

respect to any category of specified insurance contracts, the percentage (applicable under subsection (c)(1) to such category) of the amount (if any) by which—

(A) the amount determined under subparagraph (B) of subsection (d)(1) with respect to such category, exceeds

(B) the amount determined under subparagraph (A) of subsection (d)(1) with respect to such category.

(g) Treatment of certain ceding commissions

Nothing in any provision of law (other than this section or section 197) shall require the capitalization of any ceding commission incurred on or after September 30, 1990, under any contract which reinsures a specified insurance contract.

(h) Secretarial authority to adjust capitalization amounts

(1) In general

Except as provided in paragraph (2), the Secretary may provide that a type of insurance contract will be treated as a separate category for purposes of this section (and prescribe a percentage applicable to such category) if the Secretary determines that the deferral of acquisition expenses for such type of contract which would otherwise result under this section is substantially greater than the deferral of acquisition expenses which would have resulted if actual acquisition expenses (including indirect expenses) and the actual useful life for such type of contract had been used.

(2) Adjustment to other contracts

If the Secretary exercises his authority with respect to any type of contract under paragraph (1), the Secretary shall adjust the percentage which would otherwise have applied under subsection (c)(1) to the category which includes such type of contract so that the exercise of such authority does not result in a decrease in the amount of revenue received under this chapter by reason of this section for any fiscal year.

(i) Treatment of qualified foreign contracts under adjusted current earnings preference

For purposes of determining adjusted current earnings under section 56(g), acquisition expenses with respect to contracts described in clause (iii) of subsection (e)(1)(B) shall be capitalized and amortized in accordance with the treatment generally required under generally accepted accounting principles as if this subsection applied to such contracts for all taxable years.

(j) Transitional rule

In the case of any taxable year which includes September 30, 1990, the amount taken into account as the net premiums (or negative capitalization amount) with respect to any category of specified insurance contracts shall be the amount which bears the same ratio to the amount which (but for this subsection) would be so taken into account as the number of days in such taxable year on or after September 30, 1990, bears to the total number of days in such taxable year.

(Added Pub. L. 101-508, title XI, § 11301(a), Nov. 5, 1990, 104 Stat. 1388-445; amended Pub. L. 103-66, title XIII, § 13261(d), Aug. 10, 1993, 107 Stat. 539; Pub. L. 104-191, title III, § 301(h), Aug. 21, 1996, 110 Stat. 2052; Pub. L. 106-554, § 1(a)(7) [title II, § 202(a)(5), (b)(10)], Dec. 21, 2000, 114 Stat. 2763, 2763A-628, 2763A-629; Pub. L. 108-173, title XII, § 1201(h), Dec. 8, 2003, 117 Stat. 2479; Pub. L. 109-280, title VIII, § 844(e), Aug. 17, 2006, 120 Stat. 1013.)

AMENDMENTS

2006—Subsec. (e)(6). Pub. L. 109-280 added par. (6).

2003—Subsec. (e)(1)(B)(v). Pub. L. 108-173 added cl. (v).

2000—Subsec. (e)(1)(B)(iv). Pub. L. 106-554, § 1(a)(7) [title II, § 202(b)(10)], substituted “an Archer MSA” for “a Archer MSA”.

Pub. L. 106-554, § 1(a)(7) [title II, § 202(a)(5)], substituted “Archer MSA” for “medical savings account”.

1996—Subsec. (e)(1)(B)(iv). Pub. L. 104-191 added cl. (iv).

1993—Subsec. (g). Pub. L. 103-66 substituted “this section or section 197” for “this section”.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to contracts issued after Dec. 31, 1996, but only with respect to taxable years beginning after Dec. 31, 2009, and to specified policy acquisition expenses determined for taxable years beginning after Dec. 31, 2009, see section 844(g)(1), (4) of Pub. L. 109-280, set out as a note under section 72 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-173 applicable to taxable years beginning after Dec. 31, 2003, see section 1201(k) of Pub. L. 108-173, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104-191, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable, except as otherwise provided, with respect to property acquired after Aug. 10, 1993, see section 13261(g) of Pub. L. 103-66, set out as an Effective Date note under section 197 of this title.

EFFECTIVE DATE

Section 11301(d)(1) of Pub. L. 101-508 provided that: “The amendments made by subsections (a) and (c) [enacting this section] shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986.”

Subchapter M—Regulated Investment Companies and Real Estate Investment Trusts

Part

- I. Regulated investment companies.
- II. Real estate investment trusts.
- III. Provisions which apply to both regulated investment companies and real estate investment trusts.
- IV. Real estate mortgage investment conduits.
- V. Repealed.]

AMENDMENTS

2004—Pub. L. 108-357, title VIII, § 835(b)(12), Oct. 22, 2004, 118 Stat. 1594, struck out item for part V “Financial asset securitization investment trusts”.