

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.

PART II—OTHER INSURANCE COMPANIES

Sec.	
831.	Tax on insurance companies other than life insurance companies.
832.	Insurance company taxable income.
833.	Treatment of Blue Cross and Blue Shield organizations, etc.
834.	Determination of taxable investment income.
835.	Election by reciprocal.

PRIOR PROVISIONS

A prior part II (§§821 to 826) related to mutual insurance companies other than life and certain marine insurance companies and other than fire and flood insurance companies which operated on the basis of perpetual policies or premium deposits, consisted of sections 821–826, prior to repeal (except for sections 822 and 826 which were renumbered sections 834 and 835, respectively, by Pub. L. 99–514, title X, §1024(a)(1)–(3), Oct. 22, 1986, 100 Stat. 2405. See Prior Provisions note set out under section 818 of this title.

AMENDMENTS

1988—Pub. L. 100–647, title I, §1010(f)(7), Nov. 10, 1988, 102 Stat. 3454, substituted “Tax on insurance companies other than life insurance companies” for “Tax on insurance companies (other than life or mutual), mutual marine insurance companies, and certain mutual fire or flood insurance companies” in item 831.

1986—Pub. L. 99–514, title X, §§1012(b)(2), 1024(a)(2), (c)(18), Oct. 22, 1986, 100 Stat. 2393, 2405, 2408, redesignated part III (§831 et seq.) as II and added items 833, 834, and 835. Former part II (§821 et seq.) was repealed.

1962—Pub. L. 87–834, §8(g)(4)(C), Oct. 16, 1962, 76 Stat. 999, substituted “and certain mutual fire or flood insurance companies” for “and mutual fire insurance companies issuing perpetual policies” in item 831.

§ 831. Tax on insurance companies other than life insurance companies

(a) General rule

Taxes computed as provided in section 11 shall be imposed for each taxable year on the taxable income of every insurance company other than a life insurance company.

(b) Alternative tax for certain small companies

(1) In general

In lieu of the tax otherwise applicable under subsection (a), there is hereby imposed for each taxable year on the income of every insurance company to which this subsection applies a tax computed by multiplying the taxable investment income of such company for such taxable year by the rates provided in section 11(b).

(2) Companies to which this subsection applies

(A) In general

This subsection shall apply to every insurance company other than life (including interinsurers and reciprocal underwriters) if—

- (i) the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$1,200,000, and
- (ii) such company elects the application of this subsection for such taxable year.

The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary.

(B) Controlled group rules

(i) In general

For purposes of subparagraph (A), in determining whether any company is described in clause (i) of subparagraph (A), such company shall be treated as receiving during the taxable year amounts described in such clause (i) which are received during such year by all other companies which are members of the same controlled group as the insurance company for which the determination is being made.

(ii) Controlled group

For purposes of clause (i), the term “controlled group” means any controlled group of corporations (as defined in section 1563(a)); except that—

(I) “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in section 1563(a), and

(II) subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

(3) Limitation on use of net operating losses

For purposes of this part, except as provided in section 844, a net operating loss (as defined in section 172) shall not be carried—

(A) to or from any taxable year for which the insurance company is not subject to the tax imposed by subsection (a), or

(B) to any taxable year if, between the taxable year from which such loss is being carried and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by subsection (a).

(c) Insurance company defined

For purposes of this section, the term “insurance company” has the meaning given to such term by section 816(a).¹

(d) Cross references

(1) For alternative tax in case of capital gains, see section 1201(a).

(2) For taxation of foreign corporations carrying on an insurance business within the United States, see section 842.

(3) For exemption from tax for certain insurance companies other than life, see section 501(c)(15).

(Aug. 16, 1954, ch. 736, 68A Stat. 264; Pub. L. 87–834, §8(e)(1), (f), (g)(4)(B), Oct. 16, 1962, 76 Stat. 997–999; Pub. L. 89–809, title I, §104(i)(6), Nov. 13, 1966, 80 Stat. 1562; Pub. L. 94–455, title XIX, §§1901(a)(107), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1782, 1834; Pub. L. 99–514, title X, §1024(a)(4), Oct. 22, 1986, 100 Stat. 2405; Pub. L. 100–647, title I, §1010(f)(1), (9), Nov. 10, 1988, 102 Stat. 3454, 3455; Pub. L. 108–218, title II, §206(c), (d), Apr. 10, 2004, 118 Stat. 611.)

¹So in original. Second closing parenthesis probably should not appear.