

NEXT

EXIT

PRINT



ITALY

International Comparison of Insurance Taxation

October 2007



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Italy – General Insurance

1 Definition

Definition of property and casualty insurance company

Accounting*

There is not a specific definition of property and casualty (P&C) insurance companies under Italian Law. Law Decree 17 March 1995, no. 175 and Law Decree 7 September 2005, no. 209 stated that a P&C insurance company is a company performing its activity in 18 lines of business (accidents, health, land vehicles, railway rolling stock, aircraft, ships, goods in transit, fire and natural forces, other damage to property, motor TPL, aircraft liability, liability for ships, general TPL, credit, suretyship, Miscellaneous Pecuniary Loss, legal expenses, assistance).

Taxation

Italian tax law does not provide a specific definition of P&C insurance companies.

2 Commercial accounts/ Tax and Regulatory returns

Basis for the company's commercial accounts

Accounting

Italian generally accepted accounting principles (GAAP) as set out in the Italian Civil Code, in special legislation (Legislative Decree 26/5/1997, no. 173 and Legislative Decree no. 209 of 7 September 2005) and in specific rules issued by the Italian Insurance Supervisory Authority (ISVAP).

Taxation

Corporate income taxes (IRES and IRAP) are quantified on the basis of the result of the P&L account, some tax adjustments need to be made in accordance with Italian tax law.

Regulatory return

Specific regulatory return required for policyholders receivables ageing.

N/A.



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Italy – General Insurance *(continued)*

<p>Tax return</p>		<p>Annual tax returns have to be filed for corporate income taxes (IRES and IRAP), VAT and withholding tax purposes.</p>
<p>3 P&C Technical reserves P&C Technical reserves, general rules</p>	<p>Accounting These reserves, certified by an external actuarial expert, have to be calculated based on Italian law and on prudent actuarial methodologies.</p>	<p>Taxation Compulsory technical reserves are tax deductible on accrual basis for insurance companies (for IRES and IRAP purposes) up to the maximum fixed by Italian regulatory law. Specific restrictions are applicable to the variation of claims reserves for non-life insurance companies.</p>
<p>Unearned premium reserves (UPR)</p>	<p>Calculated according to the pro-rata time apportionment principles or, if the result does not materially differ, by lump sums. In this case the reserve must be 35% of the gross premiums of the period for general insurance; 40% of the premiums for automobile and boat liability insurance; 15% of the premiums for short-time risks.</p>	<p>Allowed in accordance with accounting principles.</p>
<p>Unexpired risk</p>	<p>This provision is accounted for claims and expenses in excess of the related unearned premiums reserve.</p>	<p>Allowed in accordance with accounting principles.</p>



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Italy – General Insurance *(continued)*

Claims reserves	Established on the basis of a fair estimate of all foreseeable costs due for each claim. As an alternative, for sufficient amounts of homogeneous claims, it may be calculated on the basis of average costs of these claims.	For non-life insurance companies, the variation of compulsory technical reserve relating to the long period component (i.e. 50% of the relevant amount), is deductible in the fiscal year for an amount not exceeding 60%. The exceeding amount can be deducted in equal installments, within the subsequent nine fiscal periods.
Claims incurred but not reported (IBNR)	Established on the basis of principles suggested by the supervisory authorities, not yet issued.	Allowed in accordance with accounting principles.
Equalisation/catastrophe reserves	<p>Current law allow the following equalisation reserves:</p> <ul style="list-style-type: none"> • Compensation reserves for debt insurance. This annual reserve is 75% of the technical balance which is not to exceed 1.5 times the highest amount of premiums in the last five years. The max provision is 12% of premiums. <p>Catastrophe Reserves:</p> <ul style="list-style-type: none"> • This reserve can not exceed 75% of the premiums, and the required provision is 2% of the premium. • Other equalisation reserve against fluctuations of claims in future years. Out of the above cases these reserves must be justified based on technical reasons in the annex to the financial statements. 	Allowed in accordance with accounting principles.



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Italy – General Insurance *(continued)*

4 Expenses/Refunds

Acquisition costs

Accounting

Acquisition costs may be charged in full in the year in which they are incurred, or alternatively, deferred and amortised on the straight-line basis over the expected life of the contract.

Taxation

Acquisition costs related to annual policies are fully deductible in the year in which they are sustained and accounted for in the P&L. Acquisition costs related to policies lasting more than one year are deductible in equal installments during that tax period and in the two followings.

Loss adjustment expenses on unsettled claims (claims handling expenses).

Accounted for according to general rule.

Allowed in accordance with accounting principles.

Experience – rated refunds

Credited when earned.

Taxed in accordance with accounting principle.

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Italy – General Insurance (continued)

5 Financial investments

Gains and losses on investments

Accounting

Unrealised losses resulting from a permanent devaluation of fixed investments should be accounted for in P&L.

Unrealised losses resulting from a devaluation (fair value below cost value) of current investments should be accounted for in P&L. Realised gains and losses are included in P&L account.

Investment income (dividend and interest) are accounted for in P&L.

Taxation

Unrealised losses, accrued in P&L different from those on shares may be deducted up to a minimum *fiscal value* of the relevant assets, determined pursuant to the following rules:

- a) for listed bond (classified as trading assets), alternatively the stock exchange price at the year end or the average of the stock exchange prices of the last month before the year end;
- b) for unlisted bonds (classified as trading assets), based on the above value of listed bonds having similar characteristics;
- c) for listed bonds (classified as financial assets), based on the average of the stock exchange prices of the last six months before the year end.

Realised financial gains and losses (different from those on shares) are relevant for tax purposes.

Unrealised gains and losses on shares (classified in the financial statement both as trading and assets) are not relevant for tax purposes.

Realised gains and losses on shares not satisfying *participation exemption* conditions are generally relevant for fiscal purposes.

Nonetheless, in case of collection of dividend during the previous 36 months, capital losses are not deductible for an amount equal to the dividend not taxed (*dividend washing regime*).

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Italy – General Insurance (continued)

84% capital gains arising from transfer of shares satisfying participation exemption conditions are exempt (starting from FY 2007).
Realised losses on the shares that qualify for the *participation exemption regime* are not deductible.

Investment reserves

N/A.

N/A.

Investment income

Interest income accrued in the P&L is fully taxable. 95% dividends collected are not taxable. Dividends distributed by companies resident in Black List countries (as listed in the Ministerial Decree 21 November 2001) are fully taxable.

6 Reinsurance

Reinsurance premiums and claims

Accounting

Ceded premiums are deducted from gross premiums. Claims are indirectly reduced by claims recovered.

Taxation

No specific tax rules are applicable. Premiums paid to group companies are deductible, provided that they are quantified according to arm's length principle (ALP).

7 Mutual companies

Mutual companies
(all profits returned to members)

Accounting

No special treatment.

Taxation

Mutual companies are subject to IRES and IRAP, according to general principles. Specific tax relieves are granted to mutual companies with prevailing mutual purpose.



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Italy – Other Tax Features

8 Further corporate tax features

Loss carry-overs

Taxation

Incurring losses (net of the amount of the certain exempt proceeds) can be carried forward for five years for corporate tax (IRES) purposes only. No time limit for start-up losses incurred during the first three years of the business, provided that they refer to a new business activity.

Foreign branch income

Foreign branch income is fully taxable in Italy; a foreign tax credit for taxes paid abroad is allowed, under certain conditions. Foreign branch income is not subject to taxation for IRAP purposes.

Domestic branch income

Italian branch's taxable income is calculated pursuant to the rules governing business income, comparing the costs and proceeds attributable to the branch as shown in its P&L account. Premiums relating to the policies placed into the Italian territory represent positive items of the branch's income, against the negative items and other costs (*including technical reserves*) sustained in carrying on the insurance activities in Italy.

Corporate tax (IRES)

33% rate.

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Italy – Other Tax Features *(continued)*

Regional Tax on Productive activities (IRAP)

IRAP is applicable on the value-added produced by the company in Italy, determined on the basis of the P&L account at a tax rate of 4.25%, increased up to 1% pursuant to some regional laws.

Non-residents are taxed only on income from productive activities carried out in Italy through a permanent establishment.

For insurance companies, the IRAP taxable basis is computed as difference between the following items:

- premiums and other technical proceeds, proceeds arising from land and building investments, proceeds on other investments (different from dividends), recoveries of adjusted values on investments, profits on temporary movable investments;

less:

- commissions, damage charges, investments overhead, interest paid on deposits withheld for reinsured risks, adjusted values on not lasting investments, temporary movable investment losses, variation in technical reserves, depreciation of physical and intangible assets, other administrative expenses.

Costs relating to personnel, interest and others financial charges are not deductible.



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Italy – Other Tax Features *(continued)*

Insurance Premium Tax		<p>IPT is levied on a proportional basis, based on the full amount of premium paid to the insurer at a rate varying from 2.50% to 21.25%, depending on the class of business.</p> <p>Foreign companies carrying on a business in Italy under the FOS regime must appoint an Italian IPT representative to comply with the relevant IPT fulfilments.</p>
Capital taxes		N/A.
Captive insurance companies		No specific legislation for captive insurance companies is currently in force.
<p>9 Assets covering technical liabilities</p>	<p>Accounting</p> <p>Governed by specific rules issued by the Italian Insurance Supervisor in order to reduce the credit and liquidity risks linked to assets held by companies.</p>	<p>Taxation</p> <p>No specific tax rules.</p>
<p>10 Solvency margin</p>	<p>Accounting</p> <p>The ISVAP establishes the minimum solvency capital required to maintain the P&C insurance business authorisation.</p>	<p>Taxation</p> <p>No specific tax rules.</p>



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Italy – Life Insurance

1 Definition

Definition of Life Insurance company

Accounting*

There is no specific definition of life insurance companies under Italian law. Law Decree 17 March 1995, no. 174 and Law Decree 7 September 2005, no. 209 states that a life insurance company is a company carrying on activity in six lines of business (i.e. human life, wedding and natality, health-care, Contract where financial risk is borne by policyholders, capitalisation, Pension funds).

Taxation

The Italian tax law does not provide a specific definition of life insurance companies.

2 Commercial accounts/ Tax and Regulatory returns

Commercial accounts

Accounting

According to Italian GAAP as set out in the Civil Code, in special legislation (Legislative Decree 26/5/1997, no. 173 and Legislative Decree no. 209 of 7 September 2005) and in specific rules issued by the Italian Insurance Supervisory Authority (ISVAP).

Taxation

Corporate income taxes (IRES and IRAP) are based on P&L; some tax adjustments need to be made in accordance with Italian tax law.

Regulatory return

N/A.

N/A.

Tax return

N/A.

Annual tax returns have to be filed for corporate income taxes (IRES and IRAP), VAT and withholding tax purposes.

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Italy – Life Insurance (continued)

3 General approach to calculation of income

Allocation of income between shareholders and policyholders

Accounting

There are separate accounting rules for policyholders and shareholder profits within statutory accounts (for certain revenue items).

Taxation

No specific tax rules are applicable.

4 Calculation of investment return/ Financial investments

Gains and losses on investments

Accounting

Investment income (dividends and interest) accounted for in P&L.

Unrealised losses resulting from a permanent devaluation of fixed investments must be taken through P&L. Realised gains and losses are included in P&L.

Unrealised losses resulting from devaluation (fair value below cost value) of current investments should be accounted for in P&L.

Unrealised gains/losses resulting from financial assets backing contracts where the financial risk is borne by policyholders should be accounted for in P&L.

Realised gains and losses are included in P&L account.

Investment income (dividends and interests) accounted for in P&L.

Taxation

Unrealised financial losses, accrued in P&L (different from those on shares), may be deducted up to a minimum fiscal value of the relevant assets, determined pursuant to the following rules:

- a) for listed bond (classified as trading assets), alternatively the stock exchange price at the year end or the average of the stock exchange prices of the last month before year end;
- b) for unlisted bonds (classified as trading assets), based on the above value of listed bonds having similar characteristics;
- c) for listed bonds (classified as financial assets), based on the average of the stock exchange prices of the last six months before year end.

Realised gains and losses on shares (classified in the financial statement both as trading and assets) are relevant for fiscal purposes.



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Italy – Life Insurance *(continued)*

Unrealised gains and losses on shares (classified in the financial statement both as trading and assets) are not relevant for tax purposes.

Realised gains and losses on shares (different from those on shares) not satisfying participation exemption conditions are generally relevant for fiscal purposes. Nonetheless, in case of collection of dividend during the previous 36 months, capital losses are not deductible for an amount equal to the dividend not taxed (dividend washing regime).

84% capital gains arising from transfer of shares satisfying participation exemption conditions are exempt (starting from FY 2007).

Realised losses on the shares that qualify for the participation exemption regime are not deductible.

Interest and dividend income

Included in P&L account.

Interest accrued in P&L are fully taxable. 95% of the amount of dividend collected is exempt. Dividends distributed by companies resident in Black List countries (as listed in the Ministerial Decree of 21 November 2001) are fully taxable.



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Italy – Life Insurance (continued)

Investment incomes related to unit and index-linked policies	Included in P&L account.	There is special treatment accorded to investments whose risk is bore by the insured parties (e.g. unit and index linked policies) for such investments. Dividends, capital gains/losses on shares which qualify for the participation exemption regime, and unrealised capital gains/losses on shares concur to form the taxable basis.
Policyholder bonuses	Deducted from P&L.	No specific tax rules.
Other special deductions	N/A.	N/A.
5 Calculation of underwriting profits or total income/Life technical reserves and acquisition costs Life technical reserves on traditional contracts	Accounting These reserves, certified by an external actuarial expert, are to be calculated based on Italian law and on prudent actuarial methodologies.	Taxation Technical reserves, accounted for in P&L and quantified in accordance with regulatory rules, are tax deductible.
Technical reserves on contracts where financial risk is borne by policyholders	These reserves, certified by an external actuarial expert, are to be calculated based on Italian law and on fair value of the linked assets.	Technical reserves, accounted for in P&L and quantified in accordance with regulatory rules are tax deductible.



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Italy – Life Insurance (continued)

Acquisition costs and deferred acquisition costs (DAC)

Acquisition costs may be charged in full in the year in which they are incurred or alternatively deferred and amortized on the straight-line basis over the expected life of the contract based according to the tariff. In such a case, 90% of the deferred acquisition costs amount may be used to cover technical reserves.

Acquisition costs related to the annual policies are deductible in the year in which they are sustained and accounted for in P&L. Acquisition costs related to policies lasting more than one year are deductible in equal instalments during that tax period and in the two following periods or for the full amount in the year in which the policy has been stipulated. Such commissions if included among the assets covering the technical reserves, are deductible up to the amount of the corresponding charges for premiums and for a period not longer than the duration of each contract, and in any event not more than 10 years.

Other special deductions

None.

None.

6 Reinsurance

Reinsurance

Accounting

Ceded premiums are deducted from gross premiums. Sums paid are indirectly reduced by sum recovered.

Taxation

No specific tax rules are applicable. Premiums paid to group companies are deductible provided they are at arm's length.

7 Mutual companies/Stock companies

Mutual companies

Accounting

No special rules.

Taxation

Mutual companies are subject to IRES and IRAP according to the general principles. Specific tax relieves are granted to mutual companies with prevailing mutual purpose.



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Italy – Life Insurance (continued)

8 Assets covering technical liabilities

Accounting

Governed by specific rules issued by the Italian Insurance Supervisor in order to reduce the credit and liquidity risks linked to the assets held by companies.

Taxation

No specific tax rules are applicable.

9 Solvency margin

Accounting

The ISVAP establishes the minimum solvency capital required to maintain the life insurance business.

Taxation

No specific tax rules are applicable.



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Italy – Other Tax Features

Further corporate tax features

Loss carry-overs

Taxation

Incurring losses (net of the amount of certain exempt proceeds) can be carried forward for five years for corporate tax (IRES) purposes only. No time limit for start-up losses incurred during the first three years of the business, provided that they refer to a new business activity.

Foreign branch income

Foreign branch income is fully taxable in Italy; foreign tax credit for taxes paid abroad is allowed, under certain conditions. Foreign branch income is not subject to taxation for IRAP purposes.

Domestic branch income

Italian branch taxable income is calculated pursuant to the rules governing business income, as shown in its P&L. Premiums relating to the policies placed into the Italian territory represent positive items of the branch income, against the negative items and other costs (*including technical reserves*) sustained in carrying on the insurance activities in Italy.

Corporate tax (IRES)

33% rate.

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Italy – Other Tax Features *(continued)*

Substitutive tax on mathematical reserves

Life-insurance companies carrying on the insurance business in Italy must pay a 0.30% tax on mathematical reserves, with the exception of those regarding death risk contracts, permanent invalidity or non-self-sufficiency contracts, pension funds and social security insurance policies.

Substitute tax can be treated as a tax credit to be used, starting from 1 January 2005 (or 1 January 2009 for foreign companies carrying on the business in Italy under FOS regime), to offset any withholding tax or substitute tax due on income from capital derived from insurance policies.

European Economic Area (EEA) insurance companies carrying on insurance activities in Italy under Financial Ombudsman Service (FOS) regime may directly levy the above-mentioned substitute tax or appoint a fiscal representative to do so and to file the relevant withholding tax return.

If the total amount of withholding and substitute taxes due for the year is lower than the tax paid for the fifth prior year, starting from the year 2007 (or 2009 for insurance companies carrying on the business in Italy under FOS regime), the difference can be used, wholly or partly, to offset the taxes and the contributions due, or transferred to other group companies.

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Italy – Other Tax Features (continued)

IRAP

IRAP is applicable on the value added produced by the company in Italy, determined on the basis of the profit and loss account, at a tax rate of 4.25% increased by upto 1% according to some regional laws.

Non-residents are taxed only on income from productive activities carried out in Italy through a permanent establishment.

For insurance companies, the IRAP taxable basis is computed as the difference between the following items:

- premiums and other technical proceeds, proceeds arising from land and building investments, proceeds on other investments (different from dividends), recoveries of adjusted values on temporary investments, profits on not lasting movable investments;

less:

- commissions, damage charges, investments overheads, interest paid on deposit withheld for reinsured risks, adjusted values on temporary investments, temporary movable investment losses, variation in technical reserves, depreciation of physical and intangible assets, other administrative expenses.

Costs relating to personnel, interest and others financial charges are not deductible.



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Italy – Other Tax Features *(continued)*

■ Policyholder taxation

Deductibility of premiums paid

Taxation

For life insurance policies executed through 31 December 2000, 19% of the premium paid (not exceeding Euros 1,291.14) can be deducted from an individual's income taxes.

For life insurance policies starting from 1 January 2001, the above-mentioned deduction is limited to the portion of premiums related to the death risk.

Interest build-up

Capital income (including interest) are taxed at the date of payment at 12.5%.

Proceeds during lifetime

In case of a surrender, capital gain is taxed at 12.5% on an amount corresponding to the difference between the surrender value and premiums paid by the policy holder.

Proceeds on death

Exempt from taxation.



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Italy – Other Tax Features *(continued)*

Other tax features

Premium tax

Taxation

2.50% of premiums paid, on contracts executed until 31 December 2000. No premium tax on contracts executed thereafter.

Foreign companies carrying on the business in Italy under the FOS regime must appoint an Italian IPT representative to comply with the relevant IPT fulfilments.

Capital tax

None.

Captive insurance companies

No special rules.

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