

Luxembourg

International Comparison of Insurance Taxation*

May 2009

Luxembourg – General Insurance

Definition	Accounting	Taxation
Definition of property and casualty insurance company	A company operating in the following insurance branches: accident; sickness; land vehicles; railway rolling stock; aircraft; ships; goods in transit; fire and natural forces; other damage to property; motor vehicle liability; aircraft liability; liability for ships; general liability; credit; suretyship; miscellaneous financial loss and legal expenses.	Not defined by tax legislation.
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
Basis for the company's commercial accounts	Luxembourg Generally Accepted Accounting Principles (GAAP) and the Luxembourg Law dated December 8, 1994.	Based on statutory Luxembourg GAAP accounts.
Regulatory return	Separate returns have to be filed with the Regulatory Authorities.	N/A.
Tax return	N/A.	Tax returns must be filed with the Luxembourg Tax Authorities before May 31 of the subsequent year. In addition, the Luxembourg Tax Authorities usually grants an additional extension (upon request) to the end of the year. Consequently, from a practical point of view, tax returns are usually filed by the end of the subsequent year.

Luxembourg - General Insurance (continued)

Technical Reserves/Equalisation Reserves	Accounting	Taxation
Unearned premiums reserve (UPR)	<p>The provision for unearned premiums shall comprise the amount representing that part of gross premiums written which is to be allocated to the following financial year or to subsequent financial years.</p> <p>The provision for unearned premiums shall be computed separately for each insurance contract. However, statistical methods may be used and in particular proportional and flat-rate methods, where they may be expected to give approximately the same results as individual calculations. The use of such methods for classes of insurance other than reinsurance is dependent on authorisation by the Commissariat.</p> <p>For insurance classes in which the risk cycle does not allow the use of a temporal method, calculation methods shall be applied that take account of the differing pattern of risk over time.</p>	According to Article 167 LITL, technical provisions are tax deductible. Allowed as per statutory accounts.
Unpaid claims reported	The said provision shall be the total estimated ultimate cost to an insurance undertaking of settling all claims arising from events which have occurred up to the end of the financial year whether reported or not (See IBNR), less amounts already paid in respect of such claims.	According to Article 167 LITL, technical provisions are tax deductible. Allowed as per statutory accounts.
Claims incurred but not reported (IBNR)	IBNR Provision is included in the Outstanding Claims Provision.	According to Article 167 LITL, technical provisions are tax deductible. Allowed as per statutory accounts.
Unexpired risks	<p>The provision for unexpired risks shall be computed on the basis of claims and administrative expenses likely to arise after the end of the financial year from contracts concluded before that date, in so far as their estimated value exceeds the provision for unearned premiums and any premiums receivable under those contracts.</p> <p>It should normally be recorded under caption "Other technical provisions", but could also be included as a liability under caption "Unearned Premiums Provision". In the latter case the description of the item shall be "Provision for unearned premiums and unexpired risks".</p> <p>Where the amount for unexpired risks is material, it shall be disclosed separately, either in the balance sheet or in the notes on the accounts.</p>	According to Article 167 LITL, technical provisions are tax deductible. Allowed as per statutory accounts.
General contingency/solvency reserves	N/A.	General reserves in addition to actuarial reserves are not allowed.
Equalisation/catastrophe reserves	According to Article 80 of the Law, every undertaking authorised in the Grand Duchy of Luxembourg must set up the equalisation reserve covering risks included in the "credit" class. There are 2 available methods to compute it. The choice among them must be approved in advance by the <i>Commissariat aux Assurances</i> .	Equalisation reserves are only applicable for reinsurance captives/undertakings and insurance undertakings covering credit risks. The relating provisions are tax deductible (Art. 167 LITL) but their reversals are fully taxable.

Luxembourg - General Insurance (continued)

Expenses/Refunds	Accounting	Taxation
Acquisition expenses	<p>Acquisition costs shall comprise the costs arising from the conclusion of insurance contracts. They shall cover both direct costs, such as acquisition commissions or the cost of drawing up the insurance document or including the insurance contract in the portfolio and indirect costs, such as advertising costs or the administrative expenses connected with the processing of proposals and the issuing of policies.</p> <p>Acquisition costs on life assurance policies may be deferred in accordance with terms pre-authorised by the Commissariat.</p> <p>For non-life insurance classes the deferral of acquisition costs may be permitted in accordance with the methods laid down in the Law dated December 8, 1994.</p>	Tax deductible as per the accounts.
Loss adjustment expenses on unsettled claims (claims handling expenses)	They shall be included in the outstanding claims provision.	Tax deductible as per the accounts.
Experience-rated refunds	The provision for bonuses and rebates shall comprise amounts intended for policy-holders or contract beneficiaries by way of bonuses and rebates to the extent that such amounts have not been credited to policy-holders.	Profit neutralised by a corresponding tax deductible charge.
Investments	Accounting	Taxation
Gains and losses on investments	Realised gains and realised and unrealised losses are included in P&L.	<p>Realised gains and losses are included in taxable income. If the gain is made on assets represented by technical provisions, the taxable basis generated by such gains are generally neutralized by a corresponding technical provision.</p> <p>Gains on qualifying investments are eligible for the participation exemption (subject to recapture rules).</p> <p>Unrealised losses are tax deductible.</p>
Investment reserves	N/A.	According to the statutory accounts.
Investment income	Realised gains and realised and unrealised losses are included in P&L.	Taxable as per the accounts. Income deriving from qualifying investment are eligible for the participation exemption.
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Premiums paid/payable are deductible from gross premiums.	Reinsurance premiums paid are, in principle, tax deductible (irrespective of the location of the reinsurance undertaking).
Mutual Companies	Accounting	Taxation
Mutual companies (All profits returned to members)	No special treatment.	Taxed as per normal Luxembourg general insurance companies.

Luxembourg – General Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	Unlimited loss carry forward for losses subject to satisfaction of continuity of legal personality.
Foreign branch income	Generally exempt from Luxembourg tax by application of relevant double tax treaties. Otherwise, tax credit or tax deduction for foreign taxes could be granted.
Domestic branch income	Calculated under ordinary rules. No branch tax is applicable.
Corporate tax rate	Like any Luxembourg commercial company, insurance companies are liable to pay corporate income tax (CIT) at a rate of 21.84% and a municipal business tax (MBT) at a rate of 6.75% in Luxembourg City (overall tax rate: 28.59%).
Other tax features	Taxation
Premium taxes	<p>In principle: 4% on the premiums applicable to all types of insurance, provided that the risk insured or the policyholder are located in Luxembourg.</p> <p>Additional tax of 6% on premiums for fire insurance policies, provided that the risk insured or the policyholder are located in Luxembourg. Exemption applies for life insurance premiums and reinsurance premiums.</p> <p>No premium tax on life insurance premium and reinsurance premiums.</p>
Capital taxes and taxes on securities	<p>No Capital Duty (EUR 75 on by-laws amendments and ad valorem registration duty on real estate contributions).</p> <p>Net Wealth Tax is levied in Luxembourg.</p> <p>The rate is 0.5% on the unitary value of the company on January 1 each year and is not deductible from the taxable profits for calculating income tax.</p> <p>The unitary value is equivalent to the net assets of the company adjusted with certain items.</p> <p>The resident companies may claim a reduction of their net wealth tax liability by making an allocation to a special reserve.</p> <p>An amount corresponding to five times the net wealth tax to be reduced must be kept in this reserve for five years following the year in which it was allocated.</p> <p>The reduction may however not be higher than the corporate tax liability, before tax credits, of the tax payer for the same year.</p>
Captive insurance companies	Like any Luxembourg commercial company, reinsurance companies are liable to pay corporate income tax (CIT) at a rate of 21.84% and a municipal business tax (MBT) at a rate of 6.75% in Luxembourg City (overall tax rate: 28.59%).

Luxembourg – Life Insurance

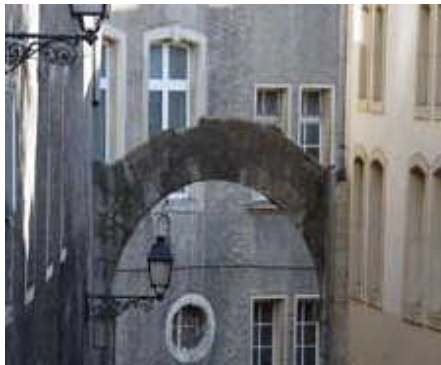
Definition	Accounting	Taxation
Definition of Life Assurance companies	<p>Companies operating in the following insurance branches:</p> <p>(i) life assurance, annuities, supplementary insurance carried on by life insurance undertakings, the type of insurance existing in Ireland and the United Kingdom known as permanent health insurance not subject to cancellation;</p> <p>(ii) marriage assurance, birth assurance;</p> <p>(iii) the assurance referred in point (i) which are linked to investment funds;</p> <p>(iv) permanent health insurance;</p> <p>(v) tontines;</p> <p>(vi) capital redemption operations;</p> <p>(vii) management of group pension funds.</p>	Not defined by the tax legislation.
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
Basis for the company's commercial accounts	Luxembourg Generally Accepted Accounting Principles (GAAP) and the Luxembourg Law dated December 8, 1994.	According to the statutory accounts.
Regulatory return	<ul style="list-style-type: none"> • A separate return as issued by the Regulatory Authorities; • Quarterly reporting on the represented assets. 	N/A.
Tax return	N/A.	<p>Tax returns must be filed with the Luxembourg Tax Authorities before May 31 of the subsequent year.</p> <p>In addition, the Luxembourg Tax Authorities usually grants an additional extension (upon request) to the end of the year.</p> <p>Consequently, from a practical point of view, tax returns are usually filed by the end of the subsequent year.</p>
General approach to calculation of income	Accounting	Taxation
Allocation of income between shareholders and policyholders	No legal quote.	Shareholders: According to Luxembourg rules dividends paid are generally subject to 15% withholding tax, subject to the exemption provided further to the EU parent-subsidiary directive or to exemption / reduction provided by the applicable double tax treaties.
Calculation of investment return	Accounting	Taxation
Calculation of investment income and capital gains	Realised gains and realised and unrealised losses on investments plus dividends and interests are taken to P&L	Please refer to general insurance.

Luxembourg – Life Insurance (continued)

Calculation of underwriting profits or total income	Accounting	Taxation
Actuarial reserves	The life assurance provision shall comprise the actuarially estimated value of an insurance undertaking's liabilities including bonuses already declared and after deducting the actuarial value of future premiums.	Tax deductible as per the accounts.
Acquisition expenses	Acquisition costs shall comprise the costs arising from the conclusion of insurance contracts. They shall cover both direct costs, such as acquisition commissions or the cost of drawing up the insurance document or including the insurance contract in the portfolio, and indirect costs, such as advertising costs or the administrative expenses connected with the processing of proposals and the issuing of policies. Acquisition costs on life assurance policies may be deferred in accordance with terms pre-authorised by the Commissariat.	Tax deductible.
Gains and losses on investments	Realised gains and realised and unrealised losses are included in P&L.	Realised gains and losses are included in taxable income. If the gain is made on assets represented by technical provisions, the taxable basis generated by such gains are generally neutralised by a corresponding technical provision. Gains on qualifying investments are eligible for the participation exemption (subject to recapture rules). Unrealised losses are tax deductible.
Reserves against market losses on investments	N/A.	See above our comments regarding the technical provisions.
Dividend income	Included in the P&L.	Participation exemption applies to qualifying dividend income.
Policyholder bonuses	The provision for bonuses and rebates shall comprise amounts intended for policyholders or contract beneficiaries by way of bonuses and rebates to the extent that such amounts have not been credited to policy-holders.	Please see our comments on Policyholders in the section "Allocation of income between shareholders and policyholders" above.
Other special deductions	None.	None.
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Premiums paid/payable are deductible from gross premiums, which are then netted in P&L account against claims paid/payable (netting is allowed, not mandatory).	Reinsurance premiums paid are, in principle, tax deductible (irrespective of the location of the reinsurance undertaking).
Mutual companies/Stock companies	Accounting	Taxation
Mutual Companies	No special rules.	Taxed as per normal Luxembourg general insurance companies.

Luxembourg – Life Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	Unlimited loss carry forward for losses subject to satisfaction of continuity of legal personality.
Foreign branch income	Generally exempt from Luxembourg tax by application of relevant double tax treaties. Otherwise, a tax credit could be granted or a tax deduction for foreign taxes could be applicable.
Domestic branch income	Calculated under ordinary rules. No branch tax is applicable.
Corporate tax rate	Like any Luxembourg commercial company, insurance companies are liable to pay corporate income tax (CIT) at a rate of 21.84% and a municipal business tax (MBT) at a rate of 6.75% in Luxembourg City (overall tax rate: 28.59%).
Policyholder taxation	Taxation
Deductibility of premiums	In principle not deductible, some exceptions exist.
Interest build-up	Capital and buy back value of life insurance products are normally not subject to taxation in the hand of the Luxembourg resident policyholder. There is also a 50% exemption on annuity paid out of life insurance products under certain conditions.
Proceeds during lifetime	Capital and buy back value of life insurance products are normally not subject to taxation in the hand of the Luxembourg resident policyholder. There is also a 50% exemption on annuity paid out of life insurance products under certain conditions.
Proceeds on death	Capital and buy back value of life insurance products are normally not subject to taxation in the hand of the Luxembourg resident policyholder. There is also a 50% exemption on annuity paid out of life insurance products under certain conditions.
Other tax features	Taxation
Premium taxes	Tax exemption of premiums related to life insurance contracts (including unit-linked products), pension insurance, disability insurance or capitalisation insurance.
Capital taxes and taxes on securities	<p>Net Wealth Tax is levied.</p> <p>The rate is 0.5% on the unitary value of the company on January 1 each year and is not deductible from the taxable profits for calculating income tax.</p> <p>The unitary value is equivalent to the net assets of the company adjusted with certain items.</p> <p>The resident companies may claim a reduction of their net wealth tax liability by making an allocation to a special reserve.</p> <p>An amount corresponding to five times the net wealth tax to be reduced must be kept in this reserve for five years following the year in which it was allocated.</p> <p>The reduction may however not be higher than the corporate tax liability, before tax credits, of the tax payer for the same year.</p>
Captive insurance companies	<p>Like any Luxembourg commercial company, reinsurance companies are liable to pay corporate income tax (CIT) at a rate of 21.84% and a municipal business tax (MBT) at a rate of 6.75% in Luxembourg City (overall tax rate: 28.59%) as well as the net wealth tax as described above.</p> <p>Please note that equalisations provisions booked by the reinsurance company are tax deductible and his release taxable. In this respect, it can be said that a reinsurance company can benefit from a deferral of taxation. Planning exists to avoid/reduce the tax exposure related to such a release.</p>



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