



# SPAIN

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## International Comparison of Insurance Taxation

October 2007



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### Spain – General Insurance

<b>1 Definition</b>	<b>Accounting</b>	<b>Taxation</b>
Definition of property and casualty insurance company	A non-life company subject to insurance legislation.	Not defined by tax legislation.
<b>2 Commercial accounts/ Tax and Regulatory returns</b>	<b>Accounting</b>	<b>Taxation</b>
Basis for the company's commercial accounts	Generally accepted accounting principles (GAAP) and specific regulation issued by the DGS (General Directorate of Insurance).	Taxation based on statutory accounts.
Regulatory return	The annual return to the DGS (regulatory authority) discloses statutory accounts and other detailed statistical information and solvency requirements on a quarterly basis.	Taxation based on regulatory return.
Tax return	The Corporate Tax return includes the balance sheet and P&L account pursuant to accounting rules.	A separate annual return is required by the tax authorities.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Spain – General Insurance (continued)

3 Definition	Accounting	Taxation
Unearned premium reserves (UPR)	Calculated on time apportionment basis.	Allowed as per accounts.
Unpaid claims reported	Calculated on case-by-case basis (discounting for long-term reserves is unusual). Actuarial methods based on a company's claims experience are accepted under GAAP.	Accounts provision allowed if calculated on a case-by-case basis.
Claims incurred but not reported (IBNR)	Calculated based on experience (average number of claims in the previous three years multiplied by the average cost). Actuarial methods based on a company's claims experience are accepted under GAAP.	Accounts provision allowed.
Unexpired risks	Calculated as a percentage of the earned premiums.	Tax-deductible in accordance with accounting rules.
General contingency/solvency reserves	Set by actuary.	Not allowed.
Equalisation/catastrophe reserves	Calculated on actuarial basis.	Allowed as a deduction for some classes of business where it is mandatory to set up the reserves.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Spain – General Insurance (continued)

<b>4 Expenses/Refunds</b>	<b>Accounting</b>	<b>Taxation</b>
Acquisition expenses	Deferred only when linked to future income.	Allowed as per accounting rules.
Loss adjustment expenses on unsettled claims (claims handling expenses)	Calculated based on experience. Usually included in unpaid reported claims reserve.	Allowed as per accounting rules.
Experience-rated refunds	Credited when earned.	Taxed when taken to P&L.
<b>5 Investments</b>	<b>Accounting</b>	<b>Taxation</b>
Gains and losses on investments	Gains and losses are included in P&L.	Included in taxable income.
Investment reserves	All investments valued at lower of cost or market value.	Allowed with exceptions.
Investment income	Included in P&L.	Included in taxable income. Dividends may be exempt under affiliation privilege.
<b>6 Reinsurance</b>	<b>Accounting</b>	<b>Taxation</b>
Reinsurance premiums and claims	Premiums paid/payable are deducted from gross premiums. Claims recoveries netted in P&L against claims paid/payable.	Follows accounting treatment. Premiums paid to group company should be at arm's length.
<b>7 Mutual companies</b>	<b>Accounting</b>	<b>Taxation</b>
Mutual companies (All profits returned to members)	No special treatment.	No special treatment.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Other Tax Features

#### 8 Further corporate tax features

Loss carry-overs

#### Taxation

No carry-back of losses. There is a 15 year carry-forward against taxable profits.

Foreign branch income

Exempt under certain treaties or unilaterally.

Domestic branch income

Calculated under ordinary rules based on branch accounts.

Corporate tax rate

32.5% for year 2007 and 30% for year 2008 onwards (25% for mutual companies).

#### 9 Other tax features

Premium taxes

#### Taxation

Insurance premiums are levied at 6% (IPT). In addition, Spanish insurance legislation establishes certain surcharges (surcharges in favour of the Insurance Compensation Consortium) for the turnover of private insurance and assurance entities' operations. The applicable tax rates for said surcharges depend on the specific line of business.

Capital taxes

Capital contributions/reductions and share issues are subject to a 1% capital tax.

Captive insurance companies

Controlled foreign corporation regime.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Spain – Life Insurance

<b>1 Definition</b>  Definition of Life Assurance companies	<b>Accounting</b>  A company that carries on a life insurance business.	<b>Taxation</b>  Not defined by tax legislation.
<b>2 Commercial accounts/ Tax and Regulatory returns</b>  Basis for the company's commercial accounts  Regulatory return  Tax return	<b>Accounting</b>  GAAP and specific regulation required by DGS.  GAAP and specific regulation required by DGS.  The Corporate Tax return includes the balance sheet and P&L account pursuant to accounting rules.	<b>Taxation</b>  Taxation based on statutory accounts.  Taxation based on regulatory return.  A separate annual return is required by the tax authorities.
<b>3 General approach to calculation of income</b>  Allocation of income between shareholders and policyholders	<b>Accounting</b>  No separate accounting for policyholder and shareholder profits.	<b>Taxation</b>  A total income approach including overall profit from underwriting and investment income.
<b>4 Calculation of investment return</b>  Calculation of investment income and capital gains	<b>Accounting</b>  Realised gains and losses included in P&L. Unrealised losses are taken to reserves for fixed income investments and to P&L for variable income securities.  Dividends and accrued interest are taken to P&L.	<b>Taxation</b>  Generally, follows accounting rules.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Spain – Life Insurance (continued)

<b>5</b> Calculation of underwriting profits or total income	<b>Accounting</b>	<b>Taxation</b>
Actuarial reserves	Actuarial reserves are calculated net of acquisition expenses.	Follows accounting rules.
Acquisition expenses	Deferred over the term of payment only when linked to future profits.	Follows accounting rules.
Gains and losses on investments	Gains and losses are included in P&L account.	Taxable.
Reserves against market losses on investments	Only unrealised investment losses are taken to reserves.	Allowed with exceptions.
Dividend income	Included in income.	Included in taxable income. Affiliation privilege may apply. Double-tax relief may be available.
Policyholder bonuses	Chargeable to P&L.	Allowed following accounting rules.
Other special deductions	None.	Policy loans are deductible if made at arm's length.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Spain – General Insurance *(continued)*

#### 6 Reinsurance

Reinsurance

#### Accounting

Premiums paid/payable are deducted from gross premiums. Claims recoveries netted in P&L against claims paid/payable.

#### Taxation

Allowed following accounting rules.

#### 7 Mutual companies/Stock companies

Mutual companies

#### Accounting

No special treatment.

#### Taxation

No special treatment.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Other Tax Features

#### 8 Further corporate tax features

Loss carry-overs

#### Taxation

No carry-back of losses. There is a 15 year carry-forward against tax profits.

Foreign branch income

Exempt under treaty or unilaterally.

Domestic branch income

Calculated under ordinary rules based on branch accounts.

Corporate tax rate

32.5% for year 2007 and 30% for year 2008 onwards (25% for mutual companies).

#### 9 Policyholder taxation

Deductibility of premiums

No tax deductions available.

Interest build-up

Generally not taxed until the payment.

Proceeds during lifetime

Proceeds are considered savings income when the policy is contracted by an individual. Savings income is taxed at 18%.

For policies contracted by companies under a pension scheme for its employees, the proceeds obtained by the latter will be considered as earned income under the progressive tax scale.

No tax reduction at the tax base level is available if the proceeds are obtained as a lump sum.\*

\* This modification came into force on 1 January 2007.

Proceeds on death

Subject to inheritance tax.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Other Tax Features *(continued)*

#### **10** Other tax features

#### **Taxation**

Premium taxes

No premium taxes.

Capital taxes

Capital contributions/reductions and share issues are subject to 1% capital tax.

Captive insurance companies

Controlled foreign corporation regime.

# SPAIN

## International Comparison of Insurance Taxation

October 2007

### Contact information

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