



Spain

International Comparison of Insurance Taxation*

May 2009

Spain – General Insurance

Definition	Accounting	Taxation
Definition of property and casualty insurance company	A non-life company subject to insurance legislation.	Not defined by tax legislation.
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
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.
Technical reserves/Equalisations reserves	Accounting	Taxation
Unearned premiums reserve (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 reserves	Calculated on actuarial basis.	Allowed as a deduction for some classes of business where it is mandatory to set up the reserves.

Spain - General Insurance (continued)

Expenses/Refunds	Accounting	Taxation
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.
Investments	Accounting	Taxation
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.
Reinsurance	Accounting	Taxation
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.
Mutual Companies	Accounting	Taxation
Mutual companies (All profits returned to members)	No special treatment.	No special treatment.

Spain – General Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	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	30% for year 2008 onwards (25% for mutual companies).
Other tax features	Taxation
Premium taxes	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 and taxes on securities	Capital contributions/reductions and share issues are subject to a 1% capital tax.
Captive insurance companies	Controlled foreign corporation regime.

Spain – Life Insurance

Definition	Accounting	Taxation
Definition of Life Assurance companies	A company that carries on a life insurance business.	Not defined by tax legislation.
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
Basis for the company's commercial accounts	GAAP and specific regulation required by DGS.	Taxation based on statutory accounts.
Regulatory return	GAAP and specific regulation required by DGS.	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.
General approach to calculation of income	Accounting	Taxation
Allocation of income between shareholders and policyholders	No separate accounting for policyholder and shareholder profits.	A total income approach including overall profit from underwriting and investment income.
Calculation of investment return	Accounting	Taxation
Calculation of investment income and capital gains	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.	Generally, follows accounting rules.
Calculation of underwriting profits or total income	Accounting	Taxation
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.
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Premiums paid/payable are deducted from gross premiums. Claims recoveries netted in P&L against claims paid/payable.	Allowed following accounting rules.
Mutual companies/Stock companies	Accounting	Taxation
Mutual Companies	No special treatment.	No special treatment.

Spain – Life Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	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	30% for year 2008 onwards (25% for mutual companies).
Policyholder taxation	Taxation
Deductibility of premiums	No tax deductions available.
Interest build-up	Generally not taxed until the payment.
Proceeds during lifetime	<p>Proceeds are considered savings income when the policy is contracted by an individual. Savings income is taxed at 18%.</p> <p>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.</p> <p>No tax reduction at the tax base level is available if the proceeds are obtained as a lump sum.*</p> <p>* This modification came into force on 1 January 2007.</p>
Proceeds on death	Subject to inheritance tax.
Other tax features	Taxation
Premium taxes	No premium taxes.
Capital taxes and taxes on securities	Capital contributions/reductions and share issues are subject to 1% capital tax.
Captive insurance companies	Controlled foreign corporation regime.



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