



India

International Comparison of Insurance Taxation*

May 2009

India – General Insurance

Definition	Accounting	Taxation
<p>Definition of property and casualty insurance company</p>	<p>Under the Insurance Act, 1938, 'Indian insurance company' means any insurer being a company:</p> <ul style="list-style-type: none"> (a) which is formed and registered under the Companies Act, 1956 (1 of 1956); (b) in which the aggregate holdings of equity shares by a foreign company, either by itself or through its subsidiary companies or its nominees, do not exceed 26% paid up equity capital of such Indian insurance company; (c) whose sole purpose is to carry on general insurance business. <p>General insurance business means fire, marine or miscellaneous insurance business, whether carried out singly or in combination with one or more of them.</p> <p>[Note: Third proviso to Section 2C(1) of the Insurance Act, 1938 {inserted by the Insurance Regulatory and Development Authority (IRDA) Act, 1999} prohibits persons other than an Indian Insurance Company to begin to conduct insurance business. The said proviso is reproduced below:</p> <p>'Provided also that no insurer other than an Indian Insurance Company shall begin to carry on any class of insurance business in India under this Act on or after the commencement of the IRDA Act, 1999']</p>	<p>No separate definition provided in the tax laws.</p>
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
<p>Basis for the company's commercial accounts</p>	<p>Insurance Regulatory and Development Authority (Preparation of Financial Statements & Auditor's Report of Insurance Companies) Regulations, 2002 All mandatory Accounting Standards issued by Institute of Chartered Accountants of India to be adhered to subject to the following:</p> <ul style="list-style-type: none"> (i) Accounting Standard 3 (AS 3), Cash Flow Statements – Cash Flow Statement shall be prepared only under the Direct Method. (ii) Accounting Standard 13 (AS 13), Accounting for Investment is not applicable. (iii) Accounting Standard 17 (AS 17) – Segment Reporting – shall apply even though insurance companies are not currently publicly traded. <p>Relevant/Applicable provisions of the Companies Act, 1956.</p>	<p>Special provisions apply for taxation of profits from general insurance business which require taxable profits to be calculated in a prescribed manner.</p> <p>As per these provisions, accounting profits disclosed by annual accounts (prepared in accordance with the Insurance Act, 1938), are subject to the following adjustments:</p> <ul style="list-style-type: none"> a) Any expenditure or allowance including provisions for any tax, dividend, reserve or any other prescribed provision which are not allowed in accordance with the normal provisions for computing profits and gains of a business, to be added back. b) Prescribed amount carry over to unexpired risks reserve fund would be allowed as deduction.

India - General Insurance (continued)

Commercial Accounts/Tax and Regulatory Returns [continued]	Accounting [continued]	Taxation [continued]
Regulatory return	Investment returns, solvency margin returns, actuarial returns and other returns are required to be filed by the insurer either quarterly or annually as prescribed under the relevant regulations.	N/A
Tax return	N/A	<p>Annual return of income to be filed by September 30 every year. The said return is also required to include information relating to fringe benefit tax payable by the company. The applicable reporting period is the immediately preceding financial year i.e. uniform tax year that begins on 1 April, XI and ends on 31 March, X2. Annual return of net wealth to be filed by the above date wherever the taxable net wealth exceeds INR 1.5 million.</p> <p>Withholding tax returns are also required to be filed on a quarterly basis. The applicable reporting period in this regard is the financial year, accordingly the first quarterly return is required to be filed for the quarter ended 30 June within the reporting deadline of 15 July.</p>
Technical Reserves/ Equalisation Reserves	Accounting	Taxation
Unearned premiums reserve (UPR)	A reserve for unearned premium is created as the amount representing that part of the premium written, which is attributable to, and to be allocated to, the succeeding accounting periods and the amount is determined by the relevant provisions of the Insurance Act, 1938.	Refer discussion under Unexpired risks
Unpaid claims reported	Unpaid claims are disclosed under claims outstanding as required by Insurance Regulatory and Development Authority (Preparation of Financial Statements & Auditor's Report of Insurance Companies) Regulations, 2002.	Tax laws do not contain a specific provision for deduction for such reserves. However, unpaid claims debited to the revenue account may be allowable as a deduction subject to comments under earlier section on 'Basis for the company's commercial accounts - Taxation'.
Claims incurred but not reported (IBNR)	Claims incurred but not reported (IBNR) is disclosed as claims outstanding as required by Insurance Regulatory and Development Authority (Preparation of Financial Statements & Auditor's Report of Insurance Companies) Regulations, 2002.	Tax laws do not contain a specific provision for deduction for such reserves. However, IBNR debited to the revenue account may be allowable as a deduction subject to comments under earlier section on 'Basis for the company's commercial accounts - Taxation'.
Unexpired risks	Same as unearned premium reserves.	<p>Deduction for amounts carried over to reserve for unexpired risk and to any such additional reserves is allowed but cannot exceed the following limits:</p> <ul style="list-style-type: none"> • Fire or engineering insurance and providing insurance for terrorism risks - 100% of the net premium income of such business. • Fire or misc. insurance (other than above) – 50% of net premium income of such business • Marine insurance (including export credit insurance) – 100% of net premium income of such business.
General contingency/solvency reserves	N/A	Tax laws do not contain a specific provision for deduction for such reserves. However, the same debited to the revenue account may be allowable as a deduction subject to comments under earlier section on 'Basis for the company's commercial accounts - Taxation'.

India - General Insurance (continued)

Technical Reserves/ Equalisation Reserves	Accounting	Taxation
Equalisation reserves	Catastrophe reserve is made in accordance with norms prescribed by the Insurance Regulatory and Development Authority. Appropriations for Catastrophe reserve is made from the Revenue Account (Form B-RA).	Tax laws do not contain a specific provision for deduction for such reserves. However, the same debited to the revenue account may be allowable as a deduction subject to comments under earlier section on 'Basis for the company's commercial accounts – Taxation'.
Expenses/Refunds	Accounting	Taxation
Acquisition expenses	Acquisition costs are costs that vary with and are primarily related to the acquisition of new and renewal insurance contracts. Such costs are expensed in the year in which they are incurred.	Tax laws do not contain a specific provision for deduction of such expenses. However, the tax treatment should generally follow the accounting treatment and accordingly, acquisition costs debited to the revenue accounts should be allowable as deduction.
Loss adjustment expenses on unsettled claims (claims handling expenses)	Loss adjustment expenses (claims handling expenses) are incidental to processing of claims and are accounted under claims incurred in revenue account.	Tax laws do not contain a specific provision for deduction of such expenses. However, the tax treatment should generally follow the accounting treatment and accordingly, such expenses debited to the revenue accounts should be allowable as deduction.
Experience-rated refunds	N/A	N/A
Investments	Accounting	Taxation
Gains and losses on investments	In respect to government securities and other held to maturity securities, long-term gain/loss on transfer/sale of securities is the difference between the sale price and the net amortised cost/book value and is accounted for in either revenue account or profit and loss account on the basis of the ratio of shareholders fund and technical reserves.	Gains/losses on investments held for insurance businesses are generally treated as revenue and considered in computation of total income as business income. Gains/losses on investments held as capital assets may be subject to lower tax rates as capital gains. Capital gains arising from sale of listed securities held for more than 12 months (being shares of an Indian company or units of mutual fund) are exempt from tax provided the sale is through a stock exchange in India and the transaction has been subject to a nominal securities transaction tax (STT). Such exempt capital gains are however subject to minimum alternative tax (MAT) provisions (discussed later).
Investment reserves	Provision for diminution in value of investments other than temporary is accounted for.	If investments are held for the insurance business, a provision for diminution in value of such investments may be deductible, so long as the market valuation is readily ascertainable. Provision for diminution in value of investments held as capital assets is not allowed as a deduction.
Investment income	Investment income is recognised on accrual basis. Dividend income is recognised when the right to receive is established. Investment income is allocated to revenue account (Form B – RA) and to profit and loss account (Form B – PL) in the ratio of technical reserves and shareholders funds.	Included in taxable income. However, dividends from an Indian company which have been subject to a dividend distribution tax are not double taxed in the hands of shareholders (insurance company) and are exempt under Section 10(34) of the tax laws. However, any expenditure incurred for earning exempt income is subject to disallowance.
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Reinsurance premium and commission is recognised over the period of risk. Reinsurance benefit to insurers for claims is accounted for when intimated and is accounted for in the same period as the related claims.	There exists no separate rules in the tax laws for tax treatment in case of reinsurance. Tax treatment of premiums ceded or claims received, generally, follows the accounting treatment in the books of the insurer.

India - General Insurance (continued)

Mutual Companies	Accounting	Taxation
Mutual companies (All profits returned to members)	No mutual company exists	Currently, there are no pure mutual insurance companies in India as most private general insurance companies are equity joint ventures between Indian and foreign promoters.

India – General Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	Permitted up to a maximum of eight years, subject to continuity of substantial ownership (>51%) test
Foreign branch income	Included in taxable income, as all resident insurance companies are taxed on worldwide income. However, a credit for foreign taxes may be available in India, subject to tax treaty provisions.
Domestic branch income	Calculated under ordinary rules based on branch accounts.
Corporate tax rate	The tax rate for Domestic company is 33.99% (including surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%).

Other tax features	Taxation
Premium taxes	No specific income tax on premiums. However, premiums collected are subject to a Service Tax of 12.36% (education cess of 2% and secondary & higher education cess of 1%).
Capital taxes and taxes on securities	Wealth tax is levied at the rate of 1% on certain specified assets (motor vehicles, jewellery, specified immovable property) owned by a company and valued in excess of Rs 1.5 million at the last day of the financial year net of any associated liabilities.
Captive insurance companies	N/A.
Minimum Alternative Tax (MAT)	For companies whose tax payable under normal tax provision is less than 10% of book profits, an MAT of 10% is levied on book profits. The effective MAT rate for a domestic company is 11.36% (including surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%). A credit of such tax paid under MAT provisions by a company w.e.f. financial year 2005-06 shall be allowed against the tax liability that arises in the subsequent seven years under the normal provisions of the Act.
Dividend Distribution Tax	Dividend income is exempt in the hands of the shareholders. However, a dividend distribution tax of 16.995% (including surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%) is currently levied on companies declaring dividend.
Fringe Benefits Tax (FBT)	FBT is the levy of an additional corporate tax of 33.99% (including surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%) in the hands of the employer on the value of fringe benefits provided to the employees other than perquisites on which tax is paid/payable by the employee.

India – Life Insurance

Definition	Accounting	Taxation
Definition of Life Assurance companies	<p>Under the Insurance Act, 1938, 'Indian insurance company' means any insurer being a company:</p> <ul style="list-style-type: none">(a) which is formed and registered under the Companies Act, 1956 (1 of 1956);(b) in which the aggregate holdings of equity shares by a foreign company, either by itself or through its subsidiary companies or its nominees, do not exceed 26% of paid up equity capital of such Indian insurance company;(c) whose sole purpose is to carry on life insurance business. <p>Life insurance business means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life and any contract which is subject to payment of premium for a term dependent on human life and includes:</p> <ul style="list-style-type: none">a) granting of disability, double- or triple indemnity accident benefits;b) granting of annuities;c) granting of superannuation allowance. <p>Life insurance businesses may be linked businesses or non-linked businesses. Under linked businesses, the benefits payable depend upon the value of assets available with the insurer and under non-linked businesses, the benefits are payable, irrespective of the value of assets. Similarly, there may be participating businesses or non participating businesses, meaning thereby, the policyholders may or may not have the right to participate in the profits of the business.</p> <p>It may be mentioned that for each kind of business mentioned above, separate revenue accounts need to be prepared by the life insurer.</p> <p>[Note Third proviso to Section 2C(1) of the Insurance Act, 1938 {inserted by the Insurance</p> <p>Regulatory and Development Authority (IRDA) Act, 1999} prohibits persons other than an Indian insurance company to begin to transact insurance business. The said proviso is reproduced below:</p> <p>'Provided also that no insurer other than an Indian insurance company shall begin to carry on any class of insurance business in India under this Act on or after the commencement of the IRDA Act, 1999'.]</p>	No separate definition provided in the tax legislation.

India – Life Insurance (continued)

Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
Basis for the company's commercial accounts	Insurance Regulatory and Development Authority (Preparation of Financial Statements & Auditor's Report of Insurance Companies) Regulations, in 2002 all mandatory accounting standards issued by Institute of Chartered Accountants of India to be adhered to subject to the following: (i) Accounting Standard 3 (AS 3) – Cash Flow Statements, Cash Flow Statement shall be prepared only under the Direct Method; (ii) Accounting Standard 13 (AS 13), Accounting for Investment is not applicable; (iii) Accounting Standard 17 (AS 17) – Segment Reporting – shall apply even though insurance companies are not currently publicly traded.	Special provisions apply for taxation of profits from life insurance business which require taxable profits to be calculated in a prescribed manner (discussed later). The tax law pertaining to life insurance business has not kept pace with the regulatory developments and is still in the evolving stage.
Regulatory return	Investment returns, solvency margin returns, actuarial returns and other returns are required to be filed by the insurer either quarterly or annually as prescribed under the relevant regulations.	N/A
Tax return	N/A	Annual income tax return to be filed by September 30 every year. The said return is also required to include information relating to Fringe Benefit Tax payable by the company. The applicable reporting period is the immediate preceding financial year i.e. uniform tax year, which begins on 1 April, X1 and ends on 31 March, X2. Annual net wealth tax return to be filed by the above date wherever the taxable net wealth exceeds INR 1.5 million. Withholding tax returns are also required to be filed on a quarterly basis. The applicable reporting period in this regard is the financial year. Accordingly, the first quarterly return is required to be filed for the quarter ended 30 June within the reporting deadline of 15 July.
General approach to calculation of income	Accounting	Taxation
Allocation of income between shareholders and policyholders	Premium, income on investments made out of policyholders funds, and all expenses directly related to insurance business should be classified under the policyholders revenue account. Income on investments made from shareholders funds and all expenses not directly related to insurance business is accounted for the under shareholders profit and loss account.	Profits of life insurance business are taxable at the concessional tax rate of 14.1625% (i.e. basic tax rate of 12.5% plus surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%). As per the special computational provisions, profits from life insurance business means the surplus/ deficit as is determined based on the actuarial valuation made in accordance with the Insurance Act, 1938. However, the tax law does not categorically mention whether these special computational provisions and the concessional tax rate also applies to profits, if any, generated in shareholders' account and the same is presently being challenged by the tax authorities.
Calculation of investment return	Accounting	Taxation
Calculation of investment income and capital gains	Substantial portion of funds are invested in government securities and treasury bonds. Investments are also made in Bonds and Equities. Interest income is recognised on accrual basis and is accounted under revenue accounts (technical account) or profit and loss accounts as applicable.	Generally taxed as ordinary income from the business of life insurance.

India – Life Insurance (continued)

Calculation of underwriting profits or total income	Accounting	Taxation
Actuarial reserves	<p>The actuarial liability on a policy is calculated based on the 'gross premium method,' which represents the present value of expected future outlay, including benefits and expenses, as reduced by the present value of expected future premium and related income.</p> <p>The reserves for group business are calculated as the risk premium for the unexpired term of the policy with an allowance for expenses and a margin for adverse deviations.</p> <p>For unit-linked business, unit reserves represent the value of the units attached to policies.</p> <p>Non-unit reserves are set up for mortality and morbidity risks associated with unit-linked business and are calculated using the 'gross premium methods.'</p>	Calculated under the Insurance Act and approved by the appointed actuary. An increase in actuarial reserves is deductible while a decrease in actuarial reserves is taxable.
Acquisition expenses	Acquisition costs are costs that vary with and are primarily related to the acquisition of new and renewal insurance contracts. Such costs are expensed in the year in which they are incurred and are not to be capitalised.	Though the tax laws do not contain a specific provision for deduction of such expenses, tax treatment follows accounting treatment and accordingly, acquisition costs debited to the revenue accounts are allowable as a deduction.
Gains and losses on investments	<p>In respect to government securities and other held to maturity securities, long-term gain/loss on transfer/sale of securities is the difference between the sale price and the net amortised cost/book value and is accounted as policyholders income under Form A-RA or shareholders income under Form A-PL as applicable.</p> <p>The profit or loss on the actual sale of a listed security includes the accumulated changes in fair value previously recognised in the 'fair value change account.' This amount is recycled to the appropriate revenue or profit and loss amount.</p>	Gains/losses on investments held for insurance businesses are generally treated as revenue and considered in computation of total income as business income.
Reserves against market losses on investments	<p>For impairments other than temporary in the value of investment at the balance sheet date, the amount of loss is recognised as an expense in the revenue account (Form A-RA) or profit and loss account (Form A – PL).</p> <p>Unrealised gains/losses due to changes in the fair value of listed equity shares flow through the fair value change account and are carried forward to the balance sheet. Unrealised gains and losses in unit-linked business are recognised in the respective scheme's revenue account (Form A – RA).</p>	Follows accounting.
Dividend income	Dividend income is recognised when the right to receive is established.	Dividends received from an Indian company, that have been subject to a dividend distribution tax, are exempt. However, any expenditure incurred for earning exempt income is subject to disallowance.
Policyholder bonuses	Included in the revenue account.	No specific provisions are present in the tax laws. Bonus generally is not allowable as deduction.
Other special deductions	None.	Net Income arising from pension business is exempt from tax.

India – Life Insurance (continued)

Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Reinsurance premium and commission is recognised over the period of risk. Reinsurance benefits to insurers for death claims are accounted for when intimated and accounted for in the same period as the related claims.	There exists no separate rules in the tax law for tax treatment in case of reinsurance. Tax treatment of premiums ceded or claims received, generally, follows the accounting treatment in the books of the insurer.
Mutual companies/Stock companies	Accounting	Taxation
Mutual Companies	No mutual company exists.	Presently, there are no pure mutual insurance companies in India as most private life insurance companies are equity joint ventures between Indian and foreign promoters.

India – Life Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	Permitted to be carried forward up to a maximum of eight years subject to continuity of substantial ownership (>51%) test
Foreign branch income	Included in taxable income, as all insurance companies being Indian companies are tax resident in India and are chargeable to tax on worldwide income. However, an exemption/tax credit for foreign taxes suffered, may be available in India, subject to tax treaty provisions.
Domestic branch income	Calculated under ordinary rules based on branch accounts.
Corporate tax rate	Effective tax rate is 14.1625% (including surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%).

Policyholder taxation	Taxation
Deductibility of premiums	For financial year April 1, 2008 to March 31, 2009, deductions for premium paid by individuals is allowed subject to the overall maximum limit of INR 100,000 (per person/ per year) provided under Section 80C of the Income Tax Act 1961. The employer may deduct payments of key man life insurance premiums.
Interest build-up	Generally not taxable.
Proceeds during lifetime	Generally not taxable [Taxable are the receipts under a keyman insurance policy and/or receipts under a policy (established on or after 1 April, 2003) where premiums payable for any of the years during which the term of policy exceeds 20% of the actual capital sum assured]
Proceeds on death	Not taxable [receipts under a keyman insurance policy are taxable]

Other tax features	Taxation
Premium taxes	Life insurance premiums generally attract service tax @ 12.36% (including education cess of 2% and secondary & higher education cess of 1%) on the risk portion. Insurers in some cases may be in a position to opt for the composite scheme where service tax is payable on 1% (plus education cess) of the gross amount of premium, without a distinction being made between risk and investment portions.
Capital taxes and taxes on securities	Wealth tax is levied at the rate of 1% on certain specified assets (motor vehicles, jewellery, specified immovable property) owned by a company and valued in excess of Rs 1.5 million at the last day of the financial year, net of associated liabilities, if any.
Captive insurance companies	No separate rules for captives.
Minimum Alternative Tax (MAT)	With an object to bring zero tax companies under tax net, MAT at 10% (plus applicable surcharge, education cess and secondary & higher education cess) of book profits is levied on companies whose tax payable under normal income-tax provisions is less than 10% of book profits. The effective MAT rate for a domestic company is 11.33% (including surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%). A credit of such tax paid under MAT provisions by a company w.e.f. financial year 2005-06 shall be allowed against the tax liability that arises in subsequent seven years under the normal provisions of the Act.
Dividend Distribution Tax	Dividend income is exempt in the hands of the shareholders. However, a dividend distribution tax of 16.995% (including surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%) is currently levied on companies declaring dividend.
Fringe Benefits Tax (FBT)	It provides for levy of an additional tax at 33.99% (including surcharge of 10%, education cess of 2% and secondary & higher education cess of 1%) in the hands of the employer on the value of fringe benefits provided to the employees other than perquisites on which tax is paid/ payable by the employee.



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