

and struck out former par. (2), which read as follows: “the special life insurance company deduction determined under section 806(a), and”.

**EFFECTIVE DATE OF 1986 AMENDMENT**

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1011(c)(1) of Pub. L. 99-514, set out as a note under section 453B 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.

**§ 805. General deductions**

**(a) General rule**

For purposes of this part, there shall be allowed the following deductions:

**(1) Death benefits, etc.**

All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts.

**(2) Increases in certain reserves**

The net increase in reserves which is required by section 807(b) to be taken into account under this paragraph.

**(3) Policyholder dividends**

The deduction for policyholder dividends (determined under section 808(c)).

**(4) Dividends received by company**

**(A) In general**

The deductions provided by sections 243 and 245 (as modified by subparagraph (B))—

- (i) for 100 percent dividends received, and
- (ii) for the life insurance company's share of the dividends (other than 100 percent dividends) received.

**(B) Application of section 246(b)**

In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1) and 245 shall be the percentage determined under section 246(b)(3) of the life insurance company taxable income (and such limitation shall be applied as provided in section 246(b)(3)), computed without regard to—

- (i) the small life insurance company deduction,
- (ii) the operations loss deduction provided by section 810,
- (iii) the deductions allowed by sections 243(a)(1) and 245, and
- (iv) any capital loss carryback to the taxable year under section 1212(a)(1),

but such limit shall not apply for any taxable year for which there is a loss from operations.

**(C) 100 percent dividend**

For purposes of subparagraph (A)—

**(i) In general**

Except as provided in clause (ii), 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.

**(ii) Treatment of dividends from noninsurance companies**

The term “100 percent dividend” does not include any distribution by a corporation which is not an insurance company to the extent such distribution is out of tax-exempt interest, or out of the increase for the taxable year in policy cash values (within the meaning of subparagraph (F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies, or out of dividends which are not 100 percent dividends (determined with the application of this clause as if it applies to distributions by all corporations including insurance companies).

**(D) Special rules for certain dividends from insurance companies**

**(i) In general**

In the case of any 100 percent dividend paid to any life insurance company out of the earnings and profits for any taxable year beginning after December 31, 1983, of another life insurance company if—

- (I) the paying company's share determined under section 812 for such taxable year, exceeds
- (II) the receiving company's share determined under section 812 for its taxable year in which the dividend is received or accrued,

the deduction allowed under section 243 or 245(b) (as the case may be) shall be reduced as provided in clause (ii).

**(ii) Amount of reduction**

The reduction under this clause for a dividend is an amount equal to—

- (I) the portion of such dividend attributable to prorated amounts, multiplied by
- (II) the percentage obtained by subtracting the share described in subclause (II) of clause (i) from the share described in subclause (I) of such clause.

**(iii) Prorated amounts**

For purposes of this subparagraph, the term “prorated amounts” means tax-exempt interest, the increase for the taxable year in policy cash values (within the meaning of subparagraph (F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies, and dividends other than 100 percent dividends.

**(iv) Portion of dividend attributable to prorated amounts**

For purposes of this subparagraph, in determining the portion of any dividend attributable to prorated amounts—

- (I) any dividend by the paying corporation shall be treated as paid first out of earnings and profits for taxable years beginning after December 31, 1983, attrib-

utable to prorated amounts (to the extent thereof), and

(II) by determining the portion of earnings and profits so attributable without any reduction for the tax imposed by this chapter.

**(v) Subparagraph to apply to dividends from other insurance companies**

Rules similar to the rules of this subsection shall apply in the case of 100 percent dividends paid by an insurance company which is not a life insurance company.

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

Subparagraph (A)(i) (and not subparagraph (A)(ii)) shall apply to any dividend received by a foreign corporation from a domestic corporation which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(2).

**(F) Increase in policy cash values**

For purposes of subparagraphs (C) and (D)—

**(i) In general**

The increase in the policy cash value for any taxable year with respect to policy or contract is the amount of the increase in the adjusted cash value during such taxable year determined without regard to—

(I) gross premiums paid during such taxable year, and

(II) distributions (other than amounts includible in the policyholder's gross income) during such taxable year to which section 72(e) applies.

**(ii) Adjusted cash value**

For purposes of clause (i), the term "adjusted cash value" means the cash surrender value of the policy or contract increased by the sum of—

(I) commissions payable with respect to such policy or contract for the taxable year, and

(II) asset management fees, surrender charges, mortality and expense charges, and any other fees or charges specified in regulations prescribed by the Secretary which are imposed (or which would be imposed were the policy or contract canceled) with respect to such policy or contract for the taxable year.

**(5) Operations loss deduction**

The operations loss deduction (determined under section 810).

**(6) Assumption by another person of liabilities under insurance, etc., contracts**

The consideration (other than consideration arising out of indemnity reinsurance) in respect of the assumption by another person of liabilities under insurance and annuity contracts.

**(7) Reimbursable dividends**

The amount of policyholder dividends which—

(A) are paid or accrued by another insurance company in respect of policies the taxpayer has reinsured, and

(B) are reimbursable by the taxpayer under the terms of the reinsurance contract.

**(8) Other deductions**

Subject to the modifications provided by subsection (b), all other deductions allowed under this subtitle for purposes of computing taxable income.

Except as provided in paragraph (3), no amount shall be allowed as a deduction under this part in respect of policyholder dividends.

**(b) Modifications**

The modifications referred to in subsection (a)(8) are as follows:

**(1) Interest**

In applying section 163 (relating to deduction for interest), no deduction shall be allowed for interest in respect of items described in section 807(c).

**(2) Charitable, etc., contributions and gifts**

In applying section 170—

(A) the limit on the total deductions under such section provided by section 170(b)(2) shall be 10 percent of the life insurance company taxable income computed without regard to—

(i) the deduction provided by section 170,

(ii) the deductions provided by paragraphs (3) and (4) of subsection (a),

(iii) the small life insurance company deduction,

(iv) any operations loss carryback to the taxable year under section 810, and

(v) any capital loss carryback to the taxable year under section 1212(a)(1), and

(B) under regulations prescribed by the Secretary, a rule similar to the rule contained in section 170(d)(2)(B) (relating to special rule for net operating loss carryovers) shall be applied.

**(3) Amortizable bond premium**

**(A) In general**

Section 171 shall not apply.

**(B) Cross reference**

For rules relating to amortizable bond premium, see section 811(b).

**(4) Net operating loss deduction**

Except as provided by section 844, the deduction for net operating losses provided in section 172 shall not be allowed.

**(5) Dividends received deduction**

Except as provided in subsection (a)(4), the deductions for dividends received provided by sections 243 and 245 shall not be allowed.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 722; amended Pub. L. 99-514, title VI, §611(a)(5), title VIII, §805(c)(6), title X, §1011(b)(4), title XVIII, §1821(p), Oct. 22, 1986, 100 Stat. 2249, 2362, 2389, 2842; Pub. L. 100-203, title X, §10221(c)(2), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 104-188, title I, §1702(h)(3), Aug. 20, 1996, 110 Stat. 1873; Pub. L. 105-34, title X, §1084(b)(1), Aug. 5, 1997, 111 Stat. 954; Pub. L. 113-295, div. A, title II, §221(a)(41)(G), (I), 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 805, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 118; amended Pub. L. 87-792, §7(g), Oct. 10, 1962, 76 Stat. 829; Pub. L. 88-571, §5(a), Sept. 2, 1964, 78 Stat. 860; Pub. L. 91-172, title IX, §907(a)(1), Dec. 30, 1969, 83 Stat. 715; Pub. L. 93-406, title II, §§1016(a)(6), 2002(g)(9), 2004(c)(3), Sept. 2, 1974, 88 Stat. 929, 970, 986; Pub. L. 94-267, §(1)(c)(4), Apr. 15, 1976, 90 Stat. 367; Pub. L. 94-455, title XIX, §1901(a)(97), Oct. 4, 1976, 90 Stat. 1780; Pub. L. 95-600, title I, §§141(f)(9), 155(a), Nov. 6, 1978, 92 Stat. 2795, 2801; Pub. L. 97-248, title II, §§257(a), 260(b), 261, 264(a)-(c)(1), Sept. 3, 1982, 96 Stat. 537, 540, 543, 544, related to policy and other contract liability requirements, prior to general revision of this part by Pub. L. 98-369, §211(a).

Another prior section 805, acts Aug. 16, 1954, ch. 736, 68A Stat. 258; Mar. 13, 1956, ch. 83, §2, 70 Stat. 43, authorized a special interest deduction, prior to the general revision of this part by Pub. L. 86-69, §2(a).

## AMENDMENTS

2014—Subsec. (a)(4)(A). Pub. L. 113-295, §221(a)(41)(G), struck out “, 244,” after “sections 243” in introductory provisions.

Subsec. (a)(4)(B). Pub. L. 113-295, §221(a)(41)(I), struck out “, 244(a),” after “sections 243(a)(1)” in introductory provisions and in cl. (iii).

Subsec. (a)(4)(C)(i), (D)(i). Pub. L. 113-295, §221(a)(41)(G), struck out “, 244,” after “section 243”.

Subsec. (b)(5). Pub. L. 113-295, §221(a)(41)(G), struck out “, 244,” after “sections 243”.

1997—Subsec. (a)(4)(C)(ii). Pub. L. 105-34, §1084(b)(1)(A), inserted “, or out of the increase for the taxable year in policy cash values (within the meaning of subparagraph (F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies,” after “tax-exempt interest”.

Subsec. (a)(4)(D)(iii). Pub. L. 105-34, §1084(b)(1)(B), substituted “, the increase for the taxable year in policy cash values (within the meaning of subparagraph (F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies, and” for “and”.

Subsec. (a)(4)(F). Pub. L. 105-34, §1084(b)(1)(C), added subpar. (F).

1996—Subsec. (a)(4)(E). Pub. L. 104-188 substituted “243(b)(2)” for “243(b)(5)”.

1987—Subsec. (a)(4)(B). Pub. L. 100-203 substituted “shall be the percentage determined under section 246(b)(3) of the life insurance company taxable income (and such limitation shall be applied as provided in section 246(b)(3))” for “shall be 80 percent of the life insurance company taxable income”.

1986—Subsec. (a)(4)(B). Pub. L. 99-514, §611(a)(5), substituted “80 percent” for “85 percent” in introductory provisions.

Subsec. (a)(4)(B)(i). Pub. L. 99-514, §1011(b)(4), struck out “the special life insurance company deduction and” before “the small life”.

Subsec. (a)(4)(C) to (E). Pub. L. 99-514, §1821(p), added subpars. (C) and (D), redesignated former subpar. (D) as (E), and struck out former subpar. (C) which read as follows: “For purposes of subparagraph (A), the term ‘100 percent dividend’ means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent. Such term does not include any dividend to the extent it is a distribution out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this sentence).”

Subsec. (b)(2). Pub. L. 99-514, §805(c)(6), redesignated par. (3) as (2). Former par. (2), which provided that section 166(c) (relating to reserve for bad debts) shall not apply, was struck out.

Subsec. (b)(2)(A)(iii). Pub. L. 99-514, §1011(b)(4), which directed that subsec. (b)(3)(A)(iii) be amended by strik-

ing out “the special life insurance company deduction and” before “the small life”, was executed to subsec. (b)(2)(A)(iii) to reflect the probable intent of Congress and the redesignation of subsec. (b)(3) as (b)(2) by Pub. L. 99-514, §805(c)(6).

Subsec. (b)(3) to (6). Pub. L. 99-514, §805(c)(6), redesignated pars. (3) to (6) as (2) to (5), respectively.

## 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 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 Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

## EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10221(e)(2) of Pub. L. 100-203, as amended, set out as a note under section 243 of this title.

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 611(a)(5) of Pub. L. 99-514 applicable to dividends received or accrued after Dec. 31, 1986, in taxable years ending after such date, see section 611(b)(1) of Pub. L. 99-514, set out as a note under section 246 of this title.

Amendment by section 805(c)(6) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain changes required in method of accounting, see section 805(d) of Pub. L. 99-514, set out as a note under section 166 of this title.

Amendment by section 1011(b)(4) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1011(c)(1) of Pub. L. 99-514, set out as a note under section 453B of this title.

Amendment by section 1821(p) 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

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.

### § 806. Small life insurance company deduction

#### (a) Small life insurance company deduction

##### (1) In general

For purposes of section 804, the small life insurance company deduction for any taxable year is 60 percent of so much of the tentative LICTI for such taxable year as does not exceed \$3,000,000.

##### (2) Phaseout between \$3,000,000 and \$15,000,000

The amount of the small life insurance company deduction determined under paragraph (1) for any taxable year shall be reduced (but not below zero) by 15 percent of so much of the tentative LICTI for such taxable year as exceeds \$3,000,000.

##### (3) Small life insurance company deduction not allowable to company with assets of \$500,000,000 or more

###### (A) In general

The small life insurance company deduction shall not be allowed for any taxable year to any life insurance company which, at the close of such taxable year, has assets equal to or greater than \$500,000,000.

###### (B) Assets

For purposes of this paragraph, the term “assets” means all assets of the company.

###### (C) Valuation of assets

For purposes of this paragraph, the amount attributable to—

- (i) real property and stock shall be the fair market value thereof, and
- (ii) any other asset shall be the adjusted basis of such asset for purposes of determining gain on sale or other disposition.

###### (D) Special rule for interests in partnerships and trusts

For purposes of this paragraph—

- (i) an interest in a partnership or trust shall not be treated as an asset of the company, but
- (ii) the company shall be treated as actually owning its proportionate share of the assets held by the partnership or trust (as the case may be).

#### (b) Tentative LICTI

For purposes of this part—

##### (1) In general

The term “tentative LICTI” means life insurance company taxable income determined without regard to the small life insurance company deduction.

##### (2) Exclusion of items attributable to noninsurance businesses

The amount of the tentative LICTI for any taxable year shall be determined without regard to all items attributable to noninsurance businesses.

##### (3) Noninsurance business

###### (A) In general

The term “noninsurance business” means any activity which is not an insurance business.

##### (B) Certain activities treated as insurance businesses

For purposes of subparagraph (A), any activity which is not an insurance business shall be treated as an insurance business if—

- (i) it is of a type traditionally carried on by life insurance companies for investment purposes, but only if the carrying on of such activity (other than in the case of real estate) does not constitute the active conduct of a trade or business, or
- (ii) it involves the performance of administrative services in connection with plans providing life insurance, pension, or accident and health benefits.

##### (C) Limitation on amount of loss from noninsurance business which may offset income from insurance business

In computing the life insurance company taxable income of any life insurance company, any loss from a noninsurance business shall be limited under the principles of section 1503(c).

#### (c) Special rule for controlled groups

##### (1) Small life insurance company deduction determined on controlled group basis

For purposes of subsection (a)—

(A) all life insurance companies which are members of the same controlled group shall be treated as 1 life insurance company, and

(B) any small life insurance company deduction determined with respect to such group shall be allocated among the life insurance companies which are members of such group in proportion to their respective tentative LICTI's.

##### (2) Nonlife insurance members included for asset test

For purposes of subsection (a)(3), all members of the same controlled group (whether or not life insurance companies) shall be treated as 1 company.

##### (3) Controlled group

For purposes of this subsection, the term “controlled group” means any controlled group of corporations (as defined in section 1563(a)); except that subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

##### (4) Adjustments to prevent excess detriment or benefit

Under regulations prescribed by the Secretary, proper adjustments shall be made in the application of this subsection to prevent any excess detriment or benefit (whether from year-to-year or otherwise) arising from the application of this subsection.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 724; amended Pub. L. 99-514, title X, §1011(a), (b)(5)-(8), (11)(A), Oct. 22, 1986, 100 Stat. 2388, 2389.)

#### PRIOR PROVISIONS

A prior section 806, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 120; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to certain changes in reserves and assets, prior to the general revision of this part by Pub. L. 98-369, §211(a).