Malaysia

General insurance – overview

Definition	Accounting	Taxation
Definition of property and casualty insurance company	A company authorised under the Malaysian Insurance Act to carry out all insurance business other than life business.	Generally follows the definitions in the Insurance Act 1996.
Commercial accounts/ tax and regulatory returns	**Accounting**	**Taxation**
Basis for the company's commercial accounts	The financial statements have to comply with the Malaysian Companies Act, Malaysian Insurance Act, Malaysian Accounting Standards Board ("MASB"), Approved Accounting Standards in Malaysia for Entities Other Than Private Entities, and relevant guidelines and circulars issued by the Central Bank of Malaysia. MASB Approved Accounting Standards in Malaysia for Entities Other Than Private Entities will be fully converged with International Financial Reporting Standards by 1 January 2012.	Generally, the tax returns will be based on the audited accounts although there may not be convergence in the accounting and tax treatments.
Regulatory return	For each insurance fund established in Malaysia under the Insurance Act, insurers must file monthly, quarterly and annual returns with the Central Bank of Malaysia (CBM). Such returns are prepared in accordance with the valuation basis and format prescribed by the CBM. For regulatory purposes, Malaysia adopted a risk-based capital ("RBC") framework effective from 1 January 2009.	Tax returns will also cross reference to the audited annual Insurance Act return.
Tax return	Not applicable.	Tax returns are lodged on an entity basis, 7 months following the close of the financial year end.
Technical reserves/ equalisation reserves	**Accounting**	**Taxation**
Unearned premiums reserve (UPR)	Written premiums are recognised over the risk period of the policy. UPR is usually calculated on a time apportionment method i.e. for Malaysian policies – 1/24th method except for marine cargo business for which 25% of premiums reversed and for foreign policies – 1/8th method.	Generally claimed per accounts except for marine, aviation or transit policies; calculated based on 25% of net premiums (i.e. net of deductible reinsurance premiums ceded). Reinsurance premiums ceded outside Malaysia are deductible to the extent of 95% of the premium paid.
Unpaid claims reported	Calculated on a case-by-case basis. Normally no discounting.	Allowed as per accounts – Net claims incurred.
Claims incurred but not reported (IBNR)	Generally calculated using statistical bases. Claim liabilities (include both reported claims and IBNR) must be certified by an approved actuary annually. The claim liabilities must include a minimum provision for adverse deviation, based on a 75% level of confidence. For financial statements prepared under the Companies Act, insurers generally adopt the same valuation as that used for regulatory purposes.	Allowed as per accounts – Net claims incurred.

Malaysia: General insurance – overview (continued)

Technical reserves/ equalisation reserves	**Accounting**	**Taxation**
Unexpired risks	Premium liabilities must be certified by an approved actuary annually. The premium liabilities refer to the higher of an insurer's UPR and its unexpired risk reserves calculated to include a provision for adverse deviation based on a 75% level of confidence. For financial statements prepared under the Companies Act, insurers generally adopt the same valuation as that used for regulatory purposes.	Generally allowed as per accounts except for marine, aviation or transit policies (as above).
General contingency/ solvency reserves	Under the RBC framework with effect from 1 January 2009, each insurer is expected to set an internal target capital level that reflects its own risk profile and risk management practices, and this internal target should be higher than the Central Bank's supervisory target capital level of 130%.	Not allowed for tax purposes.
Equalisation reserves	Normally no such reserve created.	Would not qualify for tax purposes.
Expenses/ refunds	**Accounting**	**Taxation**
Acquisition expenses	Expenses are deducted when incurred and properly allocated to the periods in which it is probable they give rise to income.	Expenses tax deductible in year incurred.
Loss adjustment expenses on unsettled claims (claims handling expenses)	Provision must be made in claim liabilities for all future claims handling costs.	Allowed as per accounts – Net claims incurred.
Experience-rated refunds	Benefits are credited when earned/received. This is taken into account in the valuation of premium liabilities.	Taxable as per accounts.
Investments	**Accounting**	**Taxation**
Gains and losses on investments	Effective from 1 January 2010, investments are categorised as fair value through profit or loss, held-to-maturity, loans and receivables and available for sale. The accounting for gains and losses on investments would depend on the classification of the investments. For financial statements prepared under the Companies Act, insurers generally adopt the same valuation as that used for regulatory purposes.	Gains and losses on investments are included as taxable income on a realised basis. Accordingly, gross proceeds (whether or not of an income nature) in connection with the realisation of those investments or any rights are taxable. The cost of acquiring and realising those investments or rights is tax deductible.
Investment reserves	Effective 1 January 2010, investments are categorised as fair value through profit or loss, held-to-maturity, loans and receivables and available for sale. Where investments are classified as 'available for sale', unrealised gains/losses on these investments are recognised directly in separate component of equity in the 'fair value reserve' until the investment is derecognised or impaired.	Not allowed for tax purposes.

Malaysia: General insurance – overview (continued)

Investments	Accounting	Taxation
Investment income	Recognised in profit or loss on an accrual basis.	Unless specifically exempted, investment income is taxable when earned. Exempt dividends may be received from investments in companies which had previously enjoyed or are currently enjoying the various tax incentives provided under the law. With effect from 1 January 2008, dividends received from companies under the single-tier system will also be exempted.
Reinsurance	**Accounting**	**Taxation**
Reinsurance premiums and claims	Accounted for on an earned/incurred basis. This is taken into account in the valuation of claims liabilities and premium liabilities.	Same tax treatment as general insurance business.
Mutual companies	**Accounting**	**Taxation**
Mutual companies (all profits returned to members)	No special treatment.	No special treatment.

Malaysia: General insurance – other tax features

Further corporate tax features	Taxation
Loss carry-overs	Generally, there is : - Unlimited carry-forward of non-utilised business losses. - Prior to YA 2012, current year adjusted loss from the general insurance business would need to be allocated to other business sources of the insurance company (i.e. Life Fund, Shareholders Fund, etc.) - Pursuant to Section 60(10D) of the Income Tax Act, 1967 (which was introduced in the Budget 2012), with effect from YA 2012, any unabsorbed losses from sources other than the life fund of an insurer (i.e. general business, shareholders' fund, etc.) will be quarantined and is only allowed to be utilised against the statutory income of an insurer other than the life fund for subsequent years of assessment. - No carry-back of trade losses allowed for insurance companies. - 70% (with effect from YA 2009) of the current year tax losses in a company can be set off against income of one or more companies within the Group, subject to certain conditions such as: • Both claimant and surrendering companies must have paid-up capital of above RM2.5 million; • Both companies are related companies; i.e. 70% direct / indirect ownership / residual profits / residual assets; • Both companies must have 12 months basis period ending on the same day; and • Both companies are Malaysian residents and incorporated in Malaysia.
Foreign branch income	Resident insurers are taxed on a worldwide basis. Hence, the branch income will be taxed under the normal rules. However, unilateral and bilateral relief is available to offset the double tax.
Domestic branch income	No segregation of domestic branch income. Taxed on consolidated basis.
Corporate tax rate	Normal tax rate is 25% with effect from YA 2009. Concessionary tax rate of 5% on inward reinsurance and offshore insurance businesses. "Offshore insurance" means insurance of a risk under a general policy where the risk is outside Malaysia and the insurance policy is issued by an insurer resident in Malaysia or by a branch in Malaysia of an insurer not resident in Malaysia, and where any risk is in transit in Malaysia it shall be deemed to be outside Malaysia. "Inward re-insurance" means any reinsurance of a risk under a policy where the risk is outside Malaysia and the original insurance policy: (a) is issued by an insurer not resident in Malaysia but not issued by a branch in Malaysia of such insurer; or (b) is issued by a branch outside Malaysia of an insurer resident in Malaysia, and where any risk is in transit in Malaysia it shall be deemed to be outside Malaysia.

Malaysia: General insurance – other tax features (continued)

Other tax features	Taxation
Premium taxes	None.
Capital taxes and taxes on securities	There is no capital gains tax. With effect from 1 April 2007 to 31 December 2009, any gains on disposal of real properties or shares in real property companies would not be subject to real property gains tax pursuant to the exemption granted under the Real Property Gains Tax (Exemption) (No. 2) Order 2007. For any disposal of chargeable assets made by any person between 1 January 2010 to 31 December 2011, a tax at a fixed rate of 5% on the gains arising from the disposal that are disposed within 5 years from the date of acquisition of such chargeable assets pursuant to the Real Property Gains Tax (Exemption) (No. 2) Order 2009. In the recent Budget 2012 which was announced on 7 October 2011, it is proposed that with effect from 1 January 2012, the RPGT rate be increased to 10% for the disposal of real properties (residential and commercial properties) within 2 years to curb speculative activities in the property market. For disposal made within 2 to 5 years from ownership, RPGT at 5% is applicable. Disposal after 5 years of ownership is not subject to RPGT. Generally, service tax at the rate of 6% (with effect from 1 January 2011) is applicable for provision of all types of insurance policies to all business organizations except for insurance policies to cover risks relating to international transportation of goods and insurance policies to cover risks outside Malaysia. (Prior to 1 January 2011, the rate of service tax was 5%). Stamp duties are imposed on certain instruments or document and the rates vary according to the nature of the documents and the values involved. The key items which attract stamp duties include the following: - Transfers of marketable securities - 0.3% of the consideration or value (whichever is the greater) on the date of transfer. - Instruments transferring property, calculated on the money value of the consideration or the market value of the property, whichever is the greater : • On first RM100,000 – 1% • On next RM400,000 – 2% • On the excess – 3% - Service contracts – ad valorem stamp duty of 0.5% Stamp duty on policy of insurance attract nominal amount of stamp duty of RM10 except for life policy where the sum insured does not exceed RM 5,000.
Captive insurance companies	Generally, captive insurance companies are located in Labuan. An offshore captive insurance company is subject to tax in Labuan at the rate of 3% based on net profits as reflected in the audited accounts or upon election at RM 20,000.
Value added tax (VAT) / Goods and services tax (GST)	Not applicable.

Malaysia: Life insurance – overview

Definition	Accounting	Taxation
Definition of life insurance companies	A company authorised under the Malaysian Insurance Act to carry out insurance business concerned with life policies.	Generally follows the definitions in the Insurance Act 1996.
Commercial accounts/ tax and regulatory returns	**Accounting**	**Taxation**
Basis for the company's commercial accounts	The financial statements have to comply with the Malaysian Companies Act, Malaysian Insurance Act, MASB, Approved Accounting Standards in Malaysia for Entities Other Than Private Entities and relevant guidelines, and circulars issued by the Central Bank of Malaysia. MASB Approved Accounting Standards in Malaysia for Entities Other Than Private Entities will be fully converged with International Financial Reporting Standards by 1 January 2012.	Generally, the tax returns will be based on the audited accounts although there may not be convergence in the accounting and tax treatments.
Regulatory return	For each insurance fund established in Malaysia under the Insurance Act, insurers must file monthly, quarterly and annual returns with the Central Bank of Malaysia. Such returns are prepared in accordance with the valuation basis and format prescribed by the Central Bank of Malaysia. For regulatory purposes, Malaysia adopted a risk-based capital (RBC) framework effective from 1 January 2009.	Tax returns will also cross reference to the audited annual Insurance Act return.
Tax return	Not applicable.	Tax returns are lodged on an entity basis, 7 months following the close of the financial year end.
General approach to calculation of income	**Accounting**	**Taxation**
Allocation of income between shareholders and policyholders	The Insurance Act requires separate insurance funds to be set up for participating policies, non-participating policies and investment-linked policies. There is separate accounting for policyholders'/shareholders' profits within an insurer's accounts. The distribution of surpluses out of the insurance funds is subject to regulatory restrictions.	Life Fund (including Investment-linked Fund) and Shareholders' Fund are taxed separately. Allocation of income to shareholders via actuarial surplus transferred is taxable under the Shareholders' Fund. Any actuarial deficit in the Life Fund is allowed a tax deduction under the Shareholders' Fund.
Calculation of investment return	**Accounting**	**Taxation**
Calculation of investment income and capital gains	Investment income is recognised in profit or loss on an accrual basis. Effective 1 January 2010, investments are categorised as fair value through profit or loss, held-to-maturity, loans and receivables and available for sale. The accounting for gains and losses on investments would depend on the classification of the investments. For financial statements prepared under the Companies Act, insurers generally adopt the same valuation as that used for regulatory purposes.	Unless specifically exempted, investment income is taxable when earned. Exempt dividends may be received from investments in companies which had previously enjoyed or are currently enjoying the various tax incentives provided under the law. With effect from 1 January 2008, dividends received from companies under the single tier system would also be exempted. Gross proceeds (whether or not of an income nature) in connection with the realisation of those investments or any rights are taxable and the cost of acquiring and realising those investments or rights is tax deductible.

Malaysia: Life insurance – overview (continued)

Calculation of underwriting profits or total income	Accounting	Taxation
Actuarial reserves	The valuation of policy liabilities is carried out by the appointed actuary using bases specified by the Central Bank. Under the valuation, future cash flows are projected based on realistic assumptions and discounting at the appropriate interest rates. For financial statements prepared under the Companies Act, insurers generally adopt the same valuation as that used for regulatory purposes. As required under the guidelines and circulars issued by BNM, insurance contracts liabilities include actuarial liabilities, unallocated surplus and fair value reserves supporting the life fund.	Not allowed for tax purposes.
Acquisition expenses	No separate accounting for deferred acquisition expenses. Acquisition expenses are also included in the projected cash flows that the actuary uses for the valuation of policy liabilities.	Not allowed for tax purposes. Generally, the Life Fund is not eligible to claim expenses when computing its tax liability. However, the cost of acquiring and realising those investments or rights is tax deductible when there is a realisation of those investments.
Gains and losses on investments	Effective 1 January 2010, investments are categorised as fair value through profit or loss, held-to-maturity, loans and receivables and available for sale. The accounting for gains and losses on investments would depend on the classification of the investments.	Gross proceeds (whether or not of an income nature) in connection with the realisation of those investments or any rights are taxable and the cost of acquiring and realising those investments or rights is tax deductible.
Reserves against market losses on investments	Effective 1 January 2010, investments are categorised as fair value through profit or loss, held-to-maturity, loans and receivables and available for sale. The accounting for market losses on investments would depend on the classification of the investments.	Not allowed for tax purposes.
Dividend income	Recognised in profit or loss on an accrual basis, and included in investment income.	Taxable unless it is exempted. Exempt dividends may be received from investments in companies which had previously enjoyed or are currently enjoying the various tax incentives provided under the law. With effect from 1 January 2008, dividends received from companies under the single-tier system would also be exempted.
Policyholder bonuses	Accounted for as an allocation of surplus of the participating fund. All allocations from the participating fund (both to policyholders and to shareholders) are subject to specified regulatory rules.	Not allowed for tax purposes
Other special deductions	None.	Where an amount of actuarial surplus from the life fund of an insurer is transferred to the shareholders' fund, any amount of tax charged on the portion of that surplus shall be set-off against the tax charged on the chargeable income from the shareholders' fund of that insurer in respect of the life business.

Malaysia: Life insurance – overview (continued)

Reinsurance	**Accounting**	**Taxation**
Reinsurance premiums and claims	Accounted for on an earned/ incurred basis. Taken into account in projected cash flows that the actuary uses for the valuation of policy liabilities.	Same tax treatment as general insurance business.
Mutual companies/ stock companies	**Accounting**	**Taxation**
Mutual Companies	No special treatment.	No special treatment.

Malaysia: Life insurance – other tax features

Further corporate tax features	Taxation
Loss carry-overs	Generally, there is : - Unlimited carry-forward of unabsorbed business losses to be utilised only against income of Life Fund. - No carry-back of trade losses allowed for insurance companies. - 70% (with effect from YA 2009) of the current year tax losses in a company can be set-off against income of one or more companies within the Group, subject to certain conditions such as: • Both claimant and surrendering companies must have paid-up capital of above RM 2.5 million; • Both companies are related companies; i.e. 70% direct / indirect ownership / residual profits / residual assets; • Both companies must have 12 months basis period ending on the same day; and • Both companies are Malaysian residents and incorporated in Malaysia.
Foreign branch income	Insurance companies are taxed on world scope and the branch income will be taxed under ordinary rules. However, unilateral and bilateral relief is available to counter double taxation.
Domestic branch income	No segregation of domestic branch income. Taxed on consolidated basis.
Corporate tax rate	Normal tax rate for Life Fund (including Investment-linked Fund) is 8%. Tax rate for Shareholders' Fund is 25% (effective YA 2009).
Policyholder taxation	**Taxation**
Deductibility of premiums	Tax deductible for companies, except for key-man insurance. For individuals, deductions available are as follows : - Deduction for Life insurance premiums / statutory contribution to the Employees Provident Fund and / or other approved funds is limited to RM 6,000. - Effective YA 2010, this relief has been increased to RM 7,000. The increased relief amount of RM 1,000 is given solely on annuity scheme premium from insurance companies contracted with effect from 1 January 2010 and additional premium paid on existing annuity scheme commencing from 1 January 2010. - In the recent Budget 2012, it was proposed that the RM1,000 relief above be increased to RM3,000 for contributions made to Private Retirement Scheme approved by the Securities Commission and on annuity premiums. This relief is effective from YA 2012 to YA 2021. - Deduction for insurance premiums for education or medical benefits is limited to RM 3,000. - Deduction for annuity premium on annuity purchased through EPF Annuity Scheme is limited to RM 1,000. (This relief has been abolished with effect from YA 2011.).
Interest build-up	Not taxable.
Proceeds during lifetime	Annuity or periodical payment is taxable at the prevailing tax rate except for sums received by way of annuities granted under annuity contracts issued by Malaysian life insurers. For the purposes of this exemption, "Malaysian life insurers" means life insurers and Takaful operators whose ownership or membership is held in majority by Malaysian citizens.
Proceeds on death	Not taxable for individuals.

Malaysia: Life insurance – other tax features (continued)

Other tax features	Taxation
Premium taxes	None.
Capital taxes and taxes on securities	There is no capital gains tax. With effect from 1 April 2007 to 31 December 2009, any gains on disposal of real properties or shares in real property companies would not be subject to real property gains tax pursuant to the exemption granted under the Real Property Gains Tax (Exemption) (No. 2) Order 2007. For any disposal of chargeable assets made by any person between 1 January 2010 to 31 December 2011, a tax at a fixed rate of 5% on the gains arising from the disposal that are disposed within 5 years from the date of acquisition of such chargeable assets pursuant to the Real Property Gains Tax (Exemption) (No. 2) Order 2009. In the recent Budget 2012 which was announced on 7 October 2011, it is proposed that with effect from 1 January 2012, the RPGT rate be increased to 10% for the disposal of real properties (residential and commercial properties) within 2 years to curb speculative activities in the property market. For disposals made within 2 to 5 years from ownership, RPGT at 5% is applicable. Disposal after 5 years of ownership is exempted from RPGT. Generally, service tax at the rate of 6% (with effect from 1 January 2011) is applicable for provision of all types of insurance policies to all business organizations except for insurance policies to cover risks relating to international transportation of goods and insurance policies to cover risks outside Malaysia. (Prior to 1 January 2011, the rate of service tax was 5%). Stamp duties are imposed on certain instruments or document and the rates vary according to the nature of the documents and the values involved. The key items which attract stamp duties include the following: - Transfers of marketable securities - 0.3% of the consideration or value (whichever is the greater) on the date of transfer. - Instruments transferring property, calculated on the money value of the consideration or the market value of the property, whichever is the greater : • On first RM100,000 – 1% • On next RM400,000 – 2% • On the excess – 3% - Service contracts – ad valorem stamp duty of 0.5% Stamp duty on policy of insurance attract nominal amount of stamp duty of RM10 except for life policy where the sum insured does not exceed RM 5,000.
Captive insurance companies	Generally, captive insurance companies could be located in Labuan. An offshore captive insurance company is subject to tax in Labuan at the rate of 3% based on net profits as reflected in the audited accounts or upon election, at RM 20,000.
Value added tax (VAT) / Goods and services tax (GST)	Not applicable.

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