

the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1024(e) of Pub. L. 99-514, set out as a note under section 831 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1962, see section 8(h) of Pub. L. 87-834, set out as an Effective Date of 1962 Amendment note under section 501 of this title.

PART III—PROVISIONS OF GENERAL APPLICATION

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AMENDMENTS

1990—Pub. L. 101-508, title XI, §11301(c), Nov. 5, 1990, 104 Stat. 1388-449, added item 848.

1989—Pub. L. 101-239, title VII, §7821(d)(1), Dec. 19, 1989, 103 Stat. 2424, substituted “companies” for “corporations” in item 842.

1988—Pub. L. 100-647, title VI, §6077(b), Nov. 10, 1988, 102 Stat. 3709, added item 847.

1986—Pub. L. 99-514, title X, §§1023(d), 1024(a)(2), Oct. 22, 1986, 100 Stat. 2404, 2405, redesignated part IV as III and added item 846. Former part III redesignated II.

1984—Pub. L. 98-369, div. A, title II, §212(b), July 18, 1984, 98 Stat. 758, added item 845.

1969—Pub. L. 91-172, title IX, §907(c)(2)(A), Dec. 30, 1969, 83 Stat. 717, added item 844.

1966—Pub. L. 89-809, title I, §104(i)(2), Nov. 13, 1966, 80 Stat. 1561, substituted “Foreign corporations carrying on insurance business” for “Computation of gross income” in item 842.

1956—Act Mar. 13, 1956, ch. 83, §4(b), 70 Stat. 49, added item 843.

§ 841. Credit for foreign taxes

The taxes imposed by foreign countries or possessions of the United States shall be allowed as a credit against the tax of a domestic insurance company subject to the tax imposed by section 801 or 831, to the extent provided in the case of a domestic corporation in section 901 (relating to foreign tax credit). For purposes of the preceding sentence (and for purposes of applying section 906 with respect to a foreign corporation subject to tax under this subchapter), the term “taxable income” as used in section 904 means—

(1) in the case of the tax imposed by section 801, the life insurance company taxable income (as defined in section 801(b)), and

(2) in the case of the tax imposed by section 831, the taxable income (as defined in section 832(a)).

(Aug. 16, 1954, ch. 736, 68A Stat. 267; Mar. 13, 1956, ch. 83, §5(4), 70 Stat. 49; Pub. L. 86-69, §3(b), June 25, 1959, 73 Stat. 139; Pub. L. 87-834, §8(g)(1), Oct. 16, 1962, 76 Stat. 998; Pub. L. 89-809, title I, §104(i)(8), Nov. 13, 1966, 80 Stat. 1562; Pub. L. 98-369, div. A, title II, §211(b)(10), July 18, 1984, 98 Stat. 755; Pub. L. 99-514, title X, §1024(c)(10), Oct. 22, 1986, 100 Stat. 2407.)

AMENDMENTS

1986—Pub. L. 99-514 substituted “section 801 or 831” for “section 801, 821, or 831” in introductory provisions, redesignated par. (3) as (2), and struck out former par. (2) which read as follows: “in the case of the tax imposed by section 821(a), the mutual insurance company taxable income (as defined in section 821(b)); and in the case of the tax imposed by section 821(c), the taxable investment income (as defined in section 822(a)), and”.

1984—Pub. L. 98-369 substituted “section 801” for “section 802”, wherever appearing, and “section 801(b)” for “section 802(b)”.

1966—Pub. L. 89-809 substituted “For purposes of the preceding sentence (and for purposes of applying section 906 with respect to a foreign corporation subject to tax under this subchapter), the term ‘taxable income’ as used in section 904” for “For purposes of the preceding sentence, the term ‘taxable income’ as used in section 904”.

1962—Pub. L. 87-834 added par. (2) and redesignated former par. (2) as (3).

1959—Pub. L. 86-69 struck out reference to section 811 of this title in first sentence, and substituted “section 802, the life insurance company taxable income (as defined in section 802(b)), and” for “section 802 or 811, the net investment income (as defined in section 803(c))” in par. (1).

1956—Act Mar. 13, 1956, inserted references to section 811.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1024(e) of Pub. L. 99-514, set out as a note under section 831 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 104(n) of Pub. L. 89-809, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable with respect to taxable years beginning after Dec. 31, 1962, see section 8(h) of Pub. L. 87-834, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1959 AMENDMENT

Amendment by Pub. L. 86-69 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 4 of Pub. L. 86-69, set out as a note under section 381 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Mar. 13, 1956, applicable only to taxable years beginning after Dec. 31, 1954, see section 6 of act Mar. 13, 1956, set out as a note under section 316 of this title.

§ 842. Foreign companies carrying on insurance business

(a) Taxation under this subchapter

If a foreign company carrying on an insurance business within the United States would qualify under part I or II of this subchapter for the taxable year if (without regard to income not effectively connected with the conduct of any trade or business within the United States) it were a domestic corporation, such company shall be taxable under such part on its income effectively connected with its conduct of any trade or business within the United States. With respect to the remainder of its income which is from sources within the United States, such a foreign company shall be taxable as provided in section 881.

(b) Minimum effectively connected net investment income

(1) In general

In the case of a foreign company taxable under part I or II of this subchapter for the taxable year, its net investment income for such year which is effectively connected with the conduct of an insurance business within the United States shall be not less than the product of—

- (A) the required United States assets of such company, and
- (B) the domestic investment yield applicable to such company for such year.

(2) Required U.S. assets

(A) In general

For purposes of paragraph (1), the required United States assets of any foreign company for any taxable year is an amount equal to the product of—

- (i) the mean of such foreign company's total insurance liabilities on United States business, and
- (ii) the domestic asset/liability percentage applicable to such foreign company for such year.

(B) Total insurance liabilities

For purposes of this paragraph—

(i) Companies taxable under part I

In the case of a company taxable under part I, the term "total insurance liabilities" means the sum of the total reserves (as defined in section 816(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), (5), and (6) of section 807(c).

(ii) Companies taxable under part II

In the case of a company taxable under part II, the term "total insurance liabilities" means the sum of unearned premiums and unpaid losses.

(C) Domestic asset/liability percentage

The domestic asset/liability percentage applicable for purposes of subparagraph (A)(ii) to any foreign company for any taxable year is a percentage determined by the Secretary on the basis of a ratio—

- (i) the numerator of which is the mean of the assets of domestic insurance compa-

nies taxable under the same part of this subchapter as such foreign company, and

- (ii) the denominator of which is the mean of the total insurance liabilities of the same companies.

(3) Domestic investment yield

The domestic investment yield applicable for purposes of paragraph (1)(B) to any foreign company for any taxable year is the percentage determined by the Secretary on the basis of a ratio—

- (A) the numerator of which is the net investment income of domestic insurance companies taxable under the same part of this subchapter as such foreign company, and
- (B) the denominator of which is the mean of the assets of the same companies.

(4) Election to use worldwide yield

(A) In general

If the foreign company makes an election under this paragraph, such company's worldwide current investment yield shall be taken into account in lieu of the domestic investment yield for purposes of paragraph (1)(B).

(B) Worldwide current investment yield

For purposes of subparagraph (A), the term "worldwide current investment yield" means the percentage obtained by dividing—

- (i) the net investment income of the company from all sources, by
- (ii) the mean of all assets of the company (whether or not held in the United States).

(C) Election

An election under this paragraph shall apply to the taxable year for which made and all subsequent taxable years unless revoked with the consent of the Secretary.

(5) Net investment income

For purposes of this subsection, the term "net investment income" means—

- (A) gross investment income (within the meaning of section 834(b)), reduced by
- (B) expenses allocable to such income.

(c) Special rules for purposes of subsection (b)

(1) Coordination with small life insurance company deduction

In the case of a foreign company taxable under part I, subsection (b) shall be applied before computing the small life insurance company deduction.

(2) Reduction in section 881 taxes

(A) In general

The tax under section 881 (determined without regard to this paragraph) shall be reduced (but not below zero) by an amount which bears the same ratio to such tax as—

- (i) the amount of the increase in effectively connected income of the company resulting from subsection (b), bears to
- (ii) the amount which would be subject to tax under section 881 if the amount taxable under such section were determined without regard to sections 103 and 894.

(B) Limitation on reduction

The reduction under subparagraph (A) shall not exceed the increase in taxes under