

Pub. L. 99-514, §1106(d)(3)(C), inserted “(17),” after “(16).”

Subsec. (a)(6)(A). Pub. L. 99-514, §1821(n), in amending subpar. (A) generally, inserted “an eligible State deferred compensation plan (within the meaning of section 457(b)), or”.

Subsec. (e). Pub. L. 99-514, §1821(o), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: “If an election under section 1504(c)(2) is in effect with respect to an affiliated group for the taxable year, all items of the members of such group which are not life insurance companies shall not be taken into account in determining the amount of the tentative LICTI of members of such group which are life insurance companies.”

1984—Subsec. (b)(1)(A). Pub. L. 98-369, §1001(b)(10), (e), substituted “6 months” for “1 year” in two places, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-191, title III, §332(b), Aug. 21, 1996, 110 Stat. 2069, provided that:

“(1) IN GENERAL.—The amendment made by this section [amending this section] shall take effect on January 1, 1997.

“(2) ISSUANCE OF RIDER NOT TREATED AS MATERIAL CHANGE.—For purposes of applying sections 101(f), 7702, and 7702A of the Internal Revenue Code of 1986 to any contract—

“(A) the issuance of a qualified accelerated death benefit rider (as defined in section 818(g) of such Code (as added by this Act)), and

“(B) the addition of any provision required to conform an accelerated death benefit rider to the requirements of such section 818(g), shall not be treated as a modification or material change of such contract.”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1011(e)(5)(B), Nov. 10, 1988, 102 Stat. 3461, provided that: “The amendments made by this paragraph [amending this section] shall apply to contracts issued after December 31, 1986.”

Amendment by section 1010(k) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of 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 section 1106(d)(3)(C) of Pub. L. 99-514 applicable to benefits accruing in years beginning after Dec. 31, 1988, except as otherwise provided, see section 1106(i)(5) of Pub. L. 99-514 set out as a note under section 415 of this title.

Amendment by section 1112(d)(4) of Pub. L. 99-514 applicable to plan years beginning after Dec. 31, 1988, with special rule regarding collective bargaining agreements ratified before Mar. 1, 1986, and with provision for waiver of the excise tax on reversions, see section 1112(e) of Pub. L. 99-514, set out as a note under section 401 of this title.

Amendment by section 1821(n), (o) of 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 OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see

section 1001(e) of Pub. L. 98-369, set out as a note under section 166 of this title.

REGULATIONS

Secretary of the Treasury or his delegate to issue before Feb. 1, 1988, final regulations to carry out amendments made by section 1112 of Pub. L. 99-514, see section 1141 of Pub. L. 99-514, set out as a note under section 401 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.

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; Pub. L. 114-113, div. Q, title III, §333(a), (b), Dec. 18, 2015, 129 Stat. 3106, 3108.)

AMENDMENT OF SECTION

Pub. L. 114-113, div. Q, title III, §333, Dec. 18, 2015, 129 Stat. 3106, provided that, applicable with respect to taxable years beginning after December 31, 2016, this section is amended as follows:

(1) in subsection (b)(2):

(A) in subparagraph (A):

(i) by striking out “(including interinsurers and reciprocal underwriters)”;

(ii) in clause (i), by striking out “\$1,200,000” and inserting “\$2,200,000” and by striking out “and” at the end;

(iii) by redesignating clause (ii) as (iii) and adding the following new clause (ii):

“(ii) such company meets the diversification requirements of subparagraph (B), and”; and

(iv) in concluding provisions, by striking out “clause (ii)” and inserting “clause (iii)” and striking out “clause (i)” and inserting “clauses (i) and (ii)”;

(B) by redesignating subparagraph (B) as (C) and adding the following new subparagraph (B):

“(B) Diversification requirements

“(i) In general

“An insurance company meets the requirements of this subparagraph if—

“(I) no more than 20 percent of the net written premiums (or, if greater, direct written premiums) of such company for the taxable year is attributable to any one policyholder, or

“(II) such insurance company does not meet the requirement of subclause (I) and no person who holds (directly or indirectly) an interest in such insurance company is a specified holder who holds (directly or indirectly) aggregate interests in such insurance company which constitute a percentage of the entire interests in such insurance company which is more than a de minimis percentage higher than the percentage of interests in the specified assets with respect to such insurance company held (directly or indirectly) by such specified holder.

“(ii) Definitions

“For purposes of clause (i)(II)—

“(I) Specified holder

“The term ‘specified holder’ means, with respect to any insurance company, any individual who holds (directly or indirectly) an interest in such insurance company and who is a spouse or lineal descendant (including by adoption) of an individual who

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

holds an interest (directly or indirectly) in the specified assets with respect to such insurance company.

“(II) Specified assets

“The term ‘specified assets’ means, with respect to any insurance company, the trades or businesses, rights, or assets with respect to which the net written premiums (or direct written premiums) of such insurance company are paid.

“(III) Indirect interest

“An indirect interest includes any interest held through a trust, estate, partnership, or corporation.

“(IV) De minimis

“Except as otherwise provided by the Secretary in regulations or other guidance, 2 percentage points or less shall be treated as de minimis.”;

(C) in clause (i) of subparagraph (C), as so redesignated:

(i) by striking “For purposes of subparagraph (A),” and inserting “For purposes of this paragraph—”;

(ii) by inserting the subclause (I) designation before “in determining” and by striking the period at the end and inserting “, and”; and

(iii) by adding at the end the following new subclause:

“(II) in determining the attribution of premiums to any policyholder under subparagraph (B)(i), all policyholders which are related (within the meaning of section 267(b) or 707(b)) or are members of the same controlled group shall be treated as one policyholder.”; and

(D) by adding at the end the following new subparagraph:

“(D) Inflation adjustment

“In the case of any taxable year beginning in a calendar year after 2015, the dollar amount set forth in subparagraph (A)(i) shall be increased by an amount equal to—

“(i) such dollar amount, multiplied by

“(ii) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 2013’ for ‘calendar year 1992’ in subparagraph (B) thereof.

If the amount as adjusted under the preceding sentence is not a multiple of \$50,000, such amount shall be rounded to the next lowest multiple of \$50,000.”; and

(2) by redesignating subsection (d) as (e) and adding the following new subsection (d):

“(d) Reporting

“Every insurance company for which an election is in effect under subsection (b) for any taxable year shall furnish to the Secretary at such time and in such manner as the Secretary shall prescribe such information for such taxable year as the Secretary shall require with respect to the requirements of subsection (b)(2)(A)(ii).”

See 2015 Amendment notes below.

AMENDMENTS

2015—Subsec. (b)(2)(A). Pub. L. 114-113, § 333(a)(1)(A), (C), (b)(1), struck out “(including interinsurers and re-

ciprocal underwriters)” after “other than life” in introductory provisions, substituted “\$2,200,000” for “\$1,200,000” in cl. (i), added cl. (ii), redesignated former cl. (ii) as (iii), and, in concluding provisions, substituted “clause (iii)” for “clause (ii)” and “clauses (i) and (ii)” for “clause (i)”.

Subsec. (b)(2)(B), (C). Pub. L. 114-113, § 333(a)(1)(B), added subpar. (B) and redesignated former subpar. (B) as (C).

Subsec. (b)(2)(C)(i). Pub. L. 114-113, § 333(a)(2), substituted “For purposes of this paragraph—” for “For purposes of subparagraph (A),”, inserted subcl. (I) designation before “in determining”, and added subcl. (II).

Subsec. (b)(2)(D). Pub. L. 114-113, § 333(b)(2), added subpar. (D).

Subsecs. (d), (e). Pub. L. 114-113, § 333(a)(3), added subsec. (d) and redesignated former subsec. (d) as (e).

2004—Subsec. (b)(2)(A)(i). Pub. L. 108-218, § 206(d), struck out “exceed \$350,000 but” after “taxable year”.

Subsecs. (c), (d). Pub. L. 108-218, § 206(c), added subsec. (c) and redesignated former subsec. (c) as (d).

1988—Subsec. (b)(2)(A). Pub. L. 100-647, § 1010(f)(1), inserted at end “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.”

Subsec. (b)(3). Pub. L. 100-647, § 1010(f)(9), added par. (3).

1986—Pub. L. 99-514 amended section generally, substituting provisions imposing taxes on insurance companies other than life insurance companies, with an alternative tax on certain small companies, for provisions imposing taxes on insurance companies (other than life or mutual), mutual marine insurance companies, and certain mutual fire or flood insurance companies, with an election for multiple line companies to be taxed on total income.

1976—Subsec. (a). Pub. L. 94-455, § 1901(a)(107), substituted “on the taxable income” for “or the taxable income”.

Subsec. (b). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (b). Pub. L. 89-809, § 104(i)(6)(A), redesignated subsec. (c) as (b). Former subsec. (b), which exempted foreign insurance companies other than life or mutual insurance companies, foreign mutual marine insurance companies, and foreign mutual fire insurance companies not carrying on an insurance business within the United States and provided that they would be taxable as other foreign corporations, was struck out.

Subsecs. (c), (d). Pub. L. 89-809, § 104(i)(6)(B), redesignated subsec. (d) as (c) and added item (2). Former subsec. (c) redesignated (b).

1962—Pub. L. 87-834, § 8(g)(4)(B), substituted “and certain mutual fire or flood insurance companies” for “and mutual fire insurance companies issuing perpetual policies” in section catchline.

Subsec. (a). Pub. L. 87-834, § 8(e)(1), included flood insurance companies, and substituted provisions authorizing imposition of the tax on those companies whose principal business is the issuance of policies for which the premium deposits are the same, regardless of the length of the term for which the policies are written, if the unabsorbed portion of such premium deposits not required for losses, expenses, or establishment of reserves is returned or credited to the policyholder on cancellation or expiration of the policy for provisions which authorized imposition of tax on those companies which issued policies for which the sole premium charged is a single deposit which (except for such deduction of underwriting costs as may be provided) is refundable on cancellation or expiration of the policy.

Subsecs. (c), (d). Pub. L. 87-834, § 8(f), added subsec. (c) and redesignated former subsec. (c) as (d).

EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-113, div. Q, title III, § 333(c), Dec. 18, 2015, 129 Stat. 3108, provided that: “The amendments made

by this section [amending this section] shall apply to taxable years beginning after December 31, 2016.”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-218 applicable to taxable years beginning after Dec. 31, 2003, with exception for companies in receivership or liquidation, see section 206(e) of Pub. L. 108-218, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of 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

Pub. L. 99-514, title X, §1024(e), Oct. 22, 1986, 100 Stat. 2409, provided that: “The amendments made by this section [amending this section and sections 501, 832, 834, 835, 841, 842, 844, 891, 1201, 1504, and 1563 of this title, redesignating former sections 822 and 826 of this title as sections 834 and 835 of this title, respectively, and repealing sections 821, 823, 824, and 825 of this title] (and the provisions of subsection (d) [set out below]) shall apply to taxable years beginning after December 31, 1986.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(107) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 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.

TRANSITIONAL RULES FOR 1984 AMENDMENT

Pub. L. 99-514, title X, §1024(d), Oct. 22, 1986, 100 Stat. 2408, as amended by Pub. L. 100-647, title I, §1010(f)(8), Nov. 10, 1988, 102 Stat. 3454, provided that:

“(1) **TREATMENT OF AMOUNTS IN PROTECTION AGAINST LOSS ACCOUNT.**—In the case of any insurance company which had a protection against loss account for its last taxable year beginning before January 1, 1987, there shall be included in the gross income of such company for any taxable year beginning after December 31, 1986, the amount which would have been included in gross income for such taxable year under section 824 of the Internal Revenue Code of 1954 [now 1986] (as in effect on the day before the date of the enactment of this Act [Oct. 22, 1986]). For purposes of the preceding sentence, no addition to such account shall be made for any taxable year beginning after December 31, 1986. In the case of a company taxable under section 831(b) of the Internal Revenue Code of 1986 (as amended by subsection (a)), any amount included in gross income under this paragraph shall be treated as gross investment income.

“(2) **TRANSITIONAL RULE FOR UNUSED LOSS CARRYOVER UNDER SECTION 825.**—Any unused loss carryover under section 825 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act [Oct. 22, 1986]) which—

“(A) is from a taxable year beginning before January 1, 1987, and

“(B) could have been carried under such section to a taxable year beginning after December 31, 1986, but for the repeal made by subsection (a)(1) [repealing sections 821 and 823 to 825 of this title],

shall be included in the net operating loss deduction under section 832(c)(10) of such Code without regard to the limitations of section 844(b) of such Code.”

§ 832. Insurance company taxable income

(a) Definition of taxable income

In the case of an insurance company subject to the tax imposed by section 831, the term “taxable income” means the gross income as defined in subsection (b)(1) less the deductions allowed by subsection (c).

(b) Definitions

In the case of an insurance company subject to the tax imposed by section 831—

(1) Gross income

The term “gross income” means the sum of—

(A) the combined gross amount earned during the taxable year, from investment income and from underwriting income as provided in this subsection, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Association of Insurance Commissioners,

(B) gain during the taxable year from the sale or other disposition of property, and

(C) all other items constituting gross income under subchapter B, except that, in the case of a mutual fire insurance company exclusively issuing perpetual policies, the amount of single deposit premiums paid to such company shall not be included in gross income,

(D) in the case of a mutual fire or flood insurance company whose principal business is the issuance of policies—

(i) for which the premium deposits are the same (regardless of the length of the term for which the policies are written), and

(ii) under which the unabsorbed portion of such premium deposits not required for losses, expenses, or establishment of reserves is returned or credited to the policyholder on cancellation or expiration of the policy,

an amount equal to 2 percent of the premiums earned on insurance contracts during the taxable year with respect to such policies after deduction of premium deposits returned or credited during the same taxable year, and

(E) in the case of a company which writes mortgage guaranty insurance, the amount required by subsection (e)(5) to be subtracted from the mortgage guaranty account.

(2) Investment income

The term “investment income” means the gross amount of income earned during the taxable year from interest, dividends, and rents, computed as follows: To all interest, dividends, and rents received during the taxable year, add interest, dividends, and rents due and accrued at the end of the taxable year, and deduct all interest, dividends, and rents due and accrued at the end of the preceding taxable year.