

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).

Another prior section 806, act Aug. 16, 1954, ch. 736, 68A Stat. 258, related to adjustment for certain reserves, prior to the general revision of this part by act Mar. 13, 1956, ch. 83, §2, 70 Stat. 36.

AMENDMENTS

1986—Pub. L. 99-514, §1011(b)(11)(A), substituted “Small life insurance company deduction” for “Special deductions” in section catchline.

Subsec. (a). Pub. L. 99-514, §1011(a), redesignated subsec. (b) as (a) and struck out former subsec. (a), special life insurance company deduction, which read as follows: “For purposes of section 804, the special life insurance company deduction for any taxable year is 20 percent of the excess of the tentative LICTI for such taxable year over the small life insurance company deduction (if any).”

Subsec. (b). Pub. L. 99-514, §1011(a), (b)(5), redesignated subsec. (c) as (b), and in par. (1), substituted “without regard to the small life insurance company deduction” for “without regard to— (A) the special life insurance company deduction, and (B) the small life insurance company deduction”. Former subsec. (b) redesignated (a).

Subsecs. (c), (d). Pub. L. 99-514, §1011(a), (b)(6)–(8), redesignated subsec. (d) as (c), in par. (1), in heading, substituted “Small” for “Special life insurance company deduction and small”, in introductory provisions, substituted “subsection (a)” for “subsections (a) and (b)”, and in subpar. (B), struck out “any special life insurance company deduction and”, in par. (2), substituted “subsection (a)(3)” for “subsection (b)(3)”, redesignated par. (5) as (4), and struck out former par. (4) which provided for election with respect to loss from operations of member of group. Former subsec. (c) redesignated (b).

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.

DETERMINATION OF TENTATIVE LICTI WHERE CORPORATION MADE CERTAIN ACQUISITIONS IN 1980, 1981, 1982, AND 1983

Pub. L. 98-369, div. A, title II, §217(c), July 18, 1984, 98 Stat. 762, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “If—

“(1) a corporation domiciled or having its principal place of business in Alabama, Arkansas, Oklahoma, or Texas acquired the assets of 1 or more insurance companies after 1979 and before April 1, 1983, and

“(2) the bases of such assets in the hands of the corporation were determined under section 334(b)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] or such corporation made an election under section 338 of such Code with respect to such assets, then the tentative LICTI of the corporation holding such assets for taxable years beginning after December 31, 1983, shall, for purposes of determining the amount of the special deductions under section 806 of such Code, be increased by the deduction allowable under chapter 1 of such Code for the amortization of the cost of insurance contracts acquired in such asset acquisition (and any portion of any operations loss deduction attributable to such amortization).”

DETERMINATION OF ASSETS OF CONTROLLED GROUP FOR PURPOSES OF SMALL LIFE INSURANCE COMPANY DEDUCTION FOR 1984

Pub. L. 98-369, div. A, title II, §217(h), July 18, 1984, 98 Stat. 763, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—For purposes of applying paragraph (2) of section 806(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to nonlife insurance members included for asset test) for the first taxable year beginning after December 31, 1983, the members of the controlled group referred to in such paragraph shall be treated as including only those members of such group which are described in paragraph (2) of this subsection if—

“(A) an election under section 1504(c)(2) of such Code is not in effect for the controlled group for such taxable year,

“(B) during such taxable year, the controlled group does not include a member which is taxable under part I of subchapter L of chapter 1 of such Code and which became a member of such group after September 27, 1983, and

“(C) the sum of the contributions to capital received by members of the controlled group which are taxable under such part I during such taxable year from the members of the controlled group which are not taxable under such part does not exceed the aggregate dividends paid during such taxable year by the members of such group which are taxable under such part I.

“(2) MEMBERS OF GROUP TAKEN INTO ACCOUNT.—For purposes of paragraph (1), the members of the controlled group which are described in this paragraph are—

“(A) any financial institution to which section 585 or 593 of such Code applies,

“(B) any lending or finance business (as defined by section 542(d)),

“(C) any insurance company subject to tax imposed by subchapter L of chapter 1 of such Code, and

“(D) any securities broker.”

SPECIAL RULE FOR CERTAIN DEBT-FINANCED ACQUISITION OF STOCK

Pub. L. 98-369, div. A, title II, §217(k), July 18, 1984, 98 Stat. 765, as amended by Pub. L. 99-514, §2, title X, §1011(c)(2), Oct. 22, 1986, 100 Stat. 2095, 2389, provided that: “If—

“(1) a life insurance company owns the stock of another corporation through a partnership of which it is a partner,

“(2) the stock of the corporation was acquired on January 14, 1981, and

“(3) such stock was acquired by debt financing, then, for purposes of determining the small life insurance company deduction under section 806a of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this subtitle [subtitle A (§§211–219) of title II of div. A of Pub. L. 98-369, see Tables for classifications]), the amount of tentative LICTI of such life insurance company shall be computed without taking into account any income, gain, loss, or deduction attributable to the ownership of such stock. For purposes of determining taxable income, the amount of any income, gain, loss, or deduction attributable to the ownership of such stock shall be an amount equal to 46 times the amount of such income, gain, loss, or deduction, divided by 36.8.”

TREATMENT OF LOSSES FROM CERTAIN GUARANTEED INTEREST CONTRACTS

Pub. L. 98-369, div. A, title II, §217(l), July 18, 1984, 98 Stat. 765, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—For purposes of determining the amount of the special deductions under section 806 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this subtitle [subtitle A (§§211–219) of title II of div. A of Pub. L. 98-369, see Tables for classification]), for any taxable year beginning before January 1, 1988, the amount of tentative LICTI of any qualified life insurance company shall be computed without taking into account any income, gain, loss, or deduction attributable to a qualified GIC.

“(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of this subsection, the term ‘qualified life insurance company’ means any life insurance company if—

“(A) the accrual of discount less amortization of premium for bonds and short-term investments (as shown in the first footnote to Exhibit 3 of its 1983 annual statement for life insurance companies approved by the National Association of Insurance Commissioners (but excluding separate accounts) filed in its State of domicile) exceeds \$72,000,000 but does not exceed \$73,000,000, and

“(B) such life insurance company makes an election under this subsection on its return for its first taxable year beginning after December 31, 1983.

“(3) QUALIFIED GIC.—The term ‘qualified GIC’ means any group contract—

“(A) which is issued before January 1, 1984,

“(B) which specifies the contract maturity or renewal date,

“(C) under which funds deposited by the contract holder plus interest guaranteed at the inception of the contract for the term of the contract and net of any specified expenses are paid as directed by the contract holder, and

“(D) which is a pension plan contract (as defined in section 818(a) of the Internal Revenue Code of 1986).

“(4) SCOPE OF ELECTION.—An election under this subsection shall apply to all qualified GIC’s of a qualified life insurance company. Any such election, once made, shall be irrevocable.

“(5) INCOME ON UNDERLYING ASSETS TAKEN INTO ACCOUNT.—In determining the amount of any income attributable to a qualified GIC, income on any asset attributable to such contract (as determined in the manner provided by the Secretary of the Treasury or his delegate) shall be taken into account.

“(6) LIMITATION ON TAX BENEFIT.—The amount of any reduction in tax for any taxable year by reason of this subsection for any qualified life insurance company (or controlled group within the meaning of section 806(d)(3) of the Internal Revenue Code of 1986) shall not exceed the applicable amount set forth in the following table:

“In the case of taxable years beginning in:	The reduction may not exceed:
1984	\$4,500,000
1985	\$4,500,000
1986	\$3,000,000
1987	\$2,000,000”

SPECIAL RULE FOR CERTAIN INTERESTS IN OIL AND GAS PROPERTIES

Pub. L. 98-369, div. A, title II, §217(m), July 18, 1984, 98 Stat. 766, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—For purposes of section 806 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the ownership by a qualified life insurance company of any undivided interest in operating mineral interests with respect to any oil or gas properties held on December 31, 1983, shall be treated as an insurance business.

“(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term ‘qualified life insurance company’ means a mutual life insurance company which—

“(A) was originally incorporated in March of 1857, and

“(B) has a cost to such company (as of December 31, 1983) in the operating mineral interests described in paragraph (1) in excess of \$250,000,000.”

§ 807. Rules for certain reserves

(a) Decrease treated as gross income

If for any taxable year—

(1) the opening balance for the items described in subsection (c), exceeds

(2)(A) the closing balance for such items, reduced by

(B) the amount of the policyholders’ share of tax-exempt interest and the amount of the policyholder’s share of the increase for the taxable year in 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,

such excess shall be included in gross income under section 803(a)(2).

(b) Increase treated as deduction

If for any taxable year—

(1)(A) the closing balance for the items described in subsection (c), reduced by

(B) the amount of the policyholders’ share of tax-exempt interest and the amount of the policyholder’s share of the increase for the taxable year in 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, exceeds

(2) the opening balance for such items,

such excess shall be taken into account as a deduction under section 805(a)(2).

(c) Items taken into account

The items referred to in subsections (a) and (b) are as follows:

(1) The life insurance reserves (as defined in section 816(b)).

(2) The unearned premiums and unpaid losses included in total reserves under section 816(c)(2).

(3) The amounts (discounted at the appropriate rate of interest) necessary to satisfy the obligations under insurance and annuity contracts, but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, accident, or health contingencies.

(4) Dividend accumulations, and other amounts, held at interest in connection with insurance and annuity contracts.

(5) Premiums received in advance, and liabilities for premium deposit funds.

(6) Reasonable special contingency reserves under contracts of group term life insurance or group accident and health insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

For purposes of paragraph (3), the appropriate rate of interest for any obligation is whichever of the following rates is the highest as of the time such obligation first did not involve life, accident, or health contingencies: the applicable Federal interest rate under subsection (d)(2)(B)(i), the prevailing State assumed interest rate under subsection (d)(2)(B)(ii), or the rate of interest assumed by the company in determining the guaranteed benefit. In no case shall the amount determined under paragraph (3) for any contract be less than the net surrender value of such contract. For purposes of paragraph (2) and section 805(a)(1), the amount of the unpaid losses (other than losses on life insurance contracts) shall be the amount of the discounted unpaid losses as defined in section 846.