the income statement, net of total premiums written.

Reinsurance claims treated as revenues and are shown as separate line items in the income statement net of total claims.

Taxation

Allowed as per accounts.



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Austria – General Insurance *(continued)*

7 Mutual companies

Mutual companies (all profit returned to members)

Accounting

Profit for the year has to be distributed to the members. Special rules for mutual companies in accordance with section 26 to section 73 of the Insurance Supervisory Act.

Taxation

No special rules.



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Austria – Other Tax Features

8 Further corporate tax features

Loss carry-overs

Taxation

No expiring date for loss carry-forward, no loss carry-back. Beginning with the 2001 assessment losses can only be set off against 75% of the annual profit, i.e. 25% of the annual taxable profit will always be taxed.

Foreign branch income

Foreign branch income is either fully taxable with a credit of foreign income tax paid, or is exempt depending on the relevant double-tax treaty. Unilateral relief may be possible in absence of a double-tax treaty.

Domestic branch income

Calculated under ordinary rules based on branch accounts.

Long-term accruals (special transition rules applicable)

Beginning with the 2001 assessment only 80% of the long-term accruals are tax deductible. Lump-sum accruals are not tax deductible.

Corporate tax rate

25%.

9 Other tax features

Premium taxes

Taxation

In general, 11% insurance premium tax on all gross premium income. In special cases the insurance premium tax rate varies from 4% (special life insurance) to 1% (health insurance). Fire protection tax at rate of 8%.

Capital taxes

Capital contributions by shareholders and share issues are subject to 1% capital transfer tax.

Captive insurance companies

Status not clear. Captive insurance companies are not considered to be insurance companies if there is no risk transfer (or only minor risk transfer). In this case reinsurance premiums are treated as financial reinsurance (deposit accounting applies), and premiums are not tax deductible. From a tax point of view captive insurance companies have to carry out insurance business at arm's length which may create transfer pricing problem.



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Austria – Other Tax Features *(continued)*

System of group taxation

An attractive system of group taxation was implemented beginning with the 2005 assessment. If two or more companies exercise the option to form a tax group, the taxable results of the domestic 'group members' will be attributed to their respective parent company and will be taxed at the level of the 'group parent.' Tax losses of domestic and foreign group companies can, thus, be consolidated with taxable profits of other domestic group companies. Profits and losses are only attributed for tax purposes; there is no requirement for a statutory profit/loss takeover agreement. In order to file a tax group, special conditions have to be met according to the Austrian corporate income tax act. If losses of a foreign group member have been attributed to the Austrian group parent, a recapture of taxation takes place at the time the attributed foreign losses are set off against profits in the foreign country. Recapture of the losses attributed also takes place when the participation quota is reduced or the nonresident group member dissolves.

Deduction of interest for the acquisition of participations

From 2005 onward interest on loans taken out to acquire domestic or foreign participations will generally be tax deductible (as long as the ALP is observed). Interest will be deductible, regardless of whether the involved companies are part of a tax group or not.

Goodwill depreciation after the acquisition of a domestic participation

Upon acquisition of a participation in an Austrian company after 31 December 2004, goodwill (including hidden reserves in depreciable assets) can be deducted over a period of 15 years if special conditions are met.

The basis for goodwill depreciation is restricted to 50% of the total acquisition cost.

This rule does not apply to the acquisition of shares in related companies, where the company is a group member (group taxation).



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Austria – Life Insurance

<p>1 Definition Definition of Life Assurance companies</p>	<p>Accounting A company to which insurance legislation applies and which carries out life assurance.</p>	<p>Taxation Not defined by tax legislation.</p>
<p>2 Commercial accounts/ Tax and Regulatory returns Basis for the company's commercial accounts</p>	<p>Accounting General accounting principles according to Austrian Commercial Code and Austrian Stock Corporation Act as well as special accounting principles in accordance with section 80 to section 86 of the Insurance Supervisory Act (VAG).</p>	<p>Taxation Tax return has to be filed, based on the commercial code as adjusted for tax purposes. Insurance companies are subject to corporate income tax with at least 20% on the profit excluding a deduction of premium refunds (minimum tax) from the life insurance business.</p>
<p>Regulatory return</p>	<p>Domestic insurance companies have to report within five months after the end of the financial year, directly to the Insurance Supervisory Authority (Finanzmarktaufsicht) the following documents: long-form report and approval of year-end financial statements. Within six months the following documents have to be reported: certified completed copy of the protocol of the meeting concerning the release of managing board and supervisory board and proof of the publication of the year-end financial statement. Concerning the consolidated financial statement the insurance company has to file the long-form report and the proof of the publication of the year-end financial statement.</p>	<p>N/A.</p>



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Austria – Life Insurance (continued)

<p>Tax return</p>	<p>N/A.</p>	<p>Corporate Income Tax return: For corporate income-tax purposes a separate tax return is prepared on an annual basis. VAT return: For VAT purposes separate tax returns are prepared on an annual basis and preliminary tax returns are prepared on a monthly basis. For insurance tax and fire protection tax purposes the insurer has to file an annual tax return, but the payments have to be made on a monthly basis.</p>
<p>3 General approach to calculation of income Allocation of income between shareholders and policyholder</p>	<p>Accounting Profits returned to the policyholders are treated as expenses.</p>	<p>Taxation The provision for premium refunds and the profits return to the policyholders are, under special conditions as set out in section 17 of the Austrian Corporate Income Tax Act, tax deductible (insurance companies are subject to corporate income tax of 20% on the profit excluding deduction of premium refunds (minimum tax) from the life insurance business).</p>
<p>4 Calculation of investment return Calculation of investment income and capital gains</p>	<p>Accounting Total income approach. Investment income and realised capital gains are included in the P&L statement.</p>	<p>Taxation Investment income: Generally taxable. Following special rules are applicable: Domestic dividends Dividends received by Austrian corporations from other Austrian corporations are exempt from the Austrian corporate income tax. This exemption applies irrespective of any percentage of holding.</p>



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Austria – Life Insurance (continued)

Foreign dividends

Dividends from participations in foreign operating corporations are exempt from the Austrian corporate income tax (Foreign Participation Exemption - Parent-Subsidiary Directive) if special requirements are met (e.g. minimum holding requirement of 10% for at least one year). If these requirements are not met, the foreign dividends are fully taxable in Austria. Foreign source taxes may be credited against Austrian taxes. In case of suspected misuse/tax evasion the foreign dividend income that would be tax exempt under the foreign participation exemption is no longer tax exempt in Austria. In case of abuse the foreign dividends are taxable in Austria, but foreign taxes may be credited against Austrian taxes.

In 2005 the Independent Tax Senate (UFS) has clarified that dividend payments from a corporation, resident in a foreign country of the EU, to a domestic corporation shall not be discriminated for tax purposes. According to its decision the current Austrian tax law discriminates against foreign dividends because domestic dividends are always tax exempt, whereas foreign dividends are only tax exempt under certain conditions (see above).



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Austria – Life Insurance (continued)

Investment funds

Investment income derived from investment funds may be treated differently as in P&L statement.

CAPITAL GAINS

Generally taxable.

Following special rules are applicable:

National investments

Capital gains on the disposal of national participations are fully taxable in Austria. Capital losses on the disposal and depreciations of national participations are tax deductible in Austria, but have to be spread over seven years.

International investments

Capital gains and losses on the disposal of foreign substantial participations under the foreign participation exemption (participation of at least 10%, for at least one year) are generally tax exempt. If the taxpayer has opted for the tax deductibility of capital losses and depreciations of the substantial foreign participation the capital gains are fully taxable in Austria, whereas the capital losses and depreciations have to be spread over seven years. In case of suspected misuse/tax evasion the capital gains are no longer tax exempt in Austria. In this case the capital gains are taxable, but foreign taxes may be credited against Austrian taxes.



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Austria – Life Insurance (continued)

If the requirements for the foreign participation exemption are not met, all capital gains are taxable in Austria and capital losses and depreciations are tax deductible. Foreign source taxes may be credited against Austrian taxes.

Investment funds
Investment income derived from investment funds may be treated differently (P&L statement).

Calculation of underwriting profits or total income	Accounting	Taxation
<p>5 Actuarial reserves</p>	<p>Calculation of actuarial reserves according to the Insurance Supervisory Act.</p>	<p>Beginning with the 2001 assessment only 80% of long-term reserves are tax deductible. Lump-sum accruals are not tax deductible.</p>
<p>Acquisition expenses Zillmerisation 2.11 meristaion refers to the valuation of a life insurer by an actuary</p>	<p>No capitalisation of acquisition expenses (zillmerisation of accrual for policyholders deposit).</p>	<p>Generally tax deductible.</p>
<p>Gains and losses on investments</p>	<p>GAAP. Realised gains and realised and unrealised losses are included in P&L statement.</p>	<p>See above ('Calculation of investment income and capital gains').</p>



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Austria – Life Insurance (continued)

Reserves against market losses on investments	Unrealised losses must be included in the P&L statement. Valuation is performed at lower of cost or market value as a rule.	Generally tax deductible. Under certain conditions depreciations and losses are spread over seven years.
Dividend income	The gross amount is included in the P&L statement.	See above ('Calculation of investment income and capital gains').
Policyholder bonuses	(Provision for premium refunds and profit sharing). Bonuses paid to the policyholders as well as provisions for refunds of premiums are treated as expenses.	Bonuses paid to the policyholders as well as provisions for refunds of premiums are tax deductible under special conditions set out in section 17 of the Austrian Corporate Income Tax Act. Insurance companies are subject to the corporate income tax with at least 20% on the profit, excluding deduction of premium refunds (minimum tax) from the life insurance business.
Other special deductions	N/A.	N/A.

6 Reinsurance

Reinsurance

Accounting

No special rules in comparison with general insurance. Reinsurance claims reduce the technical reserves. Premiums paid to the reinsurer are treated as expenses.

Taxation

No special rules. Premiums paid to the reinsurer are tax deductible ALP.

7 Mutual companies Stock companies

Mutual companies

Accounting

Profit for the year has to be distributed to the members. Special rules for mutual companies in accordance with section 26 to section 73 of the Insurance Supervisory Act.

Taxation

No special rules.



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Austria – Other Tax Features – Life Insurance

8 Further Corporate Tax Features

Loss carry-over	Taxation No expiring date for loss carry-forward, no loss carry-back. Beginning with the 2001 assessment losses can only be set off against 75% of the annual profit, i.e. 25% of the annual taxable profit will always be taxed.
Foreign branch income	Foreign branch income is either fully taxable with a credit of foreign income tax paid, or exempt depending on the relevant double-tax treaty. Unilateral relief may be possible in the absence of a double-tax treaty.
Long-term accruals (special transition rules applicable)	Beginning with the 2001 assessment the only 80% of the long-term accruals are tax deductible. Lump-sum accruals are not tax deductible.
Corporate tax rate	25%.
System of group taxation	An attractive system of group taxation was implemented beginning with the 2005 assessment. If two or more companies exercise the option to form a tax group, the taxable results of the domestic 'group members' will be attributed to their respective parent company and will be taxed on the level of the 'group parent.' Tax losses of domestic and foreign group companies can, thus, be consolidated with taxable profits of other domestic group companies. Profits and losses are only attributed for tax purposes; there is no requirement for a statutory P&L takeover agreement. In order to file as a tax group, special conditions have to be met according to the Austrian corporate income tax act. If losses of a foreign group member have been attributed to the Austrian group parent, a recapture of taxation takes place at the time the attributed foreign losses are set off against profits in the foreign country. Recapture of the losses attributed also takes place when the participation quota is reduced or the nonresident group member dissolves.



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Austria – Other Tax Features – Life Insurance (continued)

Deduction of interest for the acquisition of participations	From 2005 onwards interest on loans taken out to acquire domestic or foreign participations will generally be tax deductible (as long as the ALP is observed). Interest will be deductible, regardless of whether the involved companies are part of a tax group or not.
Goodwill depreciation after the acquisition of a domestic participation	Upon acquisition of a participation in an Austrian company after 31 December 2004, goodwill (including hidden reserves in depreciable assets) can be deducted over a period of 15 years if special conditions are met. The basis for goodwill depreciation is restricted to 50% of the total acquisition cost. This rule does not apply to the acquisition of shares in related companies, but the company must be a group member (group taxation).
9 Policyholder taxation Deductibility of premiums	Taxation Up to a maximum of Euro 2.920 a year for the taxpayer with another Euro 2.920 for the spouse if he/she has no or very low income and another Euro 1.460 for families with three or more children. Premiums for certain voluntary health, life and accident insurance contract are recognised as a special expense, depending on taxable income (the deduction is phased out if the income exceeds Euro 36.400 and over Euro 50.900 there is no deduction possible). From the calculated amount or the actual premium paid, whichever is lower, a quarter is tax deductible.
Interest build-up	Not taxable.
Proceeds during lifetime	Generally not taxable. Taxation does apply if proceeds are paid as an annuity and the payments exceed the discounted value of future payments at the time of the first premium payment (sum insured), or if the proceeds are paid under certain short-term (duration of less than 10 years) single premium life insurance contracts and the proceeds received exceed the premium paid.



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Austria – Other Tax Features – Life Insurance (continued)

Proceeds on death	Not taxable.
10 Other tax features Premium taxes	Taxation Insurance tax of 11% for life insurance (pure endowment insurance and combined endowment) without regular constant premium payments with a duration up to 10 years, and insurance tax of 4% in all other cases of life insurance.
Capital taxes	Capital contributions by shareholders and shares issues are subject to a 1% capital transfer tax.
Captive insurance companies	Status not clear. Captive insurance companies are not considered to be insurance companies if there is no risk transfer (or only minor risk transfer). In this case reinsurance premiums are treated as financial reinsurance (deposit accounting applies). Premiums are not tax deductible. From a tax point of view captive insurance companies have to carry out insurance business at ALP. Possible transfer pricing problem.



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