

# TAXATION OF ENTITIES

In the sample examined, company tax rates fall generally in the range between 28 per cent and 40 per cent, with Australia at the higher end at 36 per cent. The degree of integration varies. Some countries (including Australia) fully impute company dividends to shareholders, another group provides credits to shareholders that reflect, but do not necessarily match, tax paid at the company level, and a third taxes dividends at a normal (that is, classical taxation) or reduced rate (including full exemption). Some countries tax dividends at the entity level at the time of distribution, either as a withholding tax or as an additional company tax.

This same diversity is evident in the treatment of trusts and collective investment entities. Most countries have a flow-through type of entity whereby the entity itself is not taxable but tax applies to the recipient of the income.

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# ***Introduction***

## **Purpose**

3.1 The Government has signalled its intention to tax all entities (with the exception of ordinary partnerships) in a similar way, with a modified system of company taxation representing the benchmark. The purpose of this chapter is to examine in broad terms how different entities are taxed in various countries.

## **Approach**

3.2 The analysis focuses on the two sets of countries listed in Chapter 1. For the 14 countries in Group 1, the discussion covers a range of entities, including companies, trusts, partnerships and collective investment entities. For the 13 countries in Group 2, the analysis deals only with the treatment of companies. Clearly not all aspects of the tax system can be analysed in a short space so the report concentrates on the following features:

- the corporate tax rate;
- the treatment of dividend distributions by companies, particularly the extent to which the company tax treatment is integrated with the personal income tax treatment; and
- the taxation treatment of entities other than companies.

3.3 More detailed information on the taxation of different types of investments has been collected for the 14 Group 1 countries. This is analysed in Chapter 4. Chapter 5 deals with taxation of business income which crosses jurisdictional boundaries, including the way in which the taxation of non-residents and the foreign source income of residents interacts with the tax treatment of entities, particularly companies.

# ***Key comparisons***

## **Companies**

### **Tax rate**

3.4 Tables 3.1 and 3.2 present a comparison of the general company tax rate for all 27 countries in the sample. In some countries the corporate tax rate depends on the size of the company, generally measured by income. In all cases considered the higher rate applies for larger companies. Several

countries, including France and Belgium, currently have a surcharge in place for companies which is intended to be temporary.

3.5 In making these comparisons it is important to take account of taxes at sub-national levels of government. Many of the major economies apply corporate tax at more than one level of government. Countries in this category include Canada, Germany, Japan, the United States and China. Australia has state based taxes particularly on payrolls, which impact on companies, although the actual incidence of payroll tax is unclear.

**Table 3.1: Comparison of company tax rates — Group 1 countries**

| Country        | Tax rate<br>(general corporate rate for residents)                            | Comments   |
|----------------|---|--|
| Australia      | 36%   |  |
| Canada         | 29%   | Additional provincial taxes at an average rate of 15 %.  |
| Chile          | 15%   | Referred to as 'First Category Tax'. Relatively high withholding taxes on non-residents.   |
| France         | 41.67% reduced to 40% from 1 January 1999                                     | 33.33% plus 25% surcharge reducing to 20% surcharge from 1 January 1999.   |
| Germany        | 47.475/31.65 %, including solidarity surcharge                                | A CIT rate of 45% (plus solidarity surcharge of 5.5% on the CIT liability) applies to retained earnings. A lower rate of 30% (plus solidarity surcharge of 5.5%) applies to distributed earnings. From 1999 it is proposed to reduce the underlying CIT rate on retained earnings to 40%, with a further reduction to 35% from 2002 plus solidarity surcharge. Additionally, municipality tax applies of 12-20%. |
| Ireland        | 25% — first IR£50,000<br>32% — on balance<br>10% for manufacturing            | The current standard 32% company tax is to be reduced by 4 percentage points a year to reach 12.5% from 2003. Manufacturing rate remains to 2010.  |
| Japan          | 48% (national plus local)   |  |
| New Zealand    | 33%   |  |
| Netherlands    | 35%   |  |
| Singapore      | 26%   |  |
| Sweden         | 28%   |  |
| Taiwan         | 0% — below NT\$50,000<br>15% — NT\$50,000 - 100,000<br>25% — over NT\$100,000 | For taxable income between NT\$50,000 and NT\$100,000, the tax payable is the lesser of 15% and 50% of the taxable income over NT\$50,000.   |
| United Kingdom | 31%   | Rate to reduce to 30% from 1 April 1999. Lower rate of 21% (reducing to 20%) applies to small companies with incomes below £300,000.   |
| United States  | 35% (maximum)   | State taxes of 3-10% apply. These are deductible for Federal purposes. Some state taxes may be lower in certain circumstances (Delaware provides exemption if business not carried on in Delaware).  |

3.6 Also important is the fact that the overall tax burden on company income will depend on the way in which dividends are treated. This includes the extent of integration of the personal and company tax systems, the personal income tax rate scale and the treatment of dividends paid to non-residents. These points are all dealt with later in the paper.

**Table 3.2: Comparison of company tax rates — Group 2 countries**

| Country     | Tax rate<br>(general corporate rate for residents)   | Comments   |
|-------------|--|--|
| Argentina   | 33%  |  |
| Belgium     | 40.17% (reduced rate scale applies to certain companies whose income is less than BEF13 million) | 39% plus 3% surcharge  |
| Brazil      | 15%  | Additional 10% surcharge levied for taxable income exceeding R\$240,000.   |
| China       | 30%  | 3% local income tax also levied.   |
| Croatia     | 35%  | While a 35% rate applies, the base includes a deduction for the cost of equity equal to 5% plus inflation rate.  |
| Denmark     | 34%  |  |
| Finland     | 28%  |  |
| Israel      | 36%  |  |
| Italy       | 37%  | Rate of 19% applies to the portion of the company's income that is equivalent to a normal financial yield (currently set at 7%) on shareholder funds injected after 31 December 1996, provided the average rate on all income does not fall below 27%.<br>These rates are reduced to 7% and 20% respectively for listed companies. |
| Malaysia    | 28%  |  |
| Mexico      | 34%  |  |
| Norway      | 28%  |  |
| South Korea | 16% — first W100 million<br>28% — on balance   | 1.6% resident tax surcharge also applies on first W100 million.<br>2.8% resident tax surcharge applies on excess amount.   |

3.7 As illustrated above, the corporate income tax rate in the 27 countries generally falls within the range from 28 per cent to 40 per cent. A small number of countries with lower rates stand out, some significantly so. This group includes Chile, Singapore, Taiwan and Brazil. The Australian rate of 36 per cent is lower than that in a number of the major OECD countries such as France, Germany and Japan but is on the high side compared with most other countries, including some smaller OECD countries.

3.8 The relative position of Australia reflects the fact that many countries reduced their tax rates in the late 1980s at the same time as they broadened the tax base. Australia temporarily followed this practice and, for a period, had a company tax rate of 33 per cent. However, Australia subsequently introduced more generous capital allowances and then increased the company rate. The relative treatment of depreciation in other countries is analysed in detail in Chapter 4 which deals with the measurement of the tax base.

3.9 In the Scandinavian countries, which have generally been regarded as high tax jurisdictions, the company tax rate has been reduced to 28 per cent, except in Denmark. This reflects a view in those countries that capital is internationally mobile and thus needs to be taxed more lightly than income from labour.

3.10 Progressive rates are adopted by Belgium (under certain conditions), Ireland, Taiwan, Brazil and South Korea. In Brazil and South Korea the progressive rate is achieved by way of a surcharge for incomes beyond a certain level. Brazil also imposes an eight per cent social contribution which is in the nature of an income tax. Particular industries may be subject to a higher or lower tax rate - for example, 38 per cent for petroleum operations in Malaysia (normal rate 28 per cent) and 17 per cent for farming, fishing, timber and book publishing operations in Mexico (normal rate 34 per cent). Most of the 27 countries (except for Italy and Norway) provide various tax concessions for investments promoted in that country, whereby the general income tax liability is reduced or eliminated (see discussion of tax concessions in Chapter 4).

3.11 Of particular note is Germany. This is one of the few remaining countries to have a split rate system. A low rate of 31.65 per cent applies to all distributed income while a higher rate applies to undistributed income. All company income is taxed initially at the higher rate but, once income has been distributed, a credit is provided to the company for the difference between the rates.

### Tax base

3.12 In most countries surveyed, company income is determined under general rules that apply to all taxpayers subject to certain exceptions or concessions. France, Germany and the Netherlands tax companies under specific company income tax rules, although in the Netherlands, these rules are tied closely to those applicable to calculation of the taxable income of individuals.

3.13 Most countries use a transactional basis for calculating income. However, Germany defines company income in balance-sheet terms as

annual changes in the net worth of the company subject to certain adjustments.

3.14 Table 3.3 deals with the treatment of inter-company dividends in Group 1 countries.<sup>1</sup> In most of these countries, such dividends are either exempt or effectively free from tax by the operation of a rebate. Some countries, for example, France, Germany, Japan, Sweden and the United States, restrict exemption to those cases where the two companies have a high level of common ownership. Chile and New Zealand tax inter-company dividends but imputation credits apply to all dividends which may partially or wholly offset the tax, depending on the extent to which imputation credits are attached.

**Table 3.3: Treatment of inter-corporate dividends received by companies**

| Country     | Domestic source dividends   | Comments   |
|-------------|---|--|
| Australia   | Exempt  | Non-taxation achieved by rebate. Rebate does not apply to unfranked portion of dividends received by private companies from distributing companies in which they hold less than a 100% interest. With inter-company dividends carrying franking credits, the credits are added to the franking account maintained by the company receiving the dividend. |
| Canada      | Taxable/deductible  | Deductibility of domestic source dividends achieves inter-corporate exemption.   |
| Chile       | Non taxable   |  |
| France      | Exempt if 10% or greater interest is held in the distributing company or value of shareholding is FF150 million or more.    | Parent must have held shares since their issuance or commit itself to keep the shares for a minimum period of 2 years. 'Avoir fiscal' (imputation or franking credits) attached to the dividend received is available to offset equalization tax payable ('précompte') when dividends are on-distributed.  |
| Germany     | Generally taxable   | Dividends to corporate recipients are generally subject to corporate income tax at full rates. CIT is not levied in the case of redistribution of tax exempt (foreign source) dividends from affiliated companies.   |
| Ireland     | Exempt  | Dividends subject to Advance Corporation Tax (ACT) in the hands of the distributing company (reduced by tax credits on dividends received). In turn, the recipient company is liable to ACT when dividends received are on-distributed, but the company may claim an ACT credit in respect of the dividends received.                                    |
| Japan       | Fully exempt if 25% or greater interest is held in distributing company, otherwise 80% of dividends are exempt.             | The exemption is reduced to the extent of deductible interest costs attributable to the shares that yielded the dividends. In effect, this reverses the deduction for interest attributable to exempt inter-corporate dividends.   |
| Netherlands | Participation exemption if 5% or greater interest is held in distributing company and the shares are not held as inventory. |  |
| New Zealand | Taxable/exempt  | Taxable but any imputation credits attached may fully or partially offset tax liability. Dividends exempt if from another company in 100% commonly-owned group.  |

<sup>1</sup> For a description of the treatment of foreign-source dividends derived by companies refer to Table 5.5.

|                |  |   |
|----------------|--|---|
| Singapore      | Taxable unless specifically exempted                             | Under the imputation system, a resident company can pay dividends from profits previously subject to domestic corporate tax with an attached imputation credit generally equal to the corporate tax previously paid. For a corporate recipient of the dividend, the gross dividend would be taxed at 26%. The corporate recipient would be able to claim a credit for tax deducted at source equivalent to 26% of the gross amount, effectively eliminating its tax liability in respect of the dividend income. Excess imputation credits are refundable to the recipient. |
| Sweden         | Dividends to corporate recipient taxed at 28% unless tax-exempt. | Exemption available provided that at least 25% interest held in distributing company.   |
| Taiwan         | Exempt   | Imputation credits attached are credited to an imputation credit account. Excess imputation credits are refundable to the recipient.  |
| United Kingdom | Exempt   | Dividends subject to ACT in the hands of the distributing company (reduced by tax credits on dividends received). In turn, the recipient company is liable to ACT when (exempt) dividends received are on-distributed, but the company may offset an ACT credit in respect of the dividends received at that time.  |
| United States  | Taxable/deductible   | 70% deductible if less than 20% interest in distributing company, 80% deductible if at least 20% interest held, and 100% deductible if from member of an affiliated group (80% of vote and value).  |

## Integration of company and individual taxation

3.15 A key feature of tax systems is the extent to which they attempt to integrate the company tax system with the taxation of individuals. No country attempts to integrate fully the income of companies and shareholders since this would involve taxing undistributed profits at the marginal tax rate of the individual shareholders. However, some countries, including Australia and New Zealand, go to the extent of providing a full credit to residents for tax paid at the company level on distributed income. In other cases the credit is less than complete or may be provided to the taxpayer independent of whether the tax is paid at the company level

3.16 The extent of integration also affects the way resident individuals are taxed on income sourced from abroad through a resident company. The tax treatment of foreign source dividends in the hands of the resident company through which it is derived affects the total domestic tax paid on such income when it is ultimately distributed. This feature is dealt with in Chapter 5 as it is essentially an international tax issue.

3.17 A summary of the degree of imputation for Group 1 and Group 2 countries is shown in Tables 3.4 and 3.5. Clearly, there is no uniformity of treatment. Full imputation applies in Australia, Chile, New Zealand, Singapore, Taiwan, Italy, Malaysia and South Korea. These countries tax company income and then provide a full credit at the shareholder level for the company tax paid on distributed dividends. The individual will then pay tax at the appropriate rate for that taxpayer on that type of income. If the



dividend is not paid out of taxed income, the individual will generally pay full tax.

3.18 Countries in a second category tax all distributions at the company level so that only fully taxed dividends are paid out. Countries following this type of system include France, Germany, Ireland, the United Kingdom, Finland, Israel and Norway. In some cases this is done by means of a tax creditable against company tax (for example, in Ireland and the United Kingdom) while in other countries the tax is simply a final tax. In broad terms, this is the type of imputation that has been foreshadowed by the Government in Australia in *A New Tax System*. One defining feature is that all dividends are fully franked through the payment of tax at the company rate on all dividends.

3.19 Countries in a third category provide a credit to the recipient with no reference to the tax actually paid at the company level. In other words, the credit is a notional one. The Canadian system has this feature while the system to operate in the United Kingdom from 1999 will be similar.

3.20 The system used by countries in the third category has the interesting feature that even where the dividend is from income on which tax has not been paid — such as foreign source income that is exempt or has received a foreign tax credit — a dividend or imputation credit is provided to the individual. This is discussed in more detail below. However, it is a feature that produces an outcome similar to that in some other countries, for example Chile and France, where foreign tax credits can be passed on to shareholders.

3.21 Some countries simply exempt dividends from further tax. They include Argentina, Brazil, Croatia and Mexico.

3.22 The final category of countries tax dividends either at the normal rates for individuals (as in the United States) or at some reduced rate. The reduced rate approach is in some ways similar to a notional credit in that it partially acknowledges that tax has been paid at the company level.

3.23 Table 3.4 also highlights the extent to which credits are refundable. For all countries excess withholding taxes (including ‘top up’ taxes which apply to the extent dividends have not been fully imputed) are refundable. Excess Advance Corporation Tax (ACT) is also refundable in Ireland and the United Kingdom. Countries that allow excess credits for underlying company tax to be refunded include Chile, France and Singapore. Australia currently does not allow excess franking credits to be refunded. New Zealand does not refund excess franking credits but does refund withholding tax paid on unfranked dividends.

**Table 3.4: Integration of company and individual taxation – Group 1 countries**

| Country   | Treatment of domestic tax paid by company, at company level  | Treatment at individual resident shareholder level  |
|-----------|--|---|
| Australia | Franking credits arise for tax paid directly by the company and for franking credits attached to dividends received.   | Dividends (including franked dividends) are taxable but imputation credits apply. A tax liability arises in the hands of the shareholder to the extent that the overall tax burden is higher than the credits attached to any franked dividends received. Franking credits are currently non-refundable and cannot be carried forward or back.  |
| Canada    | There is no specific attaching or tracking of credits. Credits at shareholder level are intended to approximate tax that arises at the company level.  | Dividends received from taxable Canadian companies are grossed-up by 25% of the dividend and a credit is then given for 2/3rds of the gross-up amount (or 13.33% of the gross taxable dividend). This is intended to approximate the amount of tax previously paid by the distributing company. No refund or carry-forward of credits is available. Dividends from the accumulated tax free portion of capital gains may be distributed tax free. This attempts to maintain the tax benefit that would be available on a direct investment. |
| Chile     | First Category Tax (FCT) from the payment of tax by the company is creditable in the hands of shareholders. Eligible foreign tax credits can pass through as FCT credits to shareholders (see also Table 5.5).   | In general, dividends to resident individual shareholders are grossed-up by the FCT credit. The gross amount is taxable at the marginal tax rate of the recipient, but a credit for the FCT is available to set-off against the tax liability. Certain dividends (such as those sourced from qualifying capital gains that have been subject to FCT at the company level) are exempt, thereby not attracting additional tax. FCT credits are refundable, except to the extent that they represent a credit for foreign taxes.               |
| France    | It is mandatory that an 'avoir fiscal' credit equal to one-half of the net dividend be attached (thus ensuring that credits equal 33.33% of the gross dividend).<br>In order to compensate for the effect of the avoir fiscal, an equalization tax must be paid as a 'top up' (précompte) tax to the extent that distributed profits arise from income which has not been taxed at full CIT rate or has been retained for more than five years, even if it was subject to earlier taxation.<br>Inbound 'avoir fiscal' transferred by subsidiaries benefiting from the parent/subsidiary exemption and foreign tax credits can be offset against the précompte liability. | The gross amount of the dividend received (including the avoir fiscal) is taxable to the recipient who may use the avoir fiscal to satisfy his or her tax liability. Surplus credits are refundable to individual taxpayers in certain circumstances (equalization tax paid at the company level is not refundable).<br>The imputation regime only provides credits for underlying tax at 33.33% and not the applicable surcharges (see Table 3.1).   |
| Germany   | Profits that are non-fully franked are subject to equalisation tax (raising the effective rate on distributions to 30%) in the hands of the paying company, when paid to shareholders.   | Dividends received (including gross-up for credits attached) are taxed at personal income tax rates. Recipients can use the credits attached to offset their tax liability. Excess credits are refundable.  |
| Ireland   | Distributions to shareholders are subject to ACT, which are reduced by ACT on dividends received. ACT will be abolished from 1999.   | Dividends to resident individual shareholders are grossed-up by ACT rate of 25% and then reduced by the same amount of tax credits. Excess credits are refundable. From 1999, withholding tax at 24% will apply to dividends.   |

|                |  |   |
|----------------|--|---|
| Japan          | Withholding tax of 20% applies to all distributions to resident shareholders. No credit is given for company tax already paid.   | Dividends fully taxable to resident individual shareholders at progressive tax rates up to 65% (national plus local). (A reduction of the marginal tax rate of 65% is proposed effective in 1999.)<br>Withholding tax levied on distributions is refundable.  |
| Netherlands    | Dividends distributed to resident shareholders are subject to a withholding tax of 25% (or 0% if participation exemption applies).   | Dividends fully taxable to resident individual shareholders at progressive tax rates (and at the corporate rate if the participation exemption does not apply). A standard tax rate of 25% applies if the individual holds substantial shareholding in distributing company.<br>Withholding tax levied on distributions is creditable against dividends received. Excess withholding tax is refundable.                               |
| New Zealand    | In broad terms, credits arise for company tax paid and for credits attached to dividends received by the company (such as standard imputation credit and credit for foreign dividend withholding which is payable at the time a foreign source dividend is received). A 'top up' withholding tax is levied if dividends paid to resident individuals are not fully credited. | Taxable dividends are grossed-up to include credits attached. Credits may be used to offset the taxpayer's tax liability. Excess imputation credits are non-refundable and cannot be carried forward or back. Other credits (e.g. in respect of foreign dividend withholding tax) and the 'top up' withholding tax are refundable.  |
| Singapore      | Credits for taxes paid in Singapore may be attached to dividends distributed.<br>Income sheltered from Singapore tax, because of a foreign tax credit, may be credited to a special account from which tax-exempt distributions can be funded.   | Dividends (including franked dividends) are taxable, except for those funded from the special tax-exempt account. For a recipient of the dividend who is a Singapore resident individual, the gross dividend will be taxed at progressive rates from 2% to 28%. The individual would then be able to claim tax deducted at source equivalent to 26% of the gross amount. Excess imputation credits are refundable to the shareholder. |
| Sweden         | No credits for tax paid at the company level imputed to shareholders. No domestic withholding tax on dividends paid.   | Dividends to resident individual shareholders normally taxed at 30%.  |
| Taiwan         | Imputation credits arise for company tax and credits attach to dividends received.   | Gross dividends, including credits, are taxable and imputation credits can be used to offset the recipient's tax liability. Excess imputation credits are refundable to the shareholder.  |
| United Kingdom | ACT is payable at 25% of the dividend paid.<br>From 6 April 1999 no ACT is payable.  | Dividends to resident individual shareholders are grossed up by ACT rate of 25% and the tax reduced by the same amount of tax credits.<br>From 6 April 1999 dividends will be grossed up by the rate of 1/9 (11%) and the tax reduced by the same tax credit.<br>From 6 April 1999 special rates of 10% (lower and basic rate taxpayers) and 32.5% (high rate taxpayers) apply to dividend income.                                    |
| United States  | No credits for tax paid at the company level can be imputed to shareholders. No domestic withholding tax on dividends paid.  | Dividends fully taxable to resident individual shareholders at marginal rates.  |

3.24 Some countries also allow taxes on dividends to offset tax at the level of the distributing company. This is the typical structure of the ACT arrangements currently in place in Ireland and the United Kingdom. Tax paid on dividends is creditable against future company tax. Germany also allows a credit against tax when dividends are paid, since the rate on distributed income is less than the rate on undistributed income.

**Table 3.5: Integration of company and individual taxation — Group 2 countries**

| Country     | Treatment of domestic tax paid by company, at company level  | Treatment at individual resident shareholder level  |
|-------------|--|---|
| Argentina   | No credits for tax paid at the company level imputed to resident shareholders.   | Dividends to resident individual shareholders are not taxable.  |
| Brazil      | No credits for tax paid at the company level imputed to resident shareholders.   | Dividends to resident individual shareholders are not taxable.  |
| China       | No credits for tax paid at the company level imputed to individual shareholders.   | Dividends to resident individual shareholders are fully taxable at marginal rates.  |
| Croatia     | No credits for tax paid at the company level imputed to individual shareholders.   | Dividends to resident individual shareholders are not taxable.  |
| Denmark     | Withholding tax of 25% applies to distributions to resident shareholders. However, no withholding tax is imposed if a minimum 25% shareholding satisfied.                                | Dividends to resident individual shareholders are not subject to further tax.   |
| Finland     | Full imputation applies to dividend distributions. Distribution out of untaxed profit may be subject to an extra 28% non-refundable tax.   | Dividends to resident individual shareholders taxable with a credit for tax paid at the company level.  |
| Israel      | Withholding tax of 25% (or 15% if paid by Approved Enterprise) applies to distribution to resident shareholders.   | Dividends to resident individual shareholders are not subject to further tax.   |
| Italy       | Full imputation applies to dividend distributions.   | Dividends to resident individual shareholders taxable with a credit for tax paid at the company level.  |
| Malaysia    | Full imputation applies to dividend distributions. Distributions out of untaxed profit are subject to 28% non-refundable tax.  | Dividends to resident individual shareholders taxable with a credit for tax paid at the company level.  |
| Mexico      | Dividends from taxed profits not taxable upon distribution.<br>Dividends from untaxed profits taxed at 51.5% – generally non-recoverable, but credit available under certain conditions. | Dividends to resident individual shareholders generally not taxable, unless so elected (where a credit for the underlying 34% corporate tax is available).                                    |
| Norway      | Full imputation applies to dividend distributions. Distribution out of untaxed profit subject to advance corporate tax to be offset against future tax.                                  | Dividends to resident individual shareholders taxable with a credit for tax paid at the company level. Excess imputation credits are non-refundable, but can be carried forward for 10 years. |
| South Korea | Full imputation applies to dividend distributions to resident individual shareholders.   | Dividends to resident individual shareholders taxable with a credit for tax paid at the company level.  |

## Treatment of related-company transactions

3.25 Some aspects of the taxation treatment of related companies operate so as to treat a corporate group as a single entity. The most common case involves the transfer of company losses or assets within a group. This is dealt with in more detail in Chapter 4. However, some countries have taken this a step further by allowing a single consolidated return to be filed by the group.

**Table 3.6: Treatment of related company transactions**

| Country   | File consolidated return? | Loss-grouping   | Intra-group asset transfers (including upon amalgamation)   |
|-----------|---------------------------|---|---|
| Australia | No                        | Within 100% commonly-owned corporate group.   | Deferral of gains/losses until the assets are disposed of.  |
| Canada    | No                        | Losses are not generally permitted to be grouped among related companies. Careful planning can achieve the same result but it can be complex. | Amalgamated company treated for tax purposes as a new company. Capital losses expire on change of ownership. Non-capital losses can be carried over but only used to offset income from the same or similar business.   |
| Chile     | No                        | No loss grouping is permitted.  | Intra-group transfers of property are taxable. However, under certain circumstances, tax free reorganisations are permitted.  |
| France    | Yes                       | Within consolidated group (at least 95% commonly owned).  | Intra-group sales of assets etc are ignored in calculating a consolidated group's income. Any deferred gains or losses, however, are crystallised if a company ceases to be a member of the group. On amalgamation of two or more companies, capital gains on non-depreciable assets are deferred, capital gains on depreciable assets are added back to the merged entity's basis over 5 years (15 years for buildings), and capital gains from the exchange of shares at the shareholder level are deferred.                  |
| Germany   | Yes                       | Within consolidated group (financially, commercially and organisationally integrated group).  | In principle intra-group transfers are taxed under general rules. On amalgamation, and subject to certain requirements, share-for-share transactions are exempt and assets can be transferred tax free.   |
| Ireland   | No                        | At least 75% commonly-held interests.   | Scrip-for-scrip transactions exempt. Assets transferred tax free. Rollover relief where one company in group disposes of certain assets and another company reinvests within prescribed period.   |
| Japan     | No                        | No loss grouping is permitted.  | Gains or losses in respect of assets transferred are recognised for tax purposes, except for merger or amalgamation. Where a merger or amalgamation includes the cancellation of shares for shares in the new entity, the tax basis in the old shares is retained. Rollover relief also applies in respect of the tax book value at which fixed assets transfer to a new entity as part of a merger or amalgamation. However, the value of transferred assets may not exceed their fair market value at the time of the merger. |

|                |     |   |  |
|----------------|-----|---|--|
| Netherlands    | Yes | Within consolidated group (which must be at least 99% commonly owned).  | All intra-group transactions within consolidated group are ignored for corporate income tax purposes for as long as the companies remain a member of the group.  |
| New Zealand    | Yes | Within consolidated groups (which must be 100% commonly-owned) and unconsolidated groups with at least 66% commonly-held interests.       | Asset transfers at book value only when group files consolidated return. Gains or losses in respect of assets transferred are recognised if company leaves the group.  |
| Singapore      | No  | No loss grouping is permitted.  | Where a buyer and seller of fixed assets are under common control (or one has the control of the other) an election may be made to transfer the assets at their tax-written-down values (TWDV). The buyer will continue to claim tax depreciation based on the TWDV of the assets. |
| Sweden         | No  | Loss grouping not permitted, but profits can be re-allocated among affiliated companies.  | If control of a loss-making company changes, the loss-making company loses right to deduct losses in excess of 200% of acquisition price. Group contributions cannot offset the losses for the first 5 years.  |
| Taiwan         | No  | No loss transfer provisions.  | A merger under the Company Law is generally a tax free transaction.  |
| United Kingdom | No  | Within at least 75% commonly-held group.  | Rollover relief for CGT if within at least 75% commonly-held group.  |
| United States  | Yes | Grouping of losses only possible within an affiliated group filing a consolidated return (one with at least 80% commonly-held interests). | Gains and losses deferred if within consolidated group. Exchanges of stock on takeovers are tax free. Limitations on loss carry-forward to the consolidated group.   |

3.26 Table 3.6 provides a summary of the treatment in Group 1 countries. In France, Germany, the Netherlands, New Zealand and the United States, two or more companies may file consolidated returns as if they were a single taxpayer. In Australia, Ireland and the United Kingdom losses can generally be grouped among two or more companies where there is a defined minimum commonality of ownership. Gains or losses in respect of assets transferred as part of a merger or amalgamation of two or more companies are normally deferred, as are gains or losses on assets transferred among companies in commonly owned groups.

### Treatment of share repurchases

3.27 The taxation treatment of share repurchases is an important determinant of the extent to which equity-financed investment is taxed more or less favourably than debt-financed investment. The taxation of share repurchases can result in more favourable treatment than the alternative of paying dividends. For example, the rules applying to share repurchases can impact on the extent to which concessions allowed at the company level are clawed back when income is distributed to shareholders. If the clawback of such concessions is a policy objective, this objective can be at least partly undone by inappropriate taxation of share repurchases.

3.28 Table 3.7 summarises the treatment of share repurchases in Group 1 countries. Companies are readily able to repurchase their shares in all countries except Sweden, Taiwan and Singapore (which has recently relaxed repurchase restrictions) although repurchases are uncommon in some European countries. As the following table highlights, amounts distributed by way of share repurchases are generally treated as either ordinary dividends or as proceeds from the sale of shares (in which case rules governing the treatment of gains or losses apply). Several countries draw a distinction between shares repurchased by listed and non-listed companies. In general, shares repurchased are cancelled, either immediately upon repurchase, or if they are not on-sold within a specified maximum period.

**Table 3.7: Tax treatment of share repurchases**

| Country     | Comments  |
|-------------|---|
| Australia   | 'On-market' repurchases are not taxed as dividends but are instead taxed under CGT. 'Off-market' repurchases taxable as a dividend to the extent the purchase price exceeds subscribed capital in respect of share repurchased.   |
| Canada      | Repurchases of shares of listed companies deemed to be a dividend. For non-listed companies, deemed dividend is the amount by which proceeds of repurchase exceed legal paid-up capital. In all cases, deemed dividends are excluded from amounts considered to be proceeds of sale in determining gain or loss. Repurchased shares deemed to be cancelled.   |
| Chile       | Share repurchases are tightly regulated and are not common. Shares may be repurchased at the initiation of minority shareholders in dispute with the company (e.g. in relation to a major transaction), or as part of an amalgamation. Shares repurchased must be sold within one year of acquisition or otherwise are treated as a reduction of capital. Shares may also be repurchased in accordance with the company's constitution if their fair market value is less than the contributed capital in respect of the shares. Shares repurchased are cancelled and capital is reduced. |
| France      | Shares repurchased to reduce a company's share capital are treated as dividends. Other repurchases (e.g. listed companies within restricted 'share purchase plans') treated under ordinary capital gains tax rules.   |
| Germany     | Gains or losses in hands of shareholders dealt with under ordinary rules. Repurchases are uncommon in Germany.  |
| Ireland     | Proceeds of share repurchase normally taxed as dividends, but may in some circumstances be taxed under CGT.   |
| Japan       | Share repurchases made by listed companies give rise to capital gains tax consequences in hands of shareholders.  |
| Netherlands | Gains or losses in hands of shareholder dealt with under ordinary rules. Share repurchases are highly constrained.  |
| New Zealand | 'On-market' repurchases by listed companies are deemed to be financed first from subscribed capital (and to that extent proceeds are tax-free in hands of shareholders). If subscribed capital is exhausted, remainder is taxable with tax met by debiting imputation credit account. Similar treatment applies to pro-rata 'off-market' repurchases provided that distribution exceeds certain thresholds (otherwise, the proceeds of a repurchase are dividends).   |
| Singapore   | Company law has recently been amended to provide for repurchases. To date, no tax rules have been set.  |

|                |  |
|----------------|--|
| Sweden         | Not possible to repurchase shares. If a situation arises (e.g. through takeover) where a company would own its own shares, it must dispose of them. This law is currently under review.  |
| Taiwan         | Only redeemable preferred shares and repurchases initiated by shareholders in dispute with a company can be undertaken in Taiwan. Repurchases have no tax impact on shareholders.  |
| United Kingdom | Returns of initial subscribed capital are treated as capital, with any payment in excess of this amount treated as a dividend (in certain cases, a shareholder of a non-listed company can elect to have the full distribution treated as capital, and therefore be subject to CGT rules). Old shares are cancelled. |
| United States  | Share repurchase, if a stock redemption, may be treated either as a sale of stock (capital gain treatment) or as a distribution (dividend to the shareholder). Repurchased shares are retained by the company as treasury stock.   |

## Trusts

3.29 Trusts are a concept that is almost completely confined to common-law countries.<sup>2</sup> However, civil law countries often have a similar form, best illustrated by an entity referred to as a ‘foundation’ in Germany.

### Civil law concepts of ‘trusts’

3.30 In broad terms, civil law countries tax income according to its character in the hands of its recipients. Hence, income derived by a company is taxed under company tax rules, by a partnership according to partnership rules and so on.

3.31 A key distinction in civil law countries is generally between entities that are treated as transparent or non-transparent. Transparent entities are, in most contexts, ignored for tax purposes and income of the entities is attributed directly to those with interests in them. In some cases, withholding taxes may be required to be levied. Accordingly, transparent entities may be recognized for some tax purposes. In Australia, partnerships and, in certain circumstances, trusts are treated in this way.

3.32 However, some civil law countries recognize trusts in other jurisdictions under their tax rules. For example, under its international tax regime, France continues to tax income in respect of certain property transferred to a non-resident trustee. The income is taxed in the hands of the French resident settlor, that is, the contributor of property to the trust.

3.33 For tax purposes in civil law countries, the tax treatment of trust-like vehicles (such as ‘foundations’) generally depends on whether the trust arrangements are *revocable* or *irrevocable*.

<sup>2</sup> References to common law countries are to Australia, Canada, Ireland, New Zealand, Singapore, Taiwan, the United Kingdom and the United States. Most other Group 1 countries are referred to as ‘civil law’ countries, since civil law generally predominates.



- A *revocable* trust is one where the settlor retains an option to terminate the trust arrangements or to instruct the trustee to amend the trust agreement or to withdraw the proceeds or the principal assets or resources of the trust.
- By contrast, a party establishing an *irrevocable* trust releases all ownership rights to the trust property in both legal and financial terms.

3.34 Whether a trust is revocable or not determines the form in which a trust would be taxed (for example, whether as a company or partnership). A revocable trust is generally ignored for tax purposes and the income retains its character in the hands of the settlor. Generally the characteristics of the trust are examined in order to determine which type of entity the trust most closely resembles. Under this approach, all corporate and non-corporate characteristics are taken into account. The tax treatment would then follow the general principles applicable to the relevant legal form.

### Common law approach

3.35 In common law countries, the tax rules relating to trusts normally rely on a common law definition of a trust. Tax rules that apply to trusts are often designed to inhibit their use for income splitting, and are often complex.

3.36 As outlined in Table 3.8, two broad approaches to the calculation of the income of the trust (or trustee) are followed. Either a deduction is allowed for current year distributions in calculating assessable income, or such amounts are simply excluded in calculating income of the trustee. Trustees often assume responsibilities to pay tax on distributions that are taxable to beneficiaries.

3.37 An important practical issue regarding trusts is that they appear to be used very rarely in countries other than Australia and New Zealand for the carrying on of active business. In other countries, they are frequently used for their historic purposes of asset protection and inheritance planning. Where the laws of a country are weak, they are also used for international tax planning. However, in almost all of these cases the trust is being used to deal with passive investment income and not with active income. Australia and New Zealand appear to be exceptional for the frequency with which trusts are used as the preferred form for conducting an active business.

3.38 Part of the reason for this could be tax related. In both Australia and New Zealand, preferences are available to beneficiaries of trusts that are not available to shareholders of companies, through the treatment of capital gains, building amortisation and other preferential treatment provided to business. These preferences are washed out with distributions from a corporate entity but not from a trust. Features of the tax system of other countries make the preference for trusts far less clear. Some other countries provide preferential treatment for capital gains, thereby minimising the advantage of trusts. The United Kingdom claws back any tax preferences and trusts have not been attractive compared to other entities including companies. In the United States, S-corporations (small business corporations) are available which allow a flow-through of income to the individual and hence achieve the same result as would be available from the use of a trust.

**Table 3.8: Tax treatment of trusts**

| Country     | Residence basis   | Treatment of retained earnings   | Treatment of current year distributions                               | Comments  |
|-------------|---|--|---|---|
| Australia   | A trust is resident if management and control in Australia.                                   | Taxed to trustee at highest personal rate.   | Taxed to beneficiary.   | Common vehicle for business structures because tax preferences not washed out on distribution. Losses retained in the trust.  |
| Canada      | Residence of trustee and, if more than one, the place where property is owned and controlled. | All retained income taxed to trustee at highest personal rate (except for testamentary trusts which get the benefit of lower tax rates). | Taxable to beneficiary, deductible to trustee.                        | Trusts rarely used for active business. Tax preferences retain their character to the individual beneficiary. Losses retained in the trust.<br>25% withholding tax on distributions to non-resident beneficiaries unless modified by treaty.<br>Corporate trustees are common.  |
| Ireland     | Trust is resident if all trustees resident in Ireland.  | All retained income taxed to the trustee at 24%.   | Taxable with credit for tax paid by trustee.                          | Surcharge of 20% on income not distributed within 18 months.  |
| New Zealand | No residence. Nexus is primarily via connection of settlor to New Zealand.                    | Taxed to trustee at highest personal tax rate.   | Taxed to beneficiary.<br>Tax concessions flow through to beneficiary. | Tax treatment of distributions out of retained earnings depends on whether liability of trustee has been met. Broadly, distributions are exempt (from 'qualifying' trusts), taxed except for corpus and capital gains (from 'foreign' trusts) and taxed (except corpus) at a penal rate (from 'non-qualifying' trusts). |
| Singapore   | Where control and management are exercised.   | Taxed once, either in the hands of the trustee or the beneficiary.   |   | Corporate trustees are common.  |
| Sweden      | Form of trust known as Sw. stiftelse taxed as company.  | Taxed at 28%.  | Distributions exempt.   | Certain charitable entities of this type are exempt.<br>Not commonly used for business purposes.  |

**Table 3.8: Tax treatment of trusts**

| Country        | Residence basis   | Treatment of retained earnings   | Treatment of current year distributions  | Comments  |
|----------------|---|--|--|---|
| United Kingdom | Residence of trustees.  | Discretionary Trusts - all retained income taxed to trustee at 34%.<br>Other Trusts – retained earnings taxed at basic rate. | Discretionary Trusts are taxable with 34% credit for tax paid by trustee. Tax credits are attached to income distributed to beneficiary. Other trusts are taxed as ordinary income to beneficiary. | All income of discretionary trust is taxed to the settlor if settlor is a potential beneficiary.<br>Trusts are an uncommon form of business organisation.   |
| United States  | If subject to US court jurisdiction and one or more trustees are residents who have authority to control all substantial trust decisions. | All retained income taxed to trustee.  | Taxable to beneficiary, deductible to trustee.   | Trust calculates tax using a separate tax rate schedule with most income taxed at top marginal rate of 39.6%.<br>Concessions flow through to individual. Trusts are not commonly used for business as the S-corporation is the more popular form. |

3.39 Trusts represent the only collective investment vehicle, in the form of unit trusts, available in Australia as a flow-through entity. This is an important reason why they are commonly used for widely held investment vehicles for the holding of real property and securities.

3.40 Losses generally are not accessible by beneficiaries, although in the United States unexpired losses are available to be allocated to beneficiaries when a trust is wound up. Residence applies to trusts in all countries but New Zealand. Residence rules differ among countries, but typically have regard to the residence of trustees or the country in which the trust property is managed and controlled, or both.

## Partnerships

### General partnerships

3.41 Partnerships are a common form of business organization in all countries surveyed. For example:

- In Sweden, an important legal form of business organisation is the general or trading partnership (Sw. handelsbolag, HB). The HB is a separate legal entity whose partners have unlimited joint and several liability for the partnership’s obligations and the right to act on behalf of the partnership, unless this is restricted in the partnership’s agreement.
- In France, a partnership is known as a ‘Société en Nom Collectif’ (SNC) or ‘Société Civile’ (SC). All partners have

unlimited liability. The SNC has a commercial purpose and the SC has a civil purpose (such as rental of real estate).

- In Japan, general partnerships are akin to a Civil Code Association.
- In the Netherlands, the entity akin to an Australian partnership is called a ‘Vennootschap onder Firma’ or ‘Maatschap’.
- In Germany, a general commercial partnership is known as ‘Offene Handelsgesellschaft’ (OHG).

3.42 All other countries in the group also have the concept of partnerships that is very similar to that in Australia.

3.43 Partnerships are generally defined in common law or in non-tax statutes. Partnerships are not generally taxed as a separate entity. Instead, each partner is assessed on his or her proportionate share of a partnership’s gross income (and incurred expenditure) as if it were derived (or incurred) directly by the individual partner. Various sources of gross income (such as interest and dividends) retain their character in the individual partner’s hands.

3.44 One of the exceptions to the general rule can be found in the United States. An elective entity classification regime has been instituted where taxpayers can elect their tax classification status as a corporation, partnership or single member entity regardless of their non-tax legal characteristics, subject to a number of limited exceptions.

3.45 However, most countries require that the determination of income at the partnership level be computed as though the partnership were a separate person resident in the country. This requires the partnership to compute its income from various sources, as well as any losses, for the fiscal period of the partnership. Each partner is then required to recognize the appropriate share of income or loss components in the partner’s own tax return.

3.46 Two approaches are typical in the countries surveyed when partners dispose of their interests in a partnership:

- under the first approach, partners are deemed to acquire or dispose of interests in a partnership. It is generally possible for new partners to be admitted or existing ones to resign without triggering tax consequences at the partnership level or for other partners; or
- each partner is considered to have ceased to derive income from the old partnership and a new partnership is deemed to arise.

3.47 Under the former approach, the entry or departure of partners has no tax effect at the partnership level or for remaining partners unless there is a complete change in partners carrying on the trade (or, in the case of the United States, if at least one-half of the total interest in the partnership capital and profits is sold within a 12-month period).

3.48 However, under this approach certain issues under capital gains tax rules can arise for the new or departing partner. For example, if the acquisition cost of the partnership interest by a new partner is higher than the contributed capital in respect of that interest, the excess is sometimes recorded for tax purposes in a supplementary or outside balance sheet. The excess is allocated to the new partner's proportionate share of all partnership assets, including goodwill.

3.49 Problems can also arise under the alternative approach of deeming a new partnership to be formed whenever a partnership changes. For example, this treatment can potentially involve deemed recognition of partnership assets with built-in gains.

3.50 Partnership losses are generally accessible to partners and are not quarantined. However, Taiwan quarantines partnership losses available to a partner against partnership income from other partnerships derived by the partner. In the United Kingdom, current year partnership losses may be offset against all other income of the partner. However, carry-forward partnership losses may only be offset against income from the same trade. Partnership losses that remain upon the death or retirement of a partner are lost.

### Limited partnerships

3.51 Countries surveyed were invited to outline the tax rules applicable to entities that provide limited liability to all or some investors and that have a separate legal personality from investors, but which, to varying degrees, are taxed in association with shareholders or contributors of capital. The responses broadly fell into three types of entity with these features:

- limited partnerships;
- companies in relation to which income or losses flow through to shareholders (flow through companies); and
- companies that are subject to special tax rules that govern their relationship with shareholders (close companies in particular).

3.52 This section deals with limited liability partnerships while the remaining company-like entities are dealt with later.

3.53 Limited partnerships are recognised in most countries surveyed. In broad terms, limited partnerships have a general partner, who carries on the

business, and a number of special partners, who provide the capital for the venture. The special partners are only liable for partnership debts to the extent of the capital they contribute. The general partners are treated in the same way as partners in ordinary partnerships and are, therefore, jointly and severally liable for any partnership debt. Special partners have the benefit of limited liability status, and are therefore in a similar position to shareholders in a limited liability company. This enables special partners to invest in relatively risky ventures while avoiding liability for debt in excess of their capital contributions.

3.54 The treatment of losses is somewhat different for limited liability partnerships. Some countries, including Australia, Chile, the Netherlands and New Zealand, do not allow a flow through of losses. In France, the partnership is only transparent for general partners and not for the limited liability partners. The most common treatment appears to be to limit the loss of the limited partner to the amount of capital contributed. In almost all other respects, limited partnerships are taxed in the same way as standard partnerships.

**Table 3.9: Limited partnerships**

| Entity      | Entity type  | Tax treatment of losses   |
|-------------|--|---|
| Australia   | Limited partnership                                    | Treated like company and no pass through of losses to partners.   |
| Canada      | Limited partnership                                    | Losses in excess of capital of limited partner ‘at risk’ cannot be offset against other sources and instead must be carried forward for offset against future partnership income.   |
| Chile       | Professional partnership                               | No pass through of losses to partners.  |
| France      | ‘Société en Commandite Simple’ (SCS)                   | SCS is transparent only for general partners. Income and losses attributable to limited partners taxed at the entity level.   |
| Germany     | Kommanditgesellschaft — KG                             | Loss of limited partner is restricted to the capital contribution or the registered liability commitment of the limited partner. Excess losses can be carried forward indefinitely.   |
| Ireland     | Limited partnership                                    | Loss of limited partner is restricted to the capital contribution of the limited partner, and is quarantined to profits arising from the partnership trade. Hence limited partners cannot group losses.   |
| Japan       | Tukumei-Kumiai (Commercial Code Anonymous Association) | Loss of limited partner can be deducted by that partner only up to amount of capital contributed. Otherwise loss is carried forward by the partner for offset against future income from partnership. If more than 10 partners, partnership income is subject to 20% withholding tax. |
| Netherlands | Commanditaire Vennootschap (Limited Partnership)       | Income taxed at the entity level under the same rules for NV and BV (essentially public and private companies), with no flow through of income or losses. Withholding tax of 25% applies to distributions unless participation exemption applies.                                     |
| New Zealand | Special partnerships                                   | No partner entitled to a deduction for a loss. Instead losses are carried forward for offset at the partnership level against future partnership income, subject to a continuity of ownership requirement.  |
| Singapore   | Not applicable   | Singapore has no special regime that applies to limited partnerships.   |

**Table 3.9: Limited partnerships**

| Entity         | Entity type                   | Tax treatment of losses  |
|----------------|-------------------------------|--|
| Sweden         | Kommanditbolag (KB)           | This is a special case of a general partnership. Limited liability partner's liability limited to amount of investment in the partnership. Losses are attributed to partners.  |
| United Kingdom | Limited partnership           | Loss of limited partner can be deducted only up to amount of capital contributed. Otherwise carried forward for offset against future income from partnership. Limited partner not permitted to participate in managing the partnership. Unutilised losses on death or retirement of partner are lost. |
| United States  | Limited liability partnership | Any partnership where any partner limited in liability. Cannot take losses in excess of basis or initial capital in any partnership. There is a 'substantial economic effect' test whereby one partner cannot take the risks while another takes the profits.  |

### Other special entities

3.55 The survey identified a number of other entities (principally companies) which receive special taxation treatment in their country of residence. These entities fall within two broad categories. The first category comprises companies with a limited number of shareholders that are subject to a special (typically, higher) tax rate regime (these entities are described below as 'close companies'). Close company regimes are often in place in order to prevent closely-held companies being used to obtain undesired tax benefits, such as deferring tax or making non-taxable distributions.

3.56 The second category involves entities that are treated as flow-through entities for tax purposes. This is usually as part of a regime that ameliorates some of the adverse tax effects of using companies as a form of organisation relative to partnerships in circumstances where these business forms are closely substitutable.

**Table 3.10: Flow-through and close company regimes**

| Country     | Flow through entity  | Close company  |
|-------------|--|--|
| Australia   | Not applicable   | Private company.<br>Taxed as ordinary company but benefits (e.g. loans or service payments) to shareholders or other associates could be treated as dividends or, if excessive, non-deductible. Unfranked dividends received by private company from another company, in which it has less than 100% shares, not entitled to dividend rebate.  |
| Canada      | Not applicable   | Canadian Controlled Private Corporation (CCPC).<br>Company cannot be controlled by any combination of non-resident and/or public companies.<br>Combined federal/provincial taxes reduced to between 22-26% on first \$200,000 of active business income (Federal rate of 12%). Loans to shareholders and associates can be taxed as disguised distributions.<br>Most of other treatment is same as for normal company.<br>Investment income earned by a CCPC is subject to federal tax at 36% which is largely refunded when dividends are paid to shareholders. |
| Chile       | Not applicable   | Not applicable   |
| France      | Société à Responsabilité Limitée (SARL)<br>SARL can elect to have its income attributed directly to individual shareholders if shares are owned within a family.   | Not applicable   |
| Germany     | Not applicable   | Not applicable   |
| Ireland     | Not applicable   | Broadly, company under the control of five or fewer shareholders. Surcharge of 20% of after-tax investment or rental income applies if income is not distributed within 18 months of the end of the accounting year in which it is earned. Certain in-kind benefits and interest payments to directors above specified thresholds are treated as taxable distributions.  |
| Japan       | Not applicable   | Close company (Family Corporation).<br>At least 50% of the contributed capital is subscribed by 3 or fewer shareholders. Surcharge of between 10% and 20% applies to non-distributed income, depending on amount retained.   |
| Netherlands | Not applicable   | Not applicable   |
| New Zealand | Qualifying companies are companies owned by 5 or fewer individual shareholders (including trustees in certain cases) that derive almost exclusively NZ-sourced income.<br>Dividends to shareholders are exempt to the extent that no imputation credits attached (this allows flow-through to individuals of income untaxed at the company level).<br>Qualifying companies with one class of share may also elect to have their losses attributed to shareholders. | Broadly a close company is one where 5 or fewer shareholders control more than 50% of the company.<br>Certain in-kind benefits, and salaries to directors above certain limits, are treated as taxable distributions.  |
| Singapore   | Not applicable   | Not applicable   |
| Sweden      | Not applicable   | Special harsh rules apply to certain types of closely held company (Sw. famansbolag) whereby purchases by the company are assumed to be for the benefit of owner and taxed as such.  |



**Table 3.10: Flow-through and close company regimes**

| Country        | Flow through entity  | Close company   |
|----------------|--|---|
| United Kingdom | Not applicable   | A close company is one under the control of 5 or fewer individual shareholders. ACT with no credit is payable in respect of loans to directors or shareholders (ACT is refunded on repayment of the loan). If company is non-resident company and would be a close company if resident in the UK, shareholders are taxable on the capital gains derived by the company. Certain fringe benefits to non-employee investors treated as dividends. |
| United States  | An 'S-Corporation' has a maximum of 75 individual shareholders (including estates and trustees in certain circumstances). Only one class of share and cannot consolidate. An S-Corporation is not subject to corporate tax — its income is attributed (whether distributed or not) to shareholders. Losses pass through with limitations based on basis in the S-Corporation.<br><br>Special rules apply to permit undistributed income to be received tax-free by a shareholder when distributed in a later year. | Not applicable  |

## Collective investment entities

### Pooled investment funds

3.57 Pooled investment or mutual funds are investment vehicles in which investors hold defined entitlements in the form of units or other similar property rights. In many common law countries surveyed, mutual funds are defined for tax purposes by reference either to trusts or companies.

3.58 The legal form of pooled investment funds varies within and among countries. The tax regimes applicable to pooled investment entities are often determined by their (sometimes deemed) treatment as trusts, companies, partnerships or as a nexus of contractual arrangements among contributors of capital. Quite different regimes are used to tax the underlying investment of these funds.

3.59 The overall outcome in several countries is that investors obtain the same taxation outcome from investing through a pooled investment fund as they would if they invested directly in the underlying assets of the fund. This is achieved by subjecting the fund to tax but, by a variety of mechanisms, not taxing the income of the fund except as a withholding agent or proxy for its members, or as a sanction for not following rules to achieve transparency.

3.60 A summary of the tax treatment of pooled investment funds is provided in Table 3.11. In broad terms the tax treatment of income of

pooled investment funds of the countries surveyed can be grouped as follows:

- The fund is disregarded for tax purposes. Tax effects occur at the level of the investor and the fund is merely a conduit by which the individual derives the income (which is similar to the way in which partnership income is treated in many countries). This treatment applies in Australia, Canada (Mutual Fund Trusts), Germany, Japan and the Netherlands.
- The fund is recognised for tax purposes and is potentially subject to tax but it is in fact exempt from tax or taxed at a low rate, usually because it fulfils certain tax criteria specifically designed for pooled investment funds (for example, in France, Ireland, Singapore and the United States).
- The fund is recognised for tax purposes and is subject to tax at normal rates, but usually the tax is nil or close to nil because of the way its taxable income is defined (usually featuring a deduction for distributions) (Authorised Unit Trusts in the United Kingdom and Open-Ended Investment Companies in the United States).
- The fund is recognised for tax purposes and is subject to tax, but at concessional rates (Canada — Mutual Fund Corporations).
- The fund is recognised for tax purposes and subject to tax at normal rates on a normal tax base, with full integration of the tax on the fund and tax on the investor in the fund (for example, by way of exemption of distributions or full imputation) (Chile — Mutual Funds; New Zealand; United Kingdom — Approved Investment Trust Companies).

3.61 While, in general, the apparent goal is to ensure that an investment by an investor through a pooled investment fund is treated the same as if the investment were made directly by the investor, this is not always the case.

- In the United Kingdom, for example, an investor can obtain a deferral in the recognition of capital gains until withdrawal from a pooled investment fund.
- In New Zealand, the tax treatment of a unit trust as a company means that capital gains derived by a unit trust, which would be non-taxable if derived directly by the unit holder, are taxable if they fund a dividend to the investor.

**Table 3.11: Tax treatment of pooled investment funds**

| Country   | Entity type   | Tax treatment of entity income   | Tax treatment of distributions  |
|-----------|---|--|---|
| Australia | Unit trust  | Usual trust taxation regime applies. However, trust deed is normally structured so that all income is distributed to the beneficiaries at year end, hence no income is retained and no tax is paid at the trust level.   | Taxable to unit holders as a trust distribution at normal marginal rates. Entity is effectively treated as a conduit for tax purposes. Specific provisions exist to enable certain tax preferences to flow tax free to unit holders.  |
| Canada    | Mutual Fund Corporation (a company with redeemable shares)          | If it also qualifies as an investment company, concessional tax rate of 18% on investment income other than capital gains; otherwise pays tax at normal corporate rates. At least 95% of income must come from portfolio debt and equity investments, and 85% of gross income from within Canada. Incurs CGT at usual company rate, but is refunded if capital gain dividend is distributed.<br><br>Must meet minimum distribution requirement (other than from capital gains income) and minimum diversification of investment. | Distributions are taxable as ordinary dividends but those sourced from capital gains are treated as capital gains and not dividends to recipients.<br><br>No shareholder may hold more than 25% of shares.<br><br>Distributions of income taxed as dividends and dividend credits available to shareholder. |
|           | Mutual Fund Trust (a unit trust)                                    | Income is taxable under trust regime (i.e. with a deduction for distributions). Funds do not generally retain income. Certain requirements as to dispersion of ownership of units. CGT paid is refunded on redemptions.  | Taxable on distributions. Gains on redemption are subject to CGT (but double taxation of federal tax avoided by refund of CGT at unit trust level).   |
| Chile     | Mutual fund   | Standard mutual funds (other than pension funds) in which residents participate are taxed in the same way as a company.  | Subject to tax in the same way as dividends from a company.   |
|           | Foreign Capital Investment Fund administered by Chilean corporation | Income earned by the fund and distributed abroad is subject to 10% final withholding tax.<br><br>Investments limited to publicly-traded debt and equity securities.  | Distributions to non-resident investors subject to final withholding tax of 10%.  |
| France    | SICAV (open-ended investment companies)                             | Taxed as corporate entities with variable paid-in capital. SICAVs are exempt from tax on income and may transfer avoird fiscal and foreign tax credits to investors. Excess credits (in respect of earnings retained) may be carried forward for future distribution, subject to certain requirements.   | Income distributed is taxed at individual income tax rates applicable to investment income.<br><br>Gains on sale of units or shares are taxed at 26% if transactions by investor exceed a threshold or if the SICAV does not meet certain distribution requirements.  |
| Germany   | Investment Fund (Sondervermogen)                                    | Fund is deemed to fully-distribute earnings each year at the end of each tax year.   | Investors taxed on distributions they receive or are deemed to receive.   |
| Ireland   | Collective Investment Undertakings (CIUs)                           | Income of trustees and management companies located in financial centres are taxed at 10%.   | Income that flows through to non-residents is tax exempt.<br><br>Residents fully taxed on distributions and would rarely use this type of fund.   |

|             |  |  |  |
|-------------|--|--|--|
| Japan       | <p>Security Investment Trust (Bond Trusts and Stock Trusts)</p> <p>Mutual Fund Corporation (MFC), effective from 1 December 1998</p> | <p>Income not taxed at entity level. Entities are treated as transparent for tax purposes.</p> <p>Provided minimum distribution requirement is satisfied (broadly, distributions of 90% of its income), an MFC may deduct the dividends it pays.</p>   | <p>Investors taxed when they receive a distribution (if from bond trust as interest, otherwise as income).</p> <p>Taxable as a dividend.</p>   |
| Netherlands | Funds for joint account  | <p>If the fund takes the form of a partnership, taxed in the same way as a partnership.</p> <p>However, to the extent the fund carries out a business, generally taxed as a public or private company.</p>   | Income is taxable for investors.   |
| New Zealand | Unit trust   | Income of unit trust taxed in the same way as a company.   | Distributions taxed in the same way as company distributions (with imputation credits attached).   |
| Singapore   | <p>Approved unit trust</p> <p>Designated unit trust</p>  | <p>10% of gains on disposal of securities subject to tax at 26%. Remaining 90% exempt from tax and allocated to special account.</p> <p>Dividend and interest income generally subject to tax at a standard 26% rate. Certain limitations on deductibility of management fees.</p> <p>Gains on disposal of securities, dividends derived from outside Singapore and received in Singapore and interest (except where Singapore tax has been deducted) are tax exempt. All other income taxed at 26%.</p> | <p>Distributions of gains from disposal of securities from the 90% exempt pool are exempt if paid to individuals and non-residents and taxable at 26% (withheld at source) otherwise. Distributions of gains from disposal of securities from the 10% taxable pool and distributions of dividends and interest are fully taxable but with credits for tax deducted at source.</p> <p>Taxation of distributions to unit trust holders —</p> <p>Singapore sourced dividends &amp; interest</p> <ul style="list-style-type: none"> <li>▪ Singapore resident individuals taxed at progressive rates from 2% to 28%</li> <li>▪ Foreign investors taxed at 26%</li> <li>▪ Other Singapore residents (e.g. companies) taxed at 26%</li> </ul> <p>Foreign dividends and interest</p> <ul style="list-style-type: none"> <li>▪ Singapore resident individuals taxed at progressive rates from 2% to 28%</li> <li>▪ Foreign investors exempt</li> <li>▪ Other Singapore residents (eg companies) taxed at 26%</li> </ul> <p>Gain from disposal of securities</p> <ul style="list-style-type: none"> <li>▪ Singapore resident individuals exempt</li> <li>▪ Foreign investors exempt</li> </ul> <p>Other Singapore residents (e.g. companies) taxed at 26%.</p> |
| Sweden      | No special entities  | Income treated as for any AB or HB (that is, company or flow through entity).  | Treated as for normal AB or HB.  |

**Table 3.11: Tax treatment of pooled investment funds**

| Country        | Entity type   | Tax treatment of entity income  | Tax treatment of distributions   |
|----------------|---|---|--|
| United Kingdom | Authorised Unit Trusts (AUT)  | Deemed to be companies, but currently subject to 20% tax rate. Income is attributable to unit holders regardless of whether it is distributed. For an AUT which invests more than 60% in bonds/cash distributions are deductible, hence the entity treated as a conduit for tax purposes — Type 1. Otherwise deemed distribution treatment as a dividend — Type 2.<br><br>An AUT is exempt on capital gains it derives.   | Type 1 — taxable as interest receipt (normally subject to 20% withholding).<br>Type 2 — taxable as a dividend. |
|                | Approved Investment Trust Company (AIT) — listed on London Stock Exchange | Normal company subject to corporation tax, but can apply to obtain an exemption for chargeable capital gains which may not be distributed until liquidation. (Other conditions also apply to obtain an approval.)<br>Same as AUT  | Treated as a dividend.   |
|                | Open-Ended Investment Company (OEIC) — similar to AUT but a company       |   | Introduced in 1997 and may, in time, replace AUTs.   |
| United States  | Regulated Investment Company (RIC)  | Provided minimum distribution requirement is satisfied (broadly, distributions of at least 98% of its income), an RIC may deduct the dividends it pays (except those sourced from exempt interest it receives). At least 90% of an RIC's income must be derived from dividends, interest and gains on debt and equity securities. Certain minimum diversification requirements must also be met. Exempt interest received may be distributed as exempt dividends. | Taxable as a dividend, except for exempt-interest dividends which are tax-free.                                |

## Superannuation funds

3.62 Superannuation (or pension) funds are pooled investment vehicles established primarily for the purposes of providing retirement income. Countries surveyed exempt income of these entities from tax, except for Australia, New Zealand and Sweden. Australia subjects the income of such entities to tax at a standard rate of 15 per cent while New Zealand taxes such entities on a basis broadly similar to trusts at a tax rate of 33 per cent. Sweden taxes the entity on a deemed rate of return at a tax rate of 15-27 per cent.

3.63 Countries that exempt pension funds from tax, however, generally apply significant restrictions on entities entitled to the exemption, in some cases supplemented by restrictions on the types of income that would be treated as exempt. These restrictions have often been tightened in recent

years. For example, since January 1992 the Netherlands no longer exempts the income of private pension companies and funds.

3.64 A related element of the taxation of superannuation or pension funds is the treatment of contributions paid and benefits received. Countries such as the United States exempt the income of pension funds but tax the benefits received. The opposite occurs in New Zealand while Australia uses a mixture of taxing contributions, earnings and benefits. The United States treatment can be characterised more as an expenditure tax approach. This involves not taxing the income until it is available to be spent by the beneficiary. The New Zealand approach is more like a true income tax benchmark. The Australian treatment is essentially a hybrid of these two approaches.

3.65 All countries except New Zealand allow a deduction for contributions to pension funds up to limits usually set in both value and percentage terms. In some cases, the deduction is only allowed when contributed by an employer. Australia is the only country which taxes the contributions in the hands of the fund, at a rate of either 15 per cent or 30 per cent depending on the income of the beneficiary.

**Table 3.12: Tax treatment of pension (superannuation) funds**

| Country   | Contributions   | Income of the fund   | Withdrawals  |
|-----------|---|--|--|
| Australia | Contributions by employer and self-employed deductible but taxed in fund at 15% or 30%. | Taxed at 15% with ability to claim full 36% imputation credit on franked dividend (excess can be used to shelter tax on other income). | Taxable either as a lump sum or pension but at less than full rates.   |
| Canada    | Deductible up to certain limits - essentially 18% of income with limit of \$13,500.     | A pension trust or pension fund is exempt from tax.<br>Distributions to non-residents subject to 25% withholding.                      | A pension fund can pay dividends, which are taxable to the recipient.<br>For pension trusts, pension benefits flow through to beneficiaries in the same way as other trusts and are taxed in the hands of beneficiaries.<br>Dividend tax credits are lost.<br>Pensions can be partly commuted to a lump sum. |
| Chile     | Contributions by employees deductible up to specified limit.                            | Commission income of the entity is taxed (commission of the fund).   | Withdrawals are subject to tax (PAYE in respect of pension payments). Lump sum (taxable) withdrawals can be made provided remaining funds are sufficient to maintain a minimum monthly pension.  |
| France    |   | No specific tax regime applies to pension funds, since there is no specific form of entity that covers a pension fund.                 |  |
| Germany   |   | There is no specific tax regime that applies to pension funds, since there is no specific form of entity that covers a pension fund.   |  |

**Table 3.12: Tax treatment of pension (superannuation) funds**

| Country        | Contributions   | Income of the fund  | Withdrawals  |
|----------------|---|---|--|
| Ireland        | Contributions are deductible within generous limits.  | Income of pension funds is exempt.  | Payouts are taxable with some lump-sum payouts exempt.   |
| Japan          | Contributions by employers are deductible.<br><br>Employers may also create a special reserve for the payment of future lump sum benefits to employees. 40% (phasing down to 20% from 2003) of the amount reserved is deductible and 60% non-deductible until it is paid out as a lump sum. | Pension funds are all defined benefit funds. The accommodation of defined contribution funds is under consideration. An annual tax is payable of 1% of the (year start) funds of either an approved pension business or an employee's welfare pension business. | Withdrawals from a pension fund are taxable, whether as a lump sum or as a pension.<br><br>50% of lump sum paid to employees from an employer's lump sum reserve is taxable, with the remainder tax free.                        |
| Netherlands    | Contributions for a qualifying pension by employers and employees are deductible.   | Under certain conditions income is tax exempt. As of January 1, 1992 private pension companies and funds are no longer tax exempt.  | Pensions paid are in general taxed in the hands of recipients.   |
| New Zealand    | Non-deductible if made by an individual; deductible but subject to withholding tax at top personal tax rate if made by an employer.   | Superannuation funds are taxed on their income under ordinary rules applicable to trusts, with the exception that all income is taxed in the hands of trustees (i.e. including current year distributions to beneficiaries).                                    | Withdrawals are exempt.  |
| Singapore      | Employer required to make contributions (equal to 30% of employee's remuneration with effect from 1 January 1999) to the Central Provident Fund. May recover a contribution of up to 20% (subject to a maximum of \$1,200) from the employee.   | Income of the fund is tax exempt.   | Withdrawals from the fund are tax exempt.  |
| Sweden         | Employer contribution tax deductible.   | Fund is taxed on deemed rate of return on assets of the fund, based on long term government bond rate, at a rate of 15-27%.   | Pension taxed at rates of 30% and 55% maximum.   |
| United Kingdom | Tax relief for payments to personal pension schemes within certain limits.  | Investment income and capital gains are exempt.   | Pensions are subject to tax (withheld at source through PAYE). Part of the pension can be commuted to lump sum and is then tax free.   |
| United States  | Contributions to pension plan (401K plans and individual retirement accounts) excluded from income. Percentage and dollar limit apply.  | Income of the fund is exempt.   | Pension taxed as normal income. Can elect to take a pension as a lump sum which is then taxed as normal income using averaging provisions. Averaging provisions cease after 1999 except for those aged 50 before 1 January 1986. |

## Life insurance companies

3.66 Rules relating to the taxation of life insurance are generally complex. This complexity derives from the calculation of income from the business of life insurance and, for many countries, its separation into income attributable to policyholders and income attributable to shareholders. In most jurisdictions, life companies, due to the financial nature of the activities undertaken, are subject to a high degree of government regulation. This function is generally carried out by a specific regulatory authority.

3.67 The treatment of income and expenses of a life insurer, for taxation purposes, differs significantly between each country, but can be generally broken into two broad categories.

3.68 The first category, which represents the majority of the jurisdictions, treats the income and expenses of the life insurer in a similar manner to standard corporate taxation. Premiums received from both risk products (underwriting) and investment related products, as well as returns from the investment of these monies, are considered assessable income to the life insurer. Expenses, including claims payments during the year and accumulated policyholders' liabilities, are deductible to the life insurer. There is generally a high degree of regulatory control over the determination of the value of the policyholder reserves of the company. Taxable income represents the annual 'profit' of the life insurer and is calculated, with minor differences, in a similar manner to that of a general insurance company.

3.69 The second category, which includes Australia and the United Kingdom, provides detailed rules for the categorisation and treatment of income and expenses. These rules are highly complex and in many cases, subject to varying interpretation. Generally, the income of the insurer is limited to investment returns, as well as some limited types of premium income.

3.70 For example, in Australia, only premiums on accident and disability policies, which includes income replacement policies, are subject to tax in the same manner as a general insurance company. Premiums on term life and investment policies are not included as assessable income. The calculation of allowable deductions is also subject to complex rules of allocation which requires the apportionment of expenses against different classes of income. General expenses are also allowed under this allocation formula, even if they relate to the gaining of premiums, which do not form part of assessable income. Claims relating to non-assessable premiums are not allowed as a deduction.

3.71 As a general rule, the profits from the sale of property are taxable under normal principles. Some jurisdictions tax these investment gains on



an accrual basis, instead of when the profit is realised. For example, in the United Kingdom, investments attributable to policyholders in unit trusts are deemed to be sold and reacquired each year so that gains or losses are taken into account whether or not the investments are actually realised.

3.72 The treatment of premiums paid to an insurer follow the same principle in all countries. These premiums are only deductible under general rules. In other words, if the premium is a business related expense, the amount will generally be deductible. Apart from that, deductibility is not allowed.

3.73 The treatment of payments received by policyholders differs between the jurisdictions. As a general rule, these payments are not taxable in the hands of the recipient. Other jurisdictions treat the payments as assessable, but allow a credit for the underlying tax that has already been paid by the life company. In addition, proceeds received on the death of a policyholder are generally not subject to tax.

3.74 Australia follows this second approach in respect of investment linked life policies and taxes the 'profit' where they have been held for less than 10 years. Any amount included in income gives rise to a tax rebate of 39 per cent of the amount included. In addition, for risk based products such as income protection or trauma policies, the treatment of the insurance proceeds is governed by whether the payment of the premium was deductible to the policyholder.

3.75 The rate at which income attributable to policyholders is taxed often does not match the rate applicable to ultimate policyholders. In the United Kingdom, policyholder income is taxed at a rate of either 20 per cent or 23 per cent depending on the type of income. These rates reflect those faced by policyholders taxed at lower income tax rates. Tax is recovered from taxpayers who face higher income tax rates when proceeds are distributed. Other countries tax policyholder income either at or near the highest statutory personal tax rate (for example, New Zealand and Canada) or at a mid-point between the range of applicable personal tax rates (for example, Australia). Shareholder income is generally taxed at the prevailing corporate rate.

**Table 3.12: Tax treatment of life insurance**

| Country     | Income of the insurer  | Claims paid out   |
|-------------|--|---|
| Australia   | Assessable income excludes life insurance premiums but includes accident and disability premiums. Assessable income generally includes investment income and gains on disposal of investments. Deductions are allowed for investment expenses, certain costs of gaining premiums, general management expenses and claims relating to accident and disability business. Deductions may be apportioned, with some portion being denied. Taxable income is subject to tax at one of four rates of tax, 15%, 36%, 39%, 47%, depending on the underlying class of business to which the income relates. | Life insurance claims are generally not taxable. Claims are taxable to recipients if the premium paid was deductible under general principles. Recipients of short-term investment life policies are also subject to tax. |
| Canada      | Taxable income, in broad terms, includes premiums earned and net investment income (as defined), less management expenses, certain (contingent liability) policy reserves and certain other reserves. Income taxed at effective federal tax rate of 29.12% plus provincial tax of between 14-17%.  | Not generally taxable, except where premium is deducted.  |
| Chile       | Taxable income of the insurer, including premium income, is subject to First Category Tax (FCT). General rules apply although insurers are entitled to deduct claims and reserves they are required by regulation to maintain (for example, in respect of unrealised mortality risk that arises in the year).  | In general, life insurance claims are not taxable.  |
| France      | Most are taxed under general company tax rules. Can claim a deduction for certain actuarially-determined reserves. Claims paid in respect of policies are also generally deductible.   | Claims in respect of life policies are generally tax-free within certain limits.  |
| Germany     | Most are taxed under general company tax rules. Can claim a deduction for certain reserves for outstanding losses. Claims paid in respect of policies are also generally deductible.<br><br>From 1999 it is proposed to introduce stricter rules with regard to the valuation of reserves for unrealised outstanding losses.   | Life insurance claims are generally not taxable.  |
| Ireland     | Can be taxed on the basis of an investment company, with no deductibility for actuarial reserves. In addition, capital gains can be deemed to arise on an annual basis. Difference between income calculated under this approach and that calculated on the basis of trading profits is used to distinguish between policyholder and shareholder income.<br><br>Income attributable to policyholders is taxed at 24% (standard personal tax rate) while that attributable to shareholders is taxed at 32% (standard company tax rate).<br><br>Several concessions potentially apply.               | Life insurance claims are non-taxable.  |
| Japan       | Subject to normal income tax rules except that claims to policyholders are deductible, as are special actuarially determined reserves.   | 50% of life insurance claims over JPY500,000 are taxable.   |
| Netherlands | Subject to normal income tax rules and the entities can create a special tax equalization reserve, subject to certain conditions, which defers taxation.   | Claims in respect of life insurance policies are generally taxable.   |

**Table 3.12: Tax treatment of life insurance**

| Country        | Income of the insurer  | Claims paid out  |
|----------------|--|--|
| New Zealand    | <p>Life insurer subject to tax on:</p> <ul style="list-style-type: none"> <li>gross income from life insurance business; and</li> <li>policyholder base income.</li> </ul> <p>Income from life insurance business includes allowance for profits/losses in respect of mortality income, premium loading, profits from discontinuance of policies, actuarial reserves and the proceeds of sale of all property. But life insurance income does not include premiums derived and claims paid. Policyholder income is income that accrues to policyholders.</p> <p>Both types of income are subject to tax at 33%, with tax on policyholder income able to be met using imputation credits.</p>                         | Life policy claims are tax-free.   |
| Singapore      | <p>Life insurers are taxable on life insurance surplus (LIS) attributable to:</p> <ul style="list-style-type: none"> <li>onshore life insurance fund apportioned to policyholders (taxed at 10%)</li> <li>offshore life insurance fund apportioned to both policyholders and shareholders (taxed at 10%)</li> <li>onshore life insurance fund apportioned to shareholders (taxed at 26%)</li> </ul> <p>Special rules apply to allocate the total LIS between policyholders and shareholders. Certain expenses are allowable in calculating taxable profits e.g. capital allowances.</p>  | Life insurance claims are non-taxable.   |
| Sweden         | Insurance companies essentially taxed as companies. A life insurance company is taxed at the ordinary rate of 28% for its income from insurance business.  | Benefits are exempt from income tax.   |
| Taiwan         | Generally subject to normal income tax rules. Taxable income, in broad terms, includes all income from the business such as premiums earned and net investment income after deduction of expenses incurred for the insurance business.   | In general, life insurance claims are not taxable.   |
| United Kingdom | <p>An income (including capital gains) less expense rule normally applies to calculate taxable profits of 'basic life assurance and general annuity business' (BLAGAB). Gains or losses from investments in units of authorised unit trusts that are attributable to BLAGAB are deemed to arise annually, whether or not the investments are realised. Certain management and other expenses are deductible. The Inland Revenue has the option of assessing the company's profits under normal trading principles.</p> <p>Profits allocated to policyholders are taxed at 20% or 23% to reflect rates of policyholders. Life insurance income attributable to shareholders is taxed at standard corporate rates.</p> | Capital sums received under a qualifying life policy are generally non-taxable, although higher rate taxpayers may incur further tax to reflect the lower tax levied at the insurance company level. |
| United States  | Life insurance companies taxed essentially as companies at the corporate rate on investment and underwriting income. Deduction for reserves made under rules specified in the law. It is equal to the greater of the surrender value of the contract and the reserve determined under the prescribed rules but not exceeding the amount of the statutory reserve.  | Claims are generally non-taxable.  |