



# Portugal

## International Comparison of Insurance Taxation\*

May 2009

### Portugal – General Insurance

Definition	Accounting	Taxation
Definition of property and casualty insurance company	A company to which insurance legislation applies.	Not defined by tax legislation.
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
Basis for the company's commercial accounts	Prepared in accordance with IFRS, except IFRS 4 which only applies as regards the classification of insurance contracts, as set out by Instituto de Seguros de Portugal (ISP – Portuguese supervisory body). The new chart of accounts, in force as from 1 January 2008, was adopted as result of Art. 3 of Regulation (CE) nr. 1606/2002 of July 19.	Taxable income is based on statutory profits adjusted according to the tax law provisions. A transitory regime applies to the tax relevant adjustments resulting from the adoption of the new accounting rules, which are taxable / deductible over a period of 5 years (2008-2012)
Regulatory return	The following financial information has to be submitted annually: i) Annual accounts; ii) Solvency margin and assets backing technical provisions; (iii) Additional statistical information (premiums and claims, pension plans, etc.); (iv) Annual report on internal control and risk management.	Annual return of accounting and fiscal information ("IES") includes annual accounts and corresponding notes.
Tax return	N/A.	Annual corporate income tax assessment return ("Modelo 22").
Technical Reserves/ Equalization Reserves	Accounting	Taxation
Unearned premiums reserve (UPR)	Pro rata temporis method.	Allowed as per accounting rules.
Unpaid claims reported	Calculated on case-by-case basis according to the estimated cost, in the general line of business. For workers' accident (pensions), a mathematical reserve is also recorded using tables and formulas established by the legislation in force.	Allowed as per accounting rules.
Claims incurred but not reported (IBNR)	Calculated based on a percentage defined by ISP on the total claims paid during the year or based on actuarial/historical information.	Allowed as per accounting rules.
Unexpired risks	Calculated according to the methodology established by ISP, and is based on estimated losses including claims, reinsurance, and administrative costs likely to arise after the year/ period end from contracts concluded prior to that date. This provision is increased/ decreased whenever the ratios of claims, costs and reinsurance is expected to exceed/fall short of unearned income and premiums receivable under those contracts.	Allowed as per accounting rules.

## Portugal - General Insurance (continued)

Technical Reserves/ Equalization Reserves [Continued]	Accounting [Continued]	Taxation [Continued]
General contingency/solvency reserves	Provided as necessary.	Not deductible.
Equalization/catastrophe reserves	Calculated in accordance with percentages defined by ISP.	Allowed as per accounting rules.
Expenses/Refunds	Accounting	Taxation
Acquisition expenses	Acquisition expenses are recorded at the same time as premiums. However, deferred acquisition costs may reach a maximum of 20% of unearned premium reserves.	Allowed as per accounting rules.
Loss adjustment expenses on unsettled claims (claims handling expenses)	Included in the claims provision.	Allowed as per accounting rules.
Experience-rated refunds	Credited when earned.	Allowed as per accounting rules.
Investments	Accounting	Taxation
Gains and losses on investments	Realized gains and losses are included in P&L. Unrealised gains and losses are presented in equity (separated line), except those related to trading and fair value option through the P&L account.	Realized capital gains and losses are included in taxable income. Inflation index is applied to acquisition cost in case of shares and real estate held for at least two years. Unrealized gains and losses on trading assets charged to the P&L account are tax deductible, except those relating to shares that represent more than 5% of share capital or to non listed equity instruments.
Investment reserves	Investments available for sale, trading and at fair value option are at market value. Fixed income securities are accounted for at acquisition cost less amortisation of premium/discount at effective rate, if held to maturity.	Only realised gains and losses are included in taxable income. Amortisation of premium/discount of fixed income securities at effective rate is included in taxable income.
Investment income	Dividends - Accounted for as received. Interest and other income - Accrued as earned.	Included in taxable income, subject to the following: Dividends from shares associated with the technical reserves have a participation exemption equal to 100% of their value; in other cases, a participation exemption equal to 50% of their value applies.
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Premiums payable/paid are deducted from gross premiums. Claim recoveries are netted in P&L against claims paid/payable.	As per accounting rules. Premiums paid to related parties must be arm's length.
Mutual Companies	Accounting	Taxation
Mutual companies (All profits returned to members)	No special rules.	No special rules.

## Portugal – General Insurance - Other Tax Features

Further corporate tax features	Accounting	Taxation
Loss carry-overs	Deferred taxes are accounted for as per IAS 12 by applying the standard corporate income tax rate (excluding municipal surcharge).	Six year loss carry-forward. No carry-back is allowed.
Foreign branch income	Tax expense is recognised in the current year.	Profits obtained by branches or other permanent establishments of companies with residence in Portugal must be consolidated into the head office accounts, and taxation will be based on the consolidated profits. A tax credit is given up to the limit of Portuguese corporate income tax due on branch profits.
Domestic branch income	Tax expense is recognised in the current year.	Branches are taxed according to the rules and rates applicable to resident companies. There is no withholding tax on remittances to the head office.
Corporate tax rate	N/A.	Corporate income tax standard rate: 25% (the final tax rate will be at maximum 26.5% by addition of local surtax of up to 1.5% on taxable income).

Other tax features	Accounting	Taxation
Premium taxes	Included in the gross premiums in balance sheet, does not impact P&L.	<p>Premium tax of 0.242% established by the ISP. Insurance products/services are subject to a stamp duty. The cost of this tax is borne by the insured entity, but the liability for collection and payment of the tax falls on the insurance company. The stamp tax rates vary from 3% to 9%, depending on the insurance categories. Other mandatory contributions apply to specific insurance categories.</p> <p>Commissions earned by brokers are subject to a 2% stamp tax to be retained and paid by the insurer.</p>
Capital taxes and taxes on securities	N/A	Capital contributions, capital increase, reorganization and transfers of head office from an EU Member State or third country are subject to 0.4% stamp tax.
Captive insurance companies	N/A	No special treatment applies.
Single passport rules: Non resident insurance company operating in Portugal under the freedom to provide services	N/A	<p>Insurance contracts are subject to indirect taxes and other charges on premiums in Portugal, assuming it is the Member State where the risk is located.</p> <p>In those circumstances the non resident EU insurance company must appoint a fiscal representative resident in Portugal to comply with its obligations as regards stamp tax and other charges.</p>

# Portugal – Life Insurance

Definition	Accounting	Taxation
Definition of Life Assurance companies	A company that carries out life insurance and reinsurance business and is subject to specific regulations.	Not defined by tax legislation.
Commercial Accounts/Tax and Regulatory Returns	Accounting	Taxation
Basis for the company's commercial accounts	Prepared in accordance with IFRS, except IFRS 4 which only applies as regards the classification of insurance contracts, as set out by Instituto de Seguros de Portugal (ISP – Portuguese supervisory body). The new chart of accounts, in force as from 1 January 2008, was adopted as result of Art. 3 of Regulation (CE) nr. 1606/2002 of July 19.	Taxable income is based on statutory profits adjusted according to the tax law provisions. A transitory regime applies to the tax relevant adjustments resulting from the adoption of the new accounting rules, which are taxable / deductible over a period of 5 years (2008-2012)
Regulatory return	The following financial information has to be submitted annually: i) Annual accounts; ii) Solvency margin and assets backing technical provisions; (iii) Additional statistical information (premiums and claims, pension plans, etc); (iv) Annual report on internal control and risk management.	Annual return of accounting and fiscal information ("IES") includes annual accounts and corresponding notes.
Tax return	N/A.	Annual corporate income tax assessment return ("Modelo 22").
General approach to calculation of income	Accounting	Taxation
Allocation of income between shareholders and policyholders	Policy terms determine the allocation of income between shareholders and policy holders.	As per accounting rules.
Calculation of investment return	Accounting	Taxation
Calculation of investment income and capital gains	Income is composed of operating income and realised gains and losses.	Realized capital gains and losses are included in taxable income. Dividends from shares associated with the technical reserves of insurance companies have a participation exemption equal to 100% of their value.  In other cases, a participation exemption equal to 50% of their value can be used.

## Portugal – Life Insurance (continued)

Calculation of underwriting profits or total income	Accounting	Taxation
Actuarial reserves	The net method is most common, but Zillmer and gross methods are allowed.	As per accounting rules.
Acquisition expenses	Recognised directly in P&L, unless the Zillmer method is used.	As per accounting rules.
Gains and losses on investments	<p>Realized gains and losses are included in P&amp;L.</p> <p>Unrealized gains and losses are presented in equity (separated line), except those related to (i) trading investments which are charged to the P&amp;L account and (ii) the portion related to policyholders which is booked in the liability side.</p>	<p>Realized capital gains and losses are included in taxable income. Inflation index is applied to acquisition cost in case of shares and real estate held for at least two years.</p> <p>Unrealized gains and losses on trading assets charged to the P&amp;L account are tax deductible, except those relating to shares that represent more than 5% of share capital or to non listed equity instruments.</p> <p>Unrealized gains and losses related to profit sharing and unit linked products are included in taxable income, regardless the assets classification.</p>
Reserves against market losses on investments	<p>Unrealised gains and losses are presented in equity (separated line), except those related to trading investments which are charged to the P&amp;L account.</p> <p>Unrealised gains related to investments of insurance with profit sharing are presented in the provision for profit sharing (policyholders' portion).</p> <p>Companies that present fixed income securities on acquisition cost less amortisation of premium/discount, do not need to reflect unrealised gains/losses.</p>	<p>For investments representing technical reserves of products with profit sharing and unit linked products: Unrealized gains or losses on investments accounted at market value are included in taxable income.</p> <p>For other products, unrealised gains and losses of trading investments charged to the P&amp;L are included in taxable income, except as regards shares that represent more than 5% of the share capital and non-listed equity instruments.</p> <p>Fixed income securities: Charges to the P&amp;L resulting from adoption of the amortised cost at effective rate are included in taxable income.</p> <p>Adjustment to market price is excluded from taxable income except those relating to securities allocated to products with profit sharing and unit linked.</p>
Dividend income	Included in income.	<p>Included in taxable income, subject to the following:</p> <p>Dividends from shares associated with the technical reserves have a participation exemption equal to 100% of their value; in other cases, a participation exemption equal to 50% of their value applies.</p>
Policyholder bonuses	Recognized in income statement.	As per accounting rules.
Other special deductions	None.	N/A.
Reinsurance	Accounting	Taxation
Reinsurance premiums and claims	Deducted from gross written premiums.	As per accounting rules. Premiums paid to related parties must be arm's length.
Mutual companies/Stock companies	Accounting	Taxation
Mutual Companies	No special rules apply.	No special rules apply.

## Portugal – Life Insurance - Other Tax Features

Further corporate tax features	Taxation
Loss carry-overs	Six year loss carry-forward. No carry-back is allowed.
Foreign branch income	Profits obtained by branches or other permanent establishments of companies with residence in Portugal must be consolidated into the head office accounts, and taxation will be based on the consolidated profits. A tax credit is given up to the limit of Portuguese corporate income tax due on branch profits
Domestic branch income	Branches are taxed according to the rules and rates applicable to resident companies. There is no withholding tax on remittances to the head office.
Corporate tax rate	Corporate income tax standard rate: 25% (the final tax rate will be at maximum 26.5% by addition of local surtax of up to 1.5% on taxable income).

Policyholder taxation	Taxation
Deductibility of premiums	Deductibility of qualifying premiums, up to defined limits.
Interest build-up	Not taxed.
Proceeds during lifetime	Taxable, but partial relief is available if certain conditions are met regarding policy-holding period.
Proceeds on death	Not taxed.

Other tax features	Taxation
Premium taxes	Premium tax of 0.046% as determined by the ISP. Life insurance premiums and brokers commissions are exempt from stamp duty.
Captive insurance companies	No special rules.
Capital taxes and taxes on securities	Capital contributions, capital increase, reorganization and transfers of head office from an EU Member State or third country are subject to 0.4% stamp tax.
Single passport rules: Non resident insurance company operating in Portugal under the freedom to provide services	Insurance contracts are subject to charges on premiums ISP charge in Portugal, assuming it is the Member State where the risk is located. In those circumstances the non resident EU insurance company must appoint a fiscal representative resident in Portugal to comply with its obligations.



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