



NETHERLANDS

International Comparison of Insurance Taxation

October 2007



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Netherlands – General Insurance

| | | |
|---|---|---|
| <p>1 Definition Definition of property and casualty insurance company</p> | <p>Accounting A company that creates insurance contracts but does not deal in life insurance.</p> | <p>Taxation Not defined by tax legislation. Follows legal/regulatory definition.</p> |
| <p>2 Commercial Accounts/ Tax and Regulatory Returns Basis for the company's commercial accounts</p> | <p>Accounting Dutch generally accepted accounting principles (GAAP) plus some additional specific rules for insurance companies. (Book 2 Civil Code). Beginning 2005, Dutch GAAP allows the application of IFRS, although it does not address the implications resulting from applying IFRS.</p> | <p>Taxation Generally the commercial accounts are the, guideline, but for tax a separate concept, 'good commercial practice', has been developed. Several specific issues have been stipulated in the 'Besluit winstbepaling en reserves verzekeraars 2001' ('Besluit').</p> |
| <p>Regulatory return</p> | <p>A separate return as issued by the Regulatory Authorities (Verzekeringskamer) (Book 2 Civil Code).</p> | <p>N/A.</p> |
| <p>Tax return</p> | <p>N/A.</p> | <p>A separate annual return as required by the tax authorities.</p> |



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Netherlands – General Insurance (continued)

3 Technical Reserves/ Equalisation Reserves

Unearned premiums reserve/provision for old age

Accounting

Time apportionment methods (e.g. 1/8th, 1/24th or 1/365th) are used. The 40% of net premiums method is also used. For health insurance an aging reserve is determined.

Taxation

Unearned premium reserves are generally allowed as per accounts. According to a Supreme Court case of 20 July 1999, an insurance company is not allowed to form a provision for old age, even if such a provision is prescribed by the Regulatory Authorities (Verzekeringkamer). The insurance policy in the case at hand concerned a health insurance policy, which was considered pay-as-you-go.

Unpaid claims reported

Calculated on case-by-case basis and/or statistical estimates. Discounting sometimes used for long tail business if conditions as included in EU directive have been met.

Generally allowed as per accounts.

Claims incurred but not reported

Calculated based on statistical method.

Generally allowed as per accounts.

Unexpired risks

Statistical estimates used.

Generally allowed as per accounts.

General contingency/solvency reserves

Solvency requirements imposed by the Regulator.

Not allowed as deductible item.



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Netherlands – General Insurance (continued)

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| Equalisation/catastrophe reserves | An equalisation reserve is allowed and mandatory only for credit insurance. Catastrophe reserves are allowed under Dutch GAAP, but require disclosure. | Equalisation reserves allowed for all classes upto a maximum 22.5% of annual premium. Catastrophe reserves allowable for nuclear risks only. Special arrangements exist for credit, storm and hail insurance companies. |
| 4 Expenses/Refunds | Accounting | Taxation |
| Acquisition expenses | Expensed in year incurred. However, may be deferred. Commission generally deferred. | Tax deductible when incurred. |
| Loss adjustment expenses on unsettled claims (claims handling expenses) | Included in provisions for claims reported and IBNR. | Allowed when substantiated on the basis of average time and cost spent per claim. |
| Experience-rated refunds | Credited when earned. | Taxed when taken to profit and loss (P&L) accounts. |
| 5 Investments | Accounting | Taxation |
| Gains and losses on investments | Unrealised and realised gains and losses can either be reported in the P&L or in the balance sheet. Companies frequently report realised gains and losses in the P&L while taking unrealised amounts to the balance sheet. | Realised gains and losses are included in taxable income. Unrealised losses may be deducted immediately, whereas unrealised profits may be deferred (unless and to the extent that these profits arise on assets on which unrealised losses were taken into account earlier, recapture rule). |



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Netherlands – General Insurance (continued)

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| Investment valuation | Allowed and commonly used methods are valuation at cost price, market value and, for some investments, redemption value. | Valuation at lower of cost or market value is usually allowed. Short-term investments may need to be valued at market value. Realised losses have to be offset against the fiscal equalisation reserve. |
| Investment income | Included in P&L. | Included in taxable income. Dividends may be exempt under participation exemption rules. Double-tax relief may be available. |
| 6 Reinsurance Reinsurance premiums and claims | Accounting Premiums paid/payable are deducted from gross premiums. Claims recoveries netted in P&L account against claims paid/payable. | Taxation Follows accounting treatment. Premiums paid to group company are deductible, provided they are at arm's length. |
| 7 Mutual companies Mutual companies (all profits returned to members) | Accounting No special treatment. | Taxation No special treatment. However, a mutual company may be tax-exempt if the company does not aim to generate commercial profits. Provided that certain conditions are met, a refund of premiums to the members of a mutual company is deductible for tax purposes. |



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Netherlands – Other Tax Features

8 Further corporate tax features

Loss carry-overs

Taxation

One-year carry-back and a nine-year carry-forward.

Foreign branch income

Exempt from Dutch corporation tax under treaty or unilateral agreement. Branch should be subject to tax in country it is located within to obtain exemption under unilateral agreement. If the activities of the branch consist of passive group finance activities, no exemption is available. Instead, a credit of the lower of (i) the amount of the foreign tax that is actually levied, or (ii) a lump-sum tax credit of 50% of the Dutch corporate income-tax rate will be granted. Although the Netherlands aims to apply the same treatment of passive group finance branches in its tax treaties, not all tax treaties have been adjusted accordingly and thus the exemption method may nevertheless apply.

Domestic branch income

Taxed under ordinary rules. Under certain circumstances notional income may be imputed if the branch is deemed insolvent.

Corporate tax rate

The current tax rate is 20% on the first EUR 25,000 profits, 23.5% on profits between EUR 25,000 and EUR 60,000; the excess is taxed at a rate of 25.5%.



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Netherlands – Other Tax Features *(continued)*

9 Other tax features

Premium taxes

Taxation

Insurance premium tax is 7% where risk is located in the Netherlands. Insurance for the following is exempt: disability, illness, unemployment, sea-going vessels, transport, reinsurance and export credit. Non-resident insurers may have to appoint a fiscal representative for insurance premium tax.

Capital taxes

Capital taxes have been abolished beginning 1 January 2006.

Captive insurance companies

Taxed under the same rules as applicable for insurance companies.



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Netherlands – Life Insurance

1 Definition

Definition of Life Assurance companies

Accounting

A company that creates life insurance contracts and does not deal in accident insurance.

Taxation

Not defined by tax legislation. Follows regulatory definition.

2 Commercial Accounts/ Tax and Regulatory Returns

Basis for the company's commercial accounts

Accounting

Dutch GAAP plus an extra set of rules for insurance companies. (Book 2 Civil Code). Beginning 2005, Dutch GAAP allows the application of IFRS, although it does not address the implications resulting from applying IFRS.

Taxation

Generally the commercial accounts are the guideline, but for tax a separate concept, 'good commercial practice,' has been developed. Several specific issues have been stipulated in the 'Besluit winstbepaling en reserves verzekeraars 2001' ('Besluit').

Regulatory return

A separate return as issued by the Regulatory Authorities (Verzekeringskamer) (Book 2 Civil Code).

N/A.

Tax return

N/A.

A separate annual return as required by the tax authorities.



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Netherlands – Life Insurance (continued)

3 General approach to calculation of income

Allocation of income between shareholders and policyholders

Accounting

Applicable only in that income allocated to policyholders, for bonuses, is treated as an expense. Net income is attributable to the shareholders.

Taxation

Generally the commercial accounts are the guideline.

4 Calculation of investment return

Calculation of investment income and capital gains

Accounting

Unrealised and realised gains and losses can either be reported in the P&L or in the balance sheet. Companies frequently report only realised amounts in the P&L, taking unrealised amounts to the balance sheet. All gains and losses on unit-linked products are taken to P&L.

Taxation

Realised gains and losses are included in taxable income. Unrealised losses may be deducted immediately, whereas unrealised profits may be deferred (unless and to the extent that these profits arise on assets on which unrealised losses were taken into account earlier). Income may be tax exempt under the participation exemption.

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Netherlands – Life Insurance *(continued)*

5 Calculation of underwriting profits or total income

Actuarial reserves

Accounting

Net method is common, but Zillmer and Höckner methods are also used.

Taxation

Follows accounting rules, but should be in accordance with the Besluit, which Inter Alia prescribes that the technical provisions have to be calculated at tariff rates.

Acquisition expenses

Expensed in year incurred. However, may be deferred. In general commission expenses on regular premium policies are deferred.

Deductible in years incurred, but, for periodical premium paying life insurance contracts they are tax-deductible in equal instalments over a 10 year period or over the shorter actual term of the contract.

Gains and losses on investments

See calculation of investment return above.

See calculation of investment return above.

Valuation at lower of cost or market value is allowed.

Valuation at lower of cost or market value is allowed. However, the Besluit contains specific valuation principles for fixed interest bearing investments. Furthermore, certain other specific arrangements have been stipulated in the Besluit, and realised losses have to be offset against the fiscal equalisation reserve.

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Netherlands – Life Insurance (continued)

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| Dividend income | Included in income. | Gross amounts included in taxable income. Participation exemption may apply if certain conditions are met. Credit for foreign withholding tax may be available. Case law of the European Court of Justice (ECJ) may impact current credit mechanisms. |
| Policyholder bonuses | Included as expense item in technical account. | Tax deductible. |
| Other special deductions | None. | Life insurance and 'funeral-in kind' insurance companies can form a fiscal equalisation reserve up to a maximum of 2.25% of actuarial provisions. The Besluit provides for detailed regulations in this respect. |
| 6 Reinsurance Reinsurance | Accounting Deducted from gross premiums. Recoveries deducted from gross claims. | Taxation Follows accounting treatment. Premiums paid to group company are deductible, provided they are at arm's length. |
| 7 Mutual companies/Stock companies Mutual companies | Accounting No special rules. | Taxation No special treatment. Provided that certain conditions are met, a refund of premiums to the members of a mutual company is deductible for tax purposes. |



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Netherlands – Other Tax Features

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Foreign branch income

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Domestic branch income

Taxed under ordinary rules. Under certain circumstances notional income may be imputed if the branch is deemed insolvent.



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Netherlands – Other Tax Features *(continued)*

9 Policyholder taxation

New tax system introduced in the Netherlands beginning 1 January 2001

Taxation

Under the new Act, the individual income of a Dutch resident individual will be divided into three separate categories, referred to as 'boxes.' Each box is independently assessed. This means that it will not be possible to offset losses from one box against income from another. The income categories are as follows:

- (i) income from work and the primary residence;
- (ii) income and capital gains from shares representing a substantial interest;
- (iii) income from savings and investments.

The taxable income of box 1 is subject to tax at progressive rates up to 52%. The taxable income of box 2 is subject to a rate of 22% for the income up to EUR 250,000 and the excess will be taxed at a flat rate of 25%. The income of box 3 is subject to tax at a flat rate of 30%.



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Netherlands – Other Tax Features *(continued)*

Deductibility of premiums on Life annuity policies and taxation of annuity instalments

Under the new Act, a taxpayer is only entitled to claim annuity deductions if it can be demonstrated that the taxpayer has not built up enough retirement income in the last 7 years, to be determined each year. Premiums should be paid to an insurer that allocates the premiums to its Dutch business or to a foreign insurer that has signed a contract with the Dutch tax authorities.

Instalments received after the expiration date are taxed in box 1 if the premiums have been deducted from taxable income. If premiums paid on a life annuity policy have not been deducted from taxable income, the life annuity policy is taxed in box 3. For policies before 2001, transitional rules apply.

Endowment policies

Endowment insurance is taxed in box 3. For endowment policies before 2001, transitional rules have been introduced. If certain conditions are met, existing endowment policies are exempt in box 3 up to an amount of EUR123,428 per person. The surplus value is taxed at 4%.



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Netherlands – Other Tax Features *(continued)*

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| | <p>Endowment insurance taken out on the primary residence of a taxpayer (i.e. the insurance to be used to redeem the mortgage) falls under a special provision in box 1. The pay-out of such insurance is tax-exempt per taxpayer insofar as the payment does not exceed EUR143,000 climate parentheses and certain conditions are met. The interest part of any excess amount is taxed in box 1.</p> |
| Proceeds on death | <p>The benefit value from endowment policies on life is taxable in box 3 (the proceeds itself are not taxed).</p> |
| <p>10 Other tax features Premium taxes</p> | <p>Taxation Life assurance is exempt from insurance premium tax.</p> |
| Capital taxes | <p>Capital taxes have been abolished beginning 1 January 2006.</p> |
| Captive insurance companies | <p>Taxed under the same rules applicable to insurance companies.</p> |



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