

# Insurance Tax Highlights – Asia Pacific

## The Revised Insurance Code of the Philippines

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On 15 August 2013, the President of the Philippines signed into law Republic Act No. 10607, which amends the 38-year old “*Insurance Code of the Philippines*” to strengthen and modernise the insurance industry in the country.

The law was enacted in response to the rapid changes in the fields of commerce, trade and industry which have affected the insurance business, and is cognisant of the fact that similar initiatives have already been adopted by regulators in the fields of banking, finance, investments, and securities. Some of the significant regulatory amendments introduced include the following:

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#### • Increased minimum capitalisation requirements

Existing domestic insurance companies need to build up a minimum paid up capital of Php250 million effective 30 June 2013; Php 550 million by 31 December 2016; Php900 million by 31 December 2019 and Php1.3 billion by 31 December 2022.

New insurance companies and branches of foreign companies are required to have an initial minimum capital of Php1.0 billion to be allowed registration. The Insurance Commissioner may, as a pre-licensing requirement, in addition to the paid-up capital stock, require stockholders to pay in cash to the company in proportion to their subscription interests a contributed surplus fund of not less than Php100 million.

Reinsurance companies, on the other hand, must have a capitalisation of at least Php3 billion paid in cash of which at least fifty percent (50%) is paid-up and the remaining portion thereof is contributed surplus, which in no case shall be less than Php400 million or such capitalisation as may be determined by the Secretary of Finance, upon the recommendation of the Insurance Commissioner.

The increase in capitalisation will boost the insurance industry to better compete globally. It will also provide more cushion against risks for the protection of the insured.

This may lead to the merger and consolidation of small players in the industry to meet the minimum capitalisation requirements.



- **Adoption of a financial reporting framework**

The law likewise provides that the insurance companies should comply with the financial reporting frameworks adopted by the Insurance Commission for purposes of creating the statutory financial reports and the annual statements to be submitted to the Commission.

The main purpose of the statutory statements is to present important information about the level of risk and solvency situation of insurers. In prescribing the applicable statutory financial reporting framework, the Commissioner shall take into account international standards concerning solvency and insurance company reporting as well as generally accepted actuarial principles concerning financial reporting promulgated by the Actuarial Society of the Philippines.

This particular amendment was introduced to close the gap in the valuation of admitted assets, reserves and investments between the statutory accounting standards under the annual statement required by the Insurance Commission against the externally audited financial statements.

The proposal to adopt Philippine Financial Reporting Standards (PFRS) may result to a harmonised financial reporting to the different regulatory agencies – Insurance Commission, Securities and Exchange Commission and the Bureau of Internal Revenue.

- **Allows insurance companies to invest in more financial instruments**

The investment areas of insurance companies have expanded to include investments of up to 25% of their admitted assets in obligations issued or guaranteed by local or foreign banks.

- **Institutionalises bancassurance, microinsurance and variable contracts**

Under the law, bancassurance shall mean the presentation and sale to bank customers by an insurance company of its insurance products within the premises of the bank. Notably, banks are no longer required to have a 5% ownership stake in bancassurance entities.

Microinsurance has been defined as a financial product or service that meets the risk protection needs of the poor where (a) the amount of contributions, computed on a daily basis does not exceed 7.5% of the daily minimum wage; and (b) the maximum sum of guaranteed benefits is not more than 1,000 times of the daily minimum wage.

Variable contract shall mean any policy or contract on either a group or an individual basis issued by an insurance company providing for benefits or other contractual payments or values thereunder to vary so as to reflect results of investments.

The revised law will provide better awareness and will help encourage availment of insurance products with investment alternatives.

- **Modification of reserve valuation**

The reserve valuation for life insurance companies shall be made according to a standard table of mortality with interest to be determined by the Insurance Commissioner in accordance with internationally accepted actuarial standards. The significant change is the removal of the 6% interest rate cap which was previously prescribed.

Under the Tax Code, in the case of insurance companies, legal reserves required to be made within the year may be deducted from their gross income. The tax authorities have earlier clarified that for purposes of computing the 2% minimum corporate income tax (MCIT), legal reserves form part of an insurance company's direct cost of services. Hence, any net addition (without the interest rate cap) will result to an increase in deductible expense. Consequently, as most insurance companies are subject to MCIT rather than the 30% corporate income tax, any net addition will reduce their MCIT liability.

- **Additional powers and functions to the Insurance Commissioner**

The Commissioner shall have a term of six years without reappointment. He is empowered to issue rulings, circulars, orders and decisions to ensure the enforcement of the provisions of the Insurance Code. He has been authorised to impose sanctions and fees, issue and revoke licenses, among others.

The Commissioner has already created a task force composed of representatives from the major trade or industry organisations as well as other sectoral groups to streamline the provisions of the new law and come up with the appropriate circulars or orders for their proper implementation.

The amendment of the Insurance Code will provide a more efficient regulation of the insurance industry in accordance with global best practices and better protection to the insuring public. The revision of the Code is a welcome development as it is now more attuned to the changing times.

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