

spect to a group policy issued in connection with a plan to provide welfare benefits to employees (within the meaning of section 419(e)(2)).

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 732; amended Pub. L. 99-514, title XVIII, §1821(b), (c), Oct. 22, 1986, 100 Stat. 2838; Pub. L. 108-218, title II, §205(b)(3), Apr. 10, 2004, 118 Stat. 610.)

REFERENCES IN TEXT

The date of enactment of the Tax Reform Act of 1984, referred to in subsec. (f)(4), is the date of enactment of Pub. L. 98-369, div. A, which was approved July 18, 1984.

AMENDMENTS

2004—Subsec. (c). Pub. L. 108-218 reenacted heading without change and amended text generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—Except as limited by paragraph (2), the deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year.

“(2) REDUCTION IN CASE OF MUTUAL COMPANIES.—In the case of a mutual life insurance company, the deduction for policyholder dividends for any taxable year shall be reduced by the amount determined under section 809.”

1986—Subsec. (d)(1)(B). Pub. L. 99-514, §1821(b), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “determined at a rate in excess of the prevailing State assumed interest rate for such contract.”

Subsec. (f). Pub. L. 99-514, §1821(c), added subsec. (f).

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 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.

[§ 809. Repealed. Pub. L. 108-218, title II, § 205(a), Apr. 10, 2004, 118 Stat. 610]

Section, added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 733; amended Pub. L. 99-514, title XVIII, §1821(d)-(h), (r), Oct. 22, 1986, 100 Stat. 2839, 2840, 2843; Pub. L. 100-647, title I, §1018(u)(47), Nov. 10, 1988, 102 Stat. 3593; Pub. L. 107-147, title VI, §611(a), Mar. 9, 2002, 116 Stat. 61, related to reduction in certain deductions of mutual life insurance companies.

A prior section 809, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 121; amended Pub. L. 87-59, §2(a), (b), June 27, 1961, 75 Stat. 120; Pub. L. 87-790, §3(a), Oct. 10, 1962, 76 Stat. 808; Pub. L. 87-858, §3(b)(3), (c), Oct. 23, 1962, 76

Stat. 1137; Pub. L. 88-272, title II, §§214(b)(4), 228(a), Feb. 26, 1964, 78 Stat. 55, 98; Pub. L. 91-172, title II, §201(a)(2)(C), title IX, §907(c)(2)(B), Dec. 30, 1969, 83 Stat. 558, 717; Pub. L. 94-455, title XV, §1508(a), title XIX, §§1901(a)(98), (b)(1)(J)(iv), (L)-(N), 33(G), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1741, 1781, 1791, 1801, 1834; Pub. L. 97-248, title II, §§255(b)(2)-(4), 259(a), 264(c)(2), (3), Sept. 3, 1982, 96 Stat. 534, 538, 544; Pub. L. 97-448, title I, §102(m)(1), Jan. 12, 1983, 96 Stat. 2374, related to general provisions regarding gain and loss from operations, prior to the general revision of this part by Pub. L. 98-369, §211(a).

EFFECTIVE DATE OF REPEAL

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

§ 810. Operations loss deduction

(a) Deduction allowed

There shall be allowed as a deduction for the taxable year an amount equal to the aggregate of—

- (1) the operations loss carryovers to such year, plus
- (2) the operations loss carrybacks to such year.

For purposes of this part, the term “operations loss deduction” means the deduction allowed by this subsection.

(b) Operations loss carrybacks and carryovers

(1) Years to which loss may be carried

The loss from operations for any taxable year (hereinafter in this section referred to as the “loss year”) shall be—

- (A) an operations loss carryback to each of the 3 taxable years preceding the loss year,
- (B) an operations loss carryover to each of the 15 taxable years following the loss year, and

(C) if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 15 taxable years described in subparagraph (B).

(2) Amount of carrybacks and carryovers

The entire amount of the loss from operations for any loss year shall be carried to the earliest of the taxable years to which (by reason of paragraph (1)) such loss may be carried. The portion of such loss which shall be carried to each of the other taxable years shall be the excess (if any) of the amount of such loss over the sum of the offsets (as defined in subsection (d)) for each of the prior taxable years to which such loss may be carried.

(3) Election for operations loss carrybacks

In the case of a loss from operations for any taxable year, the taxpayer may elect to relinquish the entire carryback period for such loss. Such election shall be made by the due date (including extensions of time) for filing the return for the taxable year of the loss from operations for which the election is to be in effect, and, once made for any taxable year, such election shall be irrevocable for that taxable year.

(4) Carryback for 2008 or 2009 losses**(A) In general**

In the case of an applicable loss from operations with respect to which the taxpayer has elected the application of this paragraph, paragraph (1)(A) shall be applied by substituting any whole number elected by the taxpayer which is more than 3 and less than 6 for “3”.

(B) Applicable loss from operations

For purposes of this paragraph, the term “applicable loss from operations” means the taxpayer’s loss from operations for a taxable year ending after December 31, 2007, and beginning before January 1, 2010.

(C) Election**(i) In general**

Any election under this paragraph may be made only with respect to 1 taxable year.

(ii) Procedure

Any election under this paragraph shall be made in such manner as may be prescribed by the Secretary, and shall be made by the due date (including extension of time) for filing the return for the taxpayer’s last taxable year beginning in 2009. Any such election, once made, shall be irrevocable.

(D) Limitation on amount of loss carryback to 5th preceding taxable year**(i) In general**

The amount of any loss from operations which may be carried back to the 5th taxable year preceding the taxable year of such loss under subparagraph (A) shall not exceed 50 percent of the taxpayer’s taxable income (computed without regard to the loss from operations for the loss year or any taxable year thereafter) for such preceding taxable year.

(ii) Carrybacks and carryovers to other taxable years

Appropriate adjustments in the application of the second sentence of paragraph (2) shall be made to take into account the limitation of clause (i).

(c) Computation of loss from operations

For purposes of this section—

(1) In general

The term “loss from operations” means the excess of the life insurance deductions for any taxable year over the life insurance gross income for such taxable year.

(2) Modifications

For purposes of paragraph (1)—

(A) the operations loss deduction shall not be allowed, and

(B) the deductions allowed by sections 243 (relating to dividends received by corporations),¹ and 245 (relating to dividends received from certain foreign corporations)

shall be computed without regard to section 246(b) as modified by section 805(a)(4).

(d) Offset defined**(1) In general**

For purposes of subsection (b)(2), the term “offset” means, with respect to any taxable year, an amount equal to that increase in the operations loss deduction for the taxable year which reduces the life insurance company taxable income (computed without regard to paragraphs (2) and (3) of section 804)² or such year to zero.

(2) Operations loss deduction

For purposes of paragraph (1), the operations loss deduction for any taxable year shall be computed without regard to the loss from operations for the loss year or for any taxable year thereafter.

(e) New company defined

For purposes of this part, a life insurance company is a new company for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor, if section 381(c)(22) applies) was authorized to do business as an insurance company.

(f) Application of subtitles A and F in respect of operation losses

Except as provided in section 805(b)(5),² subtitles A and F shall apply in respect of operation loss carrybacks, operation loss carryovers, and the operations loss deduction under this part, in the same manner and to the same extent as such subtitles apply in respect of net operating loss carrybacks, net operating loss carryovers, and the net operating loss deduction.

(g) Transitional rule

For purposes of this section and section 812 (as in effect before the enactment of the Life Insurance Tax Act of 1984), this section shall be treated as a continuation of such section 812.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 738; amended Pub. L. 111-92, §13(c), Nov. 6, 2009, 123 Stat. 2994; Pub. L. 113-295, div. A, title II, §221(a)(41)(J), Dec. 19, 2014, 128 Stat. 4044.)

REFERENCES IN TEXT

Paragraphs (2) and (3) of section 804, referred to in subsec. (d)(1), were repealed and a new paragraph (2) enacted by Pub. L. 99-514, title X, §1011(b)(2), Oct. 22, 1986, 100 Stat. 2389.

Section 805(b)(5) of this title, referred to in subsec. (f), was redesignated section 805(b)(4) of this title by Pub. L. 99-514, title VIII, §805(c)(6), Oct. 22, 1986, 100 Stat. 2362.

The Life Insurance Tax Act of 1984, referred to in subsec. (g), probably means title II of div. A of Pub. L. 98-369, which amended this part generally and was approved July 18, 1984.

PRIOR PROVISIONS

A prior section 810, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 125; amended Pub. L. 91-172, title I, §121(b)(5)(B), title IX, §907(a)(2), Dec. 30, 1969, 83 Stat. 541, 715, related to rules for certain reserves, prior to the general revision of this part by Pub. L. 98-369, §211(a).

¹ So in original. The comma probably should not appear.

² See References in Text note below.

AMENDMENTS

2014—Subsec. (c)(2)(B). Pub. L. 113-295, which directed amendment of subpar. (B) by striking out “244 (relating to dividends on certain preferred stock of public utilities),” was amended by striking out “244 (relating to dividends received on certain preferred stock of public utilities),” after “received by corporations,” to reflect the probable intent of Congress.

2009—Subsec. (b)(4). Pub. L. 111-92 added par. (4).

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 2009 AMENDMENT

Amendment by Pub. L. 111-92 applicable to losses arising in taxable years ending after Dec. 31, 2007, with transition provisions and exception for TARP recipients, see section 13(e), (f) of Pub. L. 111-92, set out as a note under section 56 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.

SUBPART D—ACCOUNTING, ALLOCATION, AND FOREIGN PROVISIONS

Sec.	
811.	Accounting provisions.
812.	Definition of company's share and policyholders' share.
[813.	Repealed.]
814.	Contiguous country branches of domestic life insurance companies.
815.	Distributions to shareholders from pre-1984 policyholders surplus account.

AMENDMENTS

1987—Pub. L. 100-203, title X, § 10242(c)(4), Dec. 22, 1987, 101 Stat. 1330-423, struck out item 813 “Foreign life insurance companies”.

§ 811. Accounting provisions**(a) Method of accounting**

All computations entering into the determination of the taxes imposed by this part shall be made—

- (1) under an accrual method of accounting, or
- (2) to the extent permitted under regulations prescribed by the Secretary, under a combination of an accrual method of accounting with any other method permitted by this chapter (other than the cash receipts and disbursements method).

To the extent not inconsistent with the preceding sentence or any other provision of this part, all such computations shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

(b) Amortization of premium and accrual of discount**(1) In general**

The appropriate items of income, deductions, and adjustments under this part shall be adjusted to reflect the appropriate amortization of premium and the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. Such amortization and accrual shall be determined—

(A) in accordance with the method regularly employed by such company, if such method is reasonable, and

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

(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