Brazil

International Comparison of Insurance Taxation*

May 2009

Brazil – General Insurance

Definition	Accounting	Taxation
Definition of property and casualty insurance company	A company that issue P&C insurance contracts. According to Brazilian legislation, there is no difference between general and life insurance companies. However, legislation establishes that only companies that operate exclusively with pension plans and/or life insurance will have the authorisation to operate with pension products.	Not defined by tax legislation.
Commercial Accounts/Tax and Regulatory Returns	**Accounting**	**Taxation**
Basis for the company's commercial accounts	Accounting practices adopted in Brazil, associated with accounting practices stabilished by SUSEP – Superintendence of Private Insurance. In 2010 insurance companies will be required to prepare an individual and consolidated financial statement according to IFRS rules.	Follows the taxation of financial institutions. As a general rule, the adjusted net profit is subject to income tax. Technical provisions are tax-deductible.
Regulatory return	Insurance companies must present monthly and quarterly information containing their balance sheet, investment, technical reserves, etc.	Follows accounting treatment. Legal entities, including insurance companies, must account for their taxes monthly; therefore, they must calculate their results on a monthly basis.
Tax return	Insurance companies present a balance sheet each accounting period, as do financial institutions. The calculations are prepared and recorded on a monthly basis.	Insurance companies are required to present monthly tax returns, as well as a consolidated annual income tax return. In 2008 the tax authorities introduced a new monthly return including detailed accounting and tax information called SPED that must be presented as from 2009.
Technical Reserves/ Equalisation Reserves	**Accounting**	**Taxation**
Unearned premiums reserve (UPR)	Constituted to record the risks of the contracts in effect. This amount is deferred throughout their terms on a *pro rata die* basis. Risks in force not yet issued are also recorded using actuarial methodology.	Follows accounting treatment. The expenses incurred are fully tax-deductible.
Unpaid claims reported	Must be recorded and evaluated individually. Separated in administrative and judicial classes and adjusted periodically. The amount recorded must be the best estimate of loss and limited to the amount insured and the coverage of the police.	Follows accounting treatment. The expenses incurred are fully tax-deductible.
Claims incurred but not reported (IBNR)	This provision must be constituted on an actuarial basis upon the losses occurred in previous periods. Actuarial Technical note must be prepared by the insurance company. IBNER concepts are also permitted.	Follows accounting treatment. The expenses incurred are fully tax-deductible.

Brazil - General Insurance (continued)

Technical Reserves/ Equalisation Reserves [continued]	Accounting [continued]	Taxation [continued]
Unexpired risks	Unexpired risk reserve is required in some cases	The tax legislation permits the deduction of expenses with technical reserves required by the insurance regulators. Expenses with reserves not expressly required by the regulators are not tax-deductible.
General contingency/solvency reserves	Solvency margin is foreseen by the regulatory authorities and calculated under stockholder equity adjusted basis.	The tax legislation permits the deduction of expenses with technical reserves required by the insurance regulators. Expenses with reserves not expressly required by the regulators are not tax-deductible.
Equalisation reserves	Some additional technical provisions are required when identified deficiency in premiums. One of them is denominated PIP – Insufficiency Premium Provision. As from 2009 CY, the LAT – Liability Adequacy Test will be required under SUSEP rules.	The tax legislation permits the deduction of expenses with technical reserves required by the insurance regulators. Expenses with reserves not expressly required by the regulators are not tax-deductible.
Premium Deficiency	This provision must be constituted when the UPR is lower than the result of actuarial calculation as described above.	Follows accounting treatment.
Expired Risks	Complementary Premium Provision is required under SUSEP requirements (Resolução CNSP 162)	Follows accounting treatment.
Expenses/Refunds	**Accounting**	**Taxation**
Acquisition expenses	Deferred throughout policy terms on a *pro rata die* basis.	Follows accounting treatment. The expenses incurred are fully tax-deductible.
Loss adjustment expenses on unsettled claims (claims handling expenses)	Loss adjustments should be recorded in a competence regime and are part of the claims loss reserve.	Follows accounting treatment. The expenses incurred are fully tax-deductible.
Experience-rated refunds	Cash basis. Credited when earned. Salvages are recorded under competence basis.	Taxable under accounting recognition.
Investments	**Accounting**	**Taxation**
Gains and losses on investments	Marketable securities are recognised according to the criteria determined by the National Council of Private Insurance (CNSP). According to the referred legislation, securities must be classified in accordance with managements intention of holding them up to maturity or selling before this date. Securities held to maturity are recorded at cost plus accrued earnings. Securities subject to trading before maturity must have their book value adjusted to market value. The adjustment to market value, whether gain or loss, is recognised in the results for the year (securities classified for trading) or in a specific account of stockholders' equity (securities classified as available for sale). Financial Instruments (SWAPS contracts) are recorded using market value.	Mark-to-market adjustments are not tax deductible (negative adjustments) or taxable (positive adjustments); on the other hand, accrued earnings of the securities held to maturity and realised gains and losses should be included in the calculation of taxes. Stocks*: Mark-to-market adjustments follow the treatment described above. Dividends are not taxed by Corporate Income Tax and Social Contribution on Net Profits. * Note that, in case of investments in related companies, the equity pick-up should not be taxable/deductible.
Investment reserves	The criteria to recognise investments are described above. Assets are subject to impairment and present value adjustment.	Investment reserves are considered not deductible. Losses realized are tax deductible.
Investment income	Included in P&L or stockholders' equity (depending on the classification mentioned above).	Mark-to-market adjustments are not tax deductible (negative adjustments) or taxable (positive adjustments); on the other hand, accrued earnings of the securities held to maturity and realised gains and losses should be included in the calculation of the taxes.

Brazil - General Insurance (continued)

Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Reinsurance market has been opened to the private market since 2007. Local, admitted and eventual companies are permitted to operate in Brazil. IRB – Brazilian Reinsurance Institute is still working in Brazil. Up until 2008 reinsurance accounts were recorded in a net basis. As from 2009, following the IFRS 4 criteria, reinsurance will be recorded in a gross basis and subject to credit evaluations.	Follows accounting treatment.
Mutual Companies	**Accounting**	**Taxation**
Mutual companies (All profits returned to members)	There are no mutual companies in Brazil.	N/A.

Brazil – General Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	Tax losses accrued as of 1994 FY can be offset against future taxable income indefinitely. However, this offsetting is limited to 30% of each year's taxable income.
Foreign branch income	Profits earned abroad through branches are included as taxable income at the end of each calendar year.
Domestic branch income	Branches of foreign corporations are considered an independent entity and are subject to Brazilian taxes at the full rate on its profits. The results generated by local branches of a Brazilian company (if established as a separated legal entity) recognised by the controller company through equity pick up method are not taxed/deductible by the controller company.
Corporate tax rate	The effective Brazilian corporate income tax rate applicable to insurance companies is 40%. This tax rate incorporates: • Federal corporate tax (a marginal rate of 25%); • Social contribution tax at the rate of 15%. Insurance companies are also subject to the monthly turnover taxes (PIS and COFINS) at a total rate of 4.65%. The calculation basis of PIS and COFINS may be summarised as follows: (+) total revenue; (–) compulsory technical reserves; (–) paid claims.
Other tax features	**Taxation**
Premium taxes	Premiums are subject to the levying of tax (IOF) at the following rates: i) Life and personal accident insurance: 0,38%; ii) Reinsurance, mandatory insurance for real property financing; exporting credit and international freight: 0%; iii) Health insurance: 2,38%; iv) Others: 7,38%.
Capital taxes and taxes on securities	There are no capital taxes. If there is a remittance of interest on net equity, this amount will be subject, as a general rule, to an income withholding tax at a rate of 15 %.* Interest on net equity is tax-deductible up to 50% of the profit reserves or 50% of the year profit, provided that other rules are followed. * This is a general rule. Specific tax treatment may apply in case of treaty to avoid the double taxation. In case the interest on net equity is remitted to a beneficiary established in a tax haven, it will be subject to a 25% withholding tax.
Captive insurance companies	There is no definition of captive insurance companies in Brazilian tax legislation.

Brazil – Life Insurance

Definition	Accounting	Taxation
Definition of Life Assurance companies	A company which insures life contracts or pensions plans. According to Brazilian legislation, there is no difference between general and life insurance companies. However, legislation establishes that only companies that operate exclusively with pension plans and/or life insurance will have the authorisation to operate with pension products.	Not defined by tax legislation.
Commercial Accounts/Tax and Regulatory Returns	**Accounting**	**Taxation**
Basis for the company's commercial accounts	Accounting practices adopted in Brazil adopted with SUSEP accounting polices. In 2010 insurance companies will be required to prepare individual and consolidated financial statement under IFRS rules.	Follows the taxation of financial institutions. As a general rule, the adjusted net profit is subject to taxation with the technical provisions being tax-deductible.
Regulatory return	Insurance companies must present monthly and quarterly information containing their balance sheet, investment reserves, etc.	Follows accounting treatment. Legal entities, including insurance companies, must account for their taxes monthly; therefore, they must calculate their results on a monthly basis.
Tax return	Insurance companies present a balance sheet each accounting period, as do financial institutions. The calculations is prepared and recorded in a monthly basis.	Insurance companies are required to present monthly tax returns, as well as a consolidated annual income tax return. In 2008 the tax authorities introduced a new monthly return including detailed accounting and tax information that must be presented as from 2009.
General approach to calculation of income	**Accounting**	**Taxation**
Allocation of income between shareholders and policyholders	The allocation of income between shareholders and policyholders for pension products is defined in the contract. PGBL and VGBL products are recorded in a monthly basis.	Taxable proportionally to the income recognised.
Calculation of investment return	**Accounting**	**Taxation**
Calculation of investment income and capital gains	Realised gain and losses as well as investment income are included in income.	Realised net capital gains are included in gross income. Pension plans: The investment income related to technical reserves of pension plans are subject to withholding tax* (the same tax treatment applicable to individuals and nonfinancial companies); however, pension plan companies can opt for a special tax treatment that allows companies to tax investments income-related to technical reserves quarterly (at 20% tax rate, limited to 12% of the premium revenue obtained from companies). * non applicable to pension plans constituted only with individuals and immune entities resources.

Brazil – Life Insurance (continued)

Calculation of underwriting profits or total income	Accounting	Taxation
Actuarial reserves	Constituted to record the risks of the contracts in effect. Insurance companies must prepare an actuarial technical note to calculate and record the provisions. In 2009 LAT calculations will be required for life and pensions companies as well.	Follows accounting treatment.
Acquisition expenses	Group life – recognised at the time policy is issued. Individual's life – recognised on an accrual basis, based on the period risk, normally 12 months.	Follows accounting treatment.
Gains and losses on investments	Marketable securities are recognised according to the criteria determined by the National Council of Private Insurance (CNSP). According to the referred legislation, securities must be classified in accordance with managements intention of holding them up to maturity or selling before this date. Securities held to maturity are recorded at cost plus accrued earnings. Securities subject to trading before maturity must have their book value adjusted to market value. The adjustment to market value, whether more or less, is recognised in the results for the year (securities classified for trading) or in a specific account of stockholders' equity (securities classified as available for sale).	Mark-to-market adjustments are not tax deductible (negative adjustments) or taxable (positive adjustments); on the other hand, accrued earnings of the securities held to maturity and realised gains and losses should be included in the calculation of taxes. Stocks*: Mark-to-market adjustments follow the treatment described above. Dividends are not taxed by Corporate Income Tax and Social Contribution on Net Profits. * Note that, in case of investments in related companies, the equity pick-up should not be taxable/deductible.
Reserves against market losses on investments	Permanent market losses are included in P&L.	Non-deductible accrual for tax purposes.
Dividend income	Recognised on cash basis. The calculations and accrual are established by Low 11.638/07 and 6.404/76.	Non-taxable income.
Policyholder bonuses	The insurance bonus is incorporated on the value of the premium or into the Mathematical provision for Pension products. It is possible to reduce the cost of the premium.	Follows accounting treatment.
Other special deductions	No special comment to mention.	All the operational costs and expenses are deductible for income tax purposes. In addition to this, the amounts related to the claims paid are deductible for PIS and COFINS purposes.

Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Reinsurance market has been opened to private players since 2007. Local, admitted and eventual companies are permitted to operate in Brazil. IRB – Brazilian Reinsurance Institute is still working in Brazil. Until 2008 reinsurance accounts are recorded in a net basis. For 2009 following the IFRS 4 criteria reinsurance will be recorded in a gross basis and subject of credit evaluations.	Follows accounting treatment.

Mutual companies/Stock companies	Accounting	Taxation
Mutual Companies	There are no mutual companies in Brazil.	N/A.

Brazil – Life Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	Tax losses accrued as of 31 December 1994 can be offset against future taxable income indefinitely. However, this offsetting is limited to 30% of the taxable income of each year.
Foreign branch income	The company must be a Brazilian resident for tax purposes. However, profits earned abroad are included as taxable income on December 31st of each year.
Domestic branch income	Branches of foreign corporations are considered an independent entity and are subject to Brazilian taxes at the full rate on its profits. The results generated by local branches of a Brazilian company (if established as a separated legal entity) recognized by the controller company through equity pick up method are not taxed/deductible by the controller company.
Corporate tax rate	The effective Brazilian corporate income tax rate applicable to insurance companies is 40%. This tax rate incorporates: • Federal corporate tax (a marginal rate of 25%); • Social contribution tax at the rate of 15%. Insurance companies are also subject to the monthly turnover taxes (PIS and COFINS) at a total rate of 4.65%. The calculation basis of PIS and COFINS may be summarized as follows: (+) total revenue; (–) compulsory technical reserves; (–) paid claims.
Policyholder taxation	**Taxation**
Deductibility of premiums	Individuals: • Payments to a life insurance company are not tax-deductible for policyholder income-tax purposes; • Payments to private pension entities are income-tax-deductible, limited to 12% of the total remuneration (salary, rental revenues, etc.) of the participant. Companies: • Payments to a life insurance company, on behalf of employees, are considered as part of the wage and are tax-deductible for policyholder income-tax purposes; • Payments to private pension entities on behalf of the employees are income-tax-deductible, limited to 20% of the total wage of the participant.
Interest build-up	The taxation rules are described in the item below.
Proceeds during lifetime	Benefits paid to life insured – if the amount paid is exactly the same as the premium paid – are considered as an indemnity not subject to any withholding tax. If the benefits are higher, the income is subject to the withholding tax. The insured is allowed to opt for one of the following taxation methods (as of January 2005): (i) Method of regressive rates (tax rates from 35 % – applicable to resources applied during a period lower than 2 years – to 10% – applicable to resources applied during a period higher than 10 years). Taxation exclusively at source; (ii) Method of progressive rates (15 % of withholding tax). The tax withheld is creditable against the taxation by the individual income tax – maximum rate of 27.5%).
Proceeds on death	Benefits paid on death are considered as an indemnity, not subject to tax.
Other tax features	**Taxation**
Premium taxes	Premiums are subject to the levying of tax on Financial Operations (IOF) at the following rates: i) Life and personal accident insurance: 0,38% ii) Exporting credit, international freight, crop insurance, reinsurance: 0%; iii) Health insurance: 2,38%; iv) Others: 7,38%.
Capital taxes and taxes on securities	There are no capital taxes. If there is a remittance of interest on net equity, this amount will be subject, as a general rule, to an income withholding tax at a rate of 15%. * Interest on net equity is tax-deductible up to 50% of the profit reserves or 50% of the year profit, provided that other rules are followed. * The 15% tax rate can be lower if the beneficiary is established in a country that has signed a treaty to avoid double taxation with Brazil. In case the interest on net equity is remitted to a beneficiary established in a tax haven, it will be subject to a 25% withholding tax.
Captive insurance companies	There is no definition of captive insurance companies in Brazilian tax legislation

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