

# TAX NOTICE - Spain

JANUARY 2022

This information notes describes the main aspects of life insurance and capitalization contracts' Spanish tax treatment, taken out by subscribers (individuals only) who are resident in Spain from a tax perspective.

The Company strongly recommends to the Subscriber that, before taking out the Insurance policy and during the execution of the Contract, he/she should obtain advice from a qualified authorised tax adviser in order to understand perfectly the tax regime of the Contract and to obtain answers to questions about specific situations.

The tax regime applicable to the Contract on the Date of conclusion of the Contract is the tax system of Spain as the country of main and habitual residence of the Policyholder on the Date of conclusion of the Contract. The main characteristics of the tax regime applicable to the Contract in January 2022 are explained in this Note.

## THE POLICYHOLDER'S ATTENTION IS DRAWN TO THE FACT THAT:

- the present Note gives only a general explanation of the main characteristics of the tax regime applicable to the Contract,
- the tax regime described in this Note is the "federal" one applicable by default if there are no regional regulations. Spanish regions have important tax differences among them and tax rates and benefits can vary significantly
- the characteristics of the tax regime applicable to the Contract may change during the Contract,
- the information on the main characteristics of the tax regime for the Contract (i) are given subject to changes in the regulatory and legislative provisions in force and (ii) have no contractual value. This information is communicated purely as an informative guide,
- the Company strongly recommends that the Policyholder, before signing the insurance Proposal and during the execution of the Contract, obtains advice from a qualified and authorised tax adviser in order to have full knowledge of the tax regime for the Contract and to seek solutions to particular situations.

## 1. "FILLING" TAX OBLIGATION

Benefits paid to Spanish resident policyholders are subject to taxation for Spanish Personal Income Tax purposes when the policyholder and the beneficiary of the payment is the same person.

Please note that operations related to life insurance policies are exempt from the Insurance Premium Tax (hereinafter IPT) under Article 12.5.b) of the Spanish Insurance Premium Tax Act, if they are included in the second section of Title III of Law 50/1980, October 8. If death is the principal coverage in an insurance policy, life Insurance policies have a surcharge of 0.003 per mile, in favor of the Insurance Compensation Consortium (a public institution, depending on the Ministry of Economy where its main functions are clearing of losses derived from extraordinary events).

## ARTICLE 1 - LIFE INSURANCE CONTRACT'S TAX TREATMENT

### Article 1.1 - Tax deductibility of premiums

#### Article 1.1.1 Premiums paid in cash

There are no tax reliefs available on the investment of premiums paid into a life insurance contract.

Please find additional information on this aspect in Section 1.7 of this note.

#### Article 1.1.2 Premiums paid via "in-specie" transfer

There are no tax reliefs available on the investment of premiums paid via an 'in-specie' or payment in kind transfer under the provisions of Spanish Personal Income Tax Act according with article 43 PITA.

## Article 1.2 - Income tax treatment on partial and total withdrawals

### Article 1.2.1 Tax base

Partial withdrawals or total surrenders of life insurance contracts are taxed in the same terms as the payments at maturity of the policy, being the income obtained classified, usually, as movable capital income for Personal Income Tax purposes. The tax treatment will vary depending on the way in which the benefits are received, i.e. as lump sum or annuities.

Nevertheless, it must be taken into account that not all movable capital income coming from insurance products are considered capital gains. For example, life insurance contracts which arrange for pension contributions to be paid by companies on behalf of their employees are classified as income from employment, with a different tax treatment.

#### (i) Lump sum payments

Only the income element, i.e. the difference between the amount received and the premiums paid, is subject to taxation.

Please note that, in order to determine the income subject to taxation, the FIFO method (First in, First Out) should be applied.

#### (ii) Annuities

When the payment is made in the form of annuities, the income subject to taxation is computed by applying, to the amount received during the calendar year, certain percentages which may vary:

- according to their duration, if the annuity is for a specified term, i.e. temporary annuities, or
- according to the age of the annuitant at the moment in which the annuity is formalised in the case of a life annuity. Applicable percentages are detailed in the appendix below.

### Article 1.2.2 Tax rate

The PITA established new tax rates as mentioned below:

Saving tax base (en EUR)	Tax Quota (en EUR)	Rest of saving tax base (en EUR)	Applicable rate (en %)
0	0	6.000	19%
6.000	1.140	44.000	21%
50.000	10.380	150.000	23%
200.000	44.880	HEREAFTER	26%

## Article 1.3 - Income tax treatment on switches

Switching between funds occurring within a unit linked insurance policy does not constitute a taxable event for PIT purposes.

## Article 1.4 - Income tax treatment on underlying investment yield

### Article 1.4.1 Tax base

As mentioned above in regard to switches, no taxation at the individual level occurs provided that the unit linked contract complies with the requirements established by article 14.2.h Spanish PITA.

As a consequence, life insurance policies in which the policyholder does not have the faculty to select the assets where to invest the policy, as well as those policies where the contributed amounts (mathematical provision) have been invested in any of the assets mentioned by point B) in the Article 14.2.h) PITA (shares in Collective Investment Institutions or assets separately

expressed in the company Annual Balance Sheet meeting certain conditions) the policyholder will not be subject to the PIT until a refund or withdrawal occurs.

#### **Article 1.4.2 Tax rate**

Contracts that meet the requirements established in the PITA will apply the general regime for insurance contracts. On the contrary, if the requirements are not met they will be subject to annual taxation.

If this occurs, the policyholder will have to integrate in their PIT base the difference between the net asset value of the assets allocated to their policy at the end of the period and the net asset value of the assets at the beginning of the tax period. Rates applicable to such a tax base will be the previously mentioned (paragraph 1.2.2 of this note).

#### **Article 1.4.3 Withholding rate**

Beside the policyholder's tax obligation, any positive gain generated and taxable in the PIT shall be subject to the general obligation of withholding tax or advanced taxation by the insurer, at the rate of 19% (24% non EU or EEA residents) at the time of collection (deemed gains as those described in point 1.4.2 above are not subject to withholding tax).

### **Article 1.5 - Tax regime of the life insurance part, in case of death of the life-assured**

#### **Article 1.5.1 Income tax treatment upon death**

Life insurance benefits paid out upon death of the insured person are not subject to taxation for the purposes of the PIT, provided the beneficiary is a different person to the policyholder.

A particular situation is when the life insurance policy is taken out on a joint marital property basis, in which case the 50% of the benefit received by the surviving spouse will be taxable on the PIT and the other 50% on the Inheritance Tax.

#### **Article 1.5.2 Inheritance tax**

Death benefits received by the beneficiary/ies of the policy would be subject to Spanish Inheritance Tax under article 3c of Spanish Inheritance Tax Act (hereinafter SITA). If the beneficiary is classed as tax resident in Spain, a residence criteria would be applicable. Should the beneficiary be classed as non-resident, territorial criteria would apply. Consequently taxpayers shall be subject to taxation under personal obligation in the former, and under real obligation in the later.

In reference to the above, please note that the applicable law may vary depending on the residence of the beneficiary; for beneficiaries classed as tax residents in Spain, autonomous legislation of the deceased's residence region will apply, for beneficiaries classed as residents in the European Union or in the European Economic Area (hereinafter EU and EEA) autonomous legislation of the deceased's region will apply, as for beneficiaries classed as non-residents

in Spain or the EU/EEA, state-level legislation will apply. In addition, as a consequence of the judgment of the Court of Justice of the EU/EEA, from 3rd September 2014, SITA has been modified regarding the tax treatment of residents of the EU.

Consequently autonomous legislations will also apply for residents from the EU (under Royal Decree-Law 26/2014) and only non-residents from outside the EU will be subject to state rates under real obligation.

### **Article 1.6 - Tax regime of the additional death coverage**

#### **Article 1.6.1 Income tax treatment**

Life insurance benefits paid out upon death of the insured person are not subject to taxation for the purposes of the PIT, provided the beneficiary is a different person to the policyholder.

A particular situation is when the life insurance policy is taken out on a joint marital property basis, in which case the 50% of the benefit received by the surviving spouse will be taxable on the PIT and the other 50% on the Inheritance Tax.

### Article 1.6.2 Inheritance tax

Provided that, as mentioned at the beginning of this Tax Note, the beneficiaries are taxpayers in Spain, death benefits received by the beneficiary/ies of the policy will be subject to Spanish Inheritance Tax under the terms as mentioned above.

### Article 1.7 - Wealth tax

Tax residents in Spain are levied under Wealth Tax on their worldwide assets regardless the place where they are located, or they may be exercised. As for non-tax residents in Spain, Wealth Tax obligations will be on their goods located in Spain as well as on their rights and obligations considered to be exercised in the Spanish territory.

Please note that, Wealth Tax Act establishes a different treatment in reference to the obligation of submitting Form 714. Consequently, individuals whose net asset value calculated dated 31st December surpasses €2 million, as well as those individuals who have Wealth tax due will have the obligation to submit the above mentioned form.

Life insurance and capitalization contracts are considered as assets or rights subject to Wealth Tax, for tax residents. These assets shall be included in the Tax Form 714 (Wealth Tax Return), and must be valued according to the surrender value of the policy at 31 December. This value must be provided by the Company. In the event that the policy has no surrender value at 31st December, the value to be included in the form is the mathematical reserves of the policy (change introduced in 2021).

### Article 1.8 - Disclosure on Assets Abroad (Form 720)

Those taxpayers classed as Spanish Tax Residents holding insurance policies or capitalization contracts, may be subject to the obligations regarding the disclosure on assets abroad (Form 720) when those policies or capitalization contracts are deposited or managed abroad provided that several requirements are met; when the total value of the taxpayers' securities, rights, insurance policies or contracts deposited, issued or managed abroad, dated 31st December surpasses €50,000, or when taxpayers who have already submitted the aforementioned disclosure in previous years experience an increase over the year of at least €20,000 on the amount declared the previous year.

Once the withdrawal/ surrender of the policy is carried out, the beneficiary of the insurance contract must inform of the value of withdrawal/ surrender or the amount of income received (capitalization value), as well as the rights associated to the contract (Binding Question to the Spanish Tax Authorities number 1681-13).

If the insurance company operates in Spain in Free Rendering of Services and declares all policies in Form 189, the policyholders are exempted of submitting Form 720 for those policies. (FAQ number 29).

## 2. MANDATE TO THE COMPANY CONCERNING TAX OBLIGATIONS

Notwithstanding the obligations for declaration and payment resulting from the tax regime applicable to the Contract, as mentioned in the present tax notice the Company is obliged to comply with the rules relative to professional confidentiality in force in the Grand Duchy of Luxembourg pursuant to article 300 of the law dated 7 December 2015.

Thus, the information collected in relation to the Contract must be kept secret, subject to the penalties specified in article 458 of the Luxembourg criminal code in case the law is broken. Based on these provisions, the Company is only authorised to communicate the confidential information that it holds concerning the Contract to any third party after formal and prior instruction from the person concerned.

However, according to the Agreements to avoid double taxation concluded by Luxembourg according to OECD standards, tax administrations are authorised to require information in the context of the exchange of information.

Furthermore, given the obligations relating to professional confidentiality resulting from Luxembourg law, and in order to allow the Company to satisfy its other obligations resulting from the tax regime applicable to the Contract, each :

- Policyholder in case there is more than one Policyholder,
- Life assured Party in case there is more than one Life assured Party (if they differ from the policyholders), (only applicable to life-insurance contracts),
- Beneficiary at maturity in case of the death of the Life assured Party (only applicable to a life-insurance contract),
- Beneficiary at maturity in case the Life assured Party lives (only applicable to a life-insurance contract and if this person is different from the Policyholder),
- legal claimants of the Policyholder in case of the Policyholder's death before maturity of the Contract (only applicable to an endowment contract),

must authorise and give express, special and irrevocable mandate to the Company, (i) to make any tax declaration and any payment to the competent tax Administration in application of the Contract, (ii) to communicate to the Beneficiaries in the case of the death of the latter before maturity of the individual capital withdrawal policy denominated in account units and/ or in euros, all the information required by the applicable tax regime so that they can meet their tax obligations resulting from the Contract, all directly or indirectly via a third-party agent designated by the Company.

## APPENDIX:

### Applicable percentages used to determine the income tax basis in case of annuities

LIFE INSURANCE CONTRACTS		
BENEFITS RECEIVED AS ANNUITIES	IMMEDIAT LIFE ANNUITIES	40 % (<40 YEARS) 35 % (40-49 YEARS) 28 % (50-59 YEARS) 24 % (60-65 YEARS) 20 % (66-69 YEARS) 8 % (>70 YEARS)
	IMMEDIAT TEMPORARY ANNUITIES	12 % (ANNUITY < 5 YEARS) 16 % (5 YEARS < ANNUITY < 10 YEARS) 20 % (10 YEARS < ANNUITY < 15 YEARS) 25 % (ANNUITY > 15 YEARS)

(\*) Please note that these percentages only apply for those subject to taxation under PIT. Therefore these percentages do not apply for those life/temporary annuities that may be subject under Inheritance Tax.