

**(2) Special rules****(A) Amortization of bond premium**

In the case of any bond (as defined in section 171(d)), the amount of bond premium, and the amortizable bond premium for the taxable year, shall be determined under section 171(b) as if the election set forth in section 171(c) had been made.

**(B) Convertible evidence of indebtedness**

In no case shall the amount of premium on a convertible evidence of indebtedness include any amount attributable to the conversion features of the evidence of indebtedness.

**(3) Exception**

No accrual of discount shall be required under paragraph (1) on any bond (as defined in section 171(d)), except in the case of discount which is—

- (A) interest to which section 103 applies, or
- (B) original issue discount (as defined in section 1273).

**(c) No double counting**

Nothing in this part shall permit—

- (1) a reserve to be established for any item unless the gross amount of premiums and other consideration attributable to such item are required to be included in life insurance gross income,
- (2) the same item to be counted more than once for reserve purposes, or
- (3) any item to be deducted (either directly or as an increase in reserves) more than once.

**(d) Method of computing reserves on contract where interest is guaranteed beyond end of taxable year**

For purposes of this part (other than section 816), amounts in the nature of interest to be paid or credited under any contract for any period which is computed at a rate which—

- (1) exceeds the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807 for the contract for such period, and
- (2) is guaranteed beyond the end of the taxable year on which the reserves are being computed,

shall be taken into account in computing the reserves with respect to such contract as if such interest were guaranteed only up to the end of the taxable year.

**(e) Short taxable years**

If any return of a corporation made under this part is for a period of less than the entire calendar year (referred to in this subsection as “short period”), then section 443 shall not apply in respect to such period, but life insurance company taxable income shall be determined, under regulations prescribed by the Secretary, on an annual basis by a ratable daily projection of the appropriate figures for the short period.

(Added and amended Pub. L. 98-369, div. A, title I, § 42(a)(8), title II, § 211(a), July 18, 1984, 98 Stat. 557, 740; Pub. L. 100-647, title II, § 2004(p)(1), Nov. 10, 1988, 102 Stat. 3608.)

**PRIOR PROVISIONS**

A prior section 811, added Pub. L. 86-69, § 2(a), June 25, 1959, 73 Stat. 126; amended Pub. L. 97-248, title II,

§ 255(b)(1), Sept. 3, 1982, 96 Stat. 533; Pub. L. 98-369, div. A, title VII, § 714(a), July 18, 1984, 98 Stat. 960, related to dividends to policyholders, prior to the general revision of this part by Pub. L. 98-369, § 211(a).

Another prior section 811, act Aug. 16, 1954, ch. 736, § 811, as added Mar. 13, 1956, ch. 83, § 2, 70 Stat. 44; amended July 24, 1956, ch. 696, § 2(c), 70 Stat. 633; Mar. 17, 1958, Pub. L. 85-345, § 2(c), 72 Stat. 37, imposed a tax on the life insurance company taxable income of all life insurance companies for taxable years beginning after Dec. 31, 1957, prior to the general revision of this part by Pub. L. 86-69, § 2(a).

**AMENDMENTS**

1988—Subsec. (d)(1). Pub. L. 100-647 substituted “the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807 for the contract” for “the prevailing State assumed interest rate for the contract”.

1984—Subsec. (b)(3). Pub. L. 98-369, § 42(a)(8), substituted “section 1273” for “section 1232(b)”.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

**EFFECTIVE DATE OF 1984 AMENDMENT**

Amendment by section 42(a)(8) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

**EFFECTIVE DATE**

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

**§ 812. Definition of company's share and policyholders' share****(a) General rule****(1) Company's share**

For purposes of section 805(a)(4), the term “company's share” means, with respect to any taxable year, the percentage obtained by dividing—

- (A) the company's share of the net investment income for the taxable year, by
- (B) the net investment income for the taxable year.

**(2) Policyholders' share**

For purposes of section 807, the term “policyholders' share” means, with respect to any taxable year, the excess of 100 percent over the percentage determined under paragraph (1).

**(b) Company's share of net investment income****(1) In general**

For purposes of this section, the company's share of net investment income is the excess (if any) of—

- (A) the net investment income for the taxable year, over
- (B) the sum of—
  - (i) the policy interest, for the taxable year, plus
  - (ii) the gross investment income's proportionate share of policyholder dividends for the taxable year.

**(2) Policy interest**

For purposes of this subsection, the term “policy interest” means—

(A) required interest (at the greater of the prevailing State assumed rate or the applicable Federal interest rate) on reserves under section 807(c) (other than paragraph (2) thereof),

(B) the deductible portion of excess interest,

(C) the deductible portion of any amount (whether or not a policyholder dividend), and not taken into account under subparagraph (A) or (B), credited to—

(i) a policyholder's fund under a pension plan contract for employees (other than retired employees), or

(ii) a deferred annuity contract before the annuity starting date, and

(D) interest on amounts left on deposit with the company.

In any case where neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate shall be used for purposes of subparagraph (A).

**(3) Gross investment income's proportionate share of policyholder dividends**

For purposes of paragraph (1), the gross investment income's proportionate share of policyholder dividends is—

(A) the deduction for policyholders' dividends determined under section 808 for the taxable year, but not including—

(i) the deductible portion of excess interest,

(ii) the deductible portion of policyholder dividends on contracts referred to in clauses (i) and (ii) of paragraph (2)(C), and

(iii) the deductible portion of the premium and mortality charge adjustments with respect to contracts paying excess interest for such year,

multiplied by

(B) the fraction—

(i) the numerator of which is gross investment income for the taxable year (reduced by the policy interest for such year), and

(ii) the denominator of which is life insurance gross income reduced by the excess (if any) of the closing balance for the items described in section 807(c) over the opening balance for such items for the taxable year.

For purposes of subparagraph (B)(ii), life insurance gross income shall be determined by including tax-exempt interest and by applying section 807(a)(2)(B) as if it did not contain clause (i) thereof.

**(c) Net investment income**

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

(1) except as provided in paragraph (2), 90 percent of gross investment income; or

(2) in the case of gross investment income attributable to assets held in segregated asset accounts under variable contracts, 95 percent of gross investment income.

**(d) Gross investment income**

For purposes of this section, the term "gross investment income" means the sum of the following:

**(1) Interest, etc.**

The gross amount of income from—

(A) interest (including tax-exempt interest), dividends, rents, and royalties,

(B) the entering into of any lease, mortgage, or other instrument or agreement from which the life insurance company derives interest, rents, or royalties,

(C) the alteration or termination of any instrument or agreement described in subparagraph (B), and

(D) the increase for any taxable year in the policy cash values (within the meaning of section 805(a)(4)(F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies.

**(2) Short-term capital gain**

The amount (if any) by which the net short-term capital gain exceeds the net long-term capital loss.

**(3) Trade or business income**

The gross income from any trade or business (other than an insurance business) carried on by the life insurance company, or by a partnership of which the life insurance company is a partner. In computing gross income under this paragraph, there shall be excluded any item described in paragraph (1).

Except as provided in paragraph (2), in computing gross investment income under this subsection, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

**(e) Dividends from certain subsidiaries not included in gross investment income**

**(1) In general**

For purposes of this section, the term "gross investment income" shall not include any dividend received by the life insurance company which is a 100 percent dividend.

**(2) 100 percent dividend defined**

**(A) In general**

Except as provided in subparagraphs (B) and (C), the term "100 percent dividend" means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 245(b) is 100 percent.

**(B) Certain dividends out of tax-exempt interest, etc.**

The term "100 percent dividend" does not include any distribution by a corporation to the extent such distribution is out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this subparagraph).

**(C) Certain dividends received by foreign corporations**

The term "100 percent dividends" does not include any dividend described in section

805(a)(4)(E) (relating to certain dividends in the case of foreign corporations).

**(f) No double counting**

Under regulations, proper adjustments shall be made in the application of this section to prevent an item from being counted more than once.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 741; amended Pub. L. 99-514, title XVIII, §1821(i), Oct. 22, 1986, 100 Stat. 2840; Pub. L. 100-203, title X, §10241(b)(2)(B), Dec. 22, 1987, 101 Stat. 1330-420; Pub. L. 100-647, title I, §1018(h)(1), title II, §2004(p)(2), Nov. 10, 1988, 102 Stat. 3583, 3608; Pub. L. 104-188, title I, §1602(b)(2), Aug. 20, 1996, 110 Stat. 1833; Pub. L. 105-34, title X, §1084(b)(3), Aug. 5, 1997, 111 Stat. 955; Pub. L. 108-218, title II, §205(b)(4), Apr. 10, 2004, 118 Stat. 610; Pub. L. 113-295, div. A, title II, §221(a)(41)(G), Dec. 19, 2014, 128 Stat. 4044.)

**CODIFICATION**

Another section 1084(b) of Pub. L. 105-34 amended sections 101 and 264 of this title.

**PRIOR PROVISIONS**

A prior section 812, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 127; amended Pub. L. 87-858, §3(d)(1), Oct. 23, 1962, 76 Stat. 1137; Pub. L. 88-571, §1(a), Sept. 2, 1964, 78 Stat. 857; Pub. L. 94-455, title VIII, §806(d)(1), title XIX, §1901(a)(99), Oct. 4, 1976, 90 Stat. 1598, 1781; Pub. L. 97-34, title II, §207(b), Aug. 13, 1981, 95 Stat. 225, related to operations loss deductions, prior to the general revision of this part by Pub. L. 98-369, §211(a).

Another prior section 812, act Aug. 16, 1954, ch. 736, §812, as added Mar. 13, 1956, ch. 83, §2, 70 Stat. 45, related to reserve and other policy liability deduction, prior to the general revision of this part by Pub. L. 86-69, §2(a).

**AMENDMENTS**

2014—Subsec. (e)(2)(A). Pub. L. 113-295 struck out “, 244,” after “section 243”.

2004—Subsec. (b)(3)(A). Pub. L. 108-218 substituted “section 808” for “sections 808 and 809”.

1997—Subsec. (d)(1)(D). Pub. L. 105-34 added subpar. (D).

1996—Subsec. (g). Pub. L. 104-188 struck out subsec. (g) which read as follows: “TREATMENT OF INTEREST PARTIALLY TAX-EXEMPT UNDER SECTION 133.—For purposes of this section and subsections (a) and (b) of section 807, the terms ‘gross investment income’ and ‘tax-exempt interest’ shall not include any interest received with respect to a securities acquisition loan (as defined in section 133(b)). Such interest shall not be included in life insurance gross income for purposes of subsection (b)(3).”

1988—Subsec. (b)(2). Pub. L. 100-647, §2004(p)(2), substituted “In any case where neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate shall be used for purposes of subparagraph (A).” for “In any case where the prevailing State assumed rate is not used, another appropriate rate shall be treated as the prevailing State assumed rate for purposes of subparagraph (A).”

Subsec. (e). Pub. L. 100-647, §1018(h)(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “For purposes of this section, the term ‘gross investment income’ shall not include any dividend received by the life insurance company which is a 100-percent dividend (as defined in section 805(a)(4)(C)). Such term also shall not include any dividend described in section 805(a)(4)(D) (relating to certain dividends in the case of foreign corporations).”

1987—Subsec. (b)(2). Pub. L. 100-203 substituted “at the greater of the prevailing State assumed rate or the

applicable Federal interest rate” for “at the prevailing State assumed rate or, where such rate is not used, another appropriate rate” in subpar. (A), and inserted provision at end that in any case where the prevailing State assumed rate is not used, another appropriate rate be treated as the prevailing State assumed rate for purposes of subpar. (A).

1986—Subsec. (b)(2). Pub. L. 99-514, §1821(i)(1), inserted “or, where such rate is not used, another appropriate rate” after “assumed rate”, in subpar. (A) and added subpar. (D).

Subsec. (b)(3)(B). Pub. L. 99-514, §1821(i)(2), struck out “(including tax-exempt interest)” after “insurance gross income” in cl. (ii) and inserted at end “For purposes of subparagraph (B)(ii), life insurance gross income shall be determined by including tax-exempt interest and by applying section 807(a)(2)(B) as if it did not contain clause (i) thereof.”

Subsec. (c). Pub. L. 99-514, §1821(i)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: “For purposes of this section, the term ‘net investment income’ means 90 percent of gross investment income.”

Subsec. (g). Pub. L. 99-514, §1821(i)(4), added subsec. (g).

**EFFECTIVE DATE OF 2014 AMENDMENT**

Amendment by Pub. L. 113-295 not applicable to preferred stock issued before Oct. 1, 1942 (determined in the same manner as under section 247 of this title as in effect before its repeal by Pub. L. 113-295), see section 221(a)(41)(K) of Pub. L. 113-295, set out as a note under section 172 of this title.

Except as otherwise provided in section 221(a) of Pub. L. 113-295, amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

**EFFECTIVE DATE OF 2004 AMENDMENT**

Amendment by Pub. L. 108-218 applicable to taxable years beginning after Dec. 31, 2004, see section 205(c) of Pub. L. 108-218, set out as a note under section 807 of this title.

**EFFECTIVE DATE OF 1997 AMENDMENT**

Amendment by Pub. L. 105-34 applicable to contracts issued after June 8, 1997, in taxable years ending after such date, with special provisions relating to changes in contracts to be treated as new contracts, see section 1084(d) of Pub. L. 105-34, set out as a note under section 101 of this title.

**EFFECTIVE DATE OF 1996 AMENDMENT**

Amendment by section 1602(b)(1) of Pub. L. 104-188 applicable to loans made after Aug. 20, 1996, with exception, and provisions relating to certain refinancings, see section 1602(c) of Pub. L. 104-188, set out as an Effective Date of Repeal note under former section 133 of this title.

**EFFECTIVE DATE OF 1988 AMENDMENT**

Pub. L. 100-647, title I, §1018(h)(2), Nov. 10, 1988, 102 Stat. 3583, provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 211 of the Tax Reform Act of 1984 [Pub. L. 98-369].”

Amendment by section 2004(p)(2) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

**EFFECTIVE DATE OF 1987 AMENDMENT**

Amendment by Pub. L. 100-203 applicable to contracts issued in taxable years beginning after Dec. 31, 1987, see section 10241(c) of Pub. L. 100-203, set out as a note under section 807 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

## EFFECTIVE DATE

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

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

**[§ 813. Repealed. Pub. L. 100-203, title X, § 10242(c)(1), Dec. 22, 1987, 101 Stat. 1330-423]**

Section, added Pub. L. 98-369, div. A, title II, § 211(a), July 18, 1984, 98 Stat. 743; amended Pub. L. 99-514, title X, § 1011(b)(9), title XVIII, § 1821(j), Oct. 22, 1986, 100 Stat. 2389, 2841; Pub. L. 100-647, title I, § 1010(a)(1), Nov. 10, 1988, 102 Stat. 3450, related to foreign life insurance companies.

A prior section 813, act Aug. 16, 1954, ch. 736, § 813, as added Mar. 13, 1956, ch. 83, § 2, 70 Stat. 46, related to adjustment for certain reserves, prior to the general revision of this part by Pub. L. 86-69, § 2(a).

## EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1987, see section 10242(d) of Pub. L. 100-203, set out as an Effective Date of 1987 Amendment note under section 816 of this title.

**§ 814. Contiguous country branches of domestic life insurance companies****(a) Exclusion of items**

In the case of a domestic mutual insurance company which—

- (1) is a life insurance company,
- (2) has a contiguous country life insurance branch, and
- (3) makes the election provided by subsection (g) with respect to such branch,

there shall be excluded from each item involved in the determination of life insurance company taxable income the items separately accounted for in accordance with subsection (c).

**(b) Contiguous country life insurance branch**

For purposes of this section, the term contiguous country life insurance branch means a branch which—

- (1) issues insurance contracts insuring risks in connection with the lives or health of residents of a country which is contiguous to the United States,
- (2) has its principal place of business in such contiguous country, and
- (3) would constitute a mutual life insurance company if such branch were a separate domestic insurance company.

For purposes of this section, the term “insurance contract” means any life, health, accident,

or annuity contract or reinsurance contract or any contract relating thereto.

**(c) Separate accounting required**

Any taxpayer which makes the election provided by subsection (g) shall establish and maintain a separate account for the various income, exclusion, deduction, asset, reserve, liability, and surplus items properly attributable to the contracts described in subsection (b). Such separate accounting shall be made—

(1) in accordance with the method regularly employed by such company, if such method clearly reflects income derived from, and the other items attributable to, the contracts described in subsection (b), and

(2) in all other cases, in accordance with regulations prescribed by the Secretary.

**(d) Recognition of gain on assets in branch account**

If the aggregate fair market value of all the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account established pursuant to subsection (c) exceeds the aggregate adjusted basis of such assets for purposes of determining gain, then the domestic life insurance company shall be treated as having sold all such assets on the first day of the first taxable year for which the election is in effect at their fair market value on such first day. Notwithstanding any other provision of this chapter, the net gain shall be recognized to the domestic life insurance company on the deemed sale described in the preceding sentence.

**(e) Transactions between contiguous country branch and domestic life insurance company****(1) Reimbursement for home office services, etc.**

Any payment, transfer, reimbursement, credit, or allowance which is made from a separate account established pursuant to subsection (c) to one or more other accounts of a domestic life insurance company as reimbursement for costs incurred for or with respect to the insurance (or reinsurance) of risks accounted for in such separate account shall be taken into account by the domestic life insurance company in the same manner as if such payment, transfer, reimbursement, credit, or allowance had been received from a separate person.

**(2) Repatriation of income****(A) In general**

Except as provided in subparagraph (B), any amount directly or indirectly transferred or credited from a branch account established pursuant to subsection (c) to one or more other accounts of such company shall, unless such transfer or credit is a reimbursement to which paragraph (1) applies, be added to the income of the domestic life insurance company.

**(B) Limitation**

The addition provided by subparagraph (A) for the taxable year with respect to any contiguous country life insurance branch shall not exceed the amount by which—