

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	Repealed.]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.

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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

interest were guaranteed only up to the end of the taxable year.

(e) Short taxable years

If any return of a corporation made under this part is for a period of less than the entire calendar year (referred to in this subsection as “short period”), then section 443 shall not apply in respect to such period, but life insurance company taxable income shall be determined, under regulations prescribed by the Secretary, on an annual basis by a ratable daily projection of the appropriate figures for the short period.

(Added and amended Pub. L. 98-369, div. A, title I, § 42(a)(8), title II, § 211(a), July 18, 1984, 98 Stat. 557, 740; Pub. L. 100-647, title II, § 2004(p)(1), Nov. 10, 1988, 102 Stat. 3608.)

PRIOR PROVISIONS

A prior section 811, added Pub. L. 86-69, § 2(a), June 25, 1959, 73 Stat. 126; amended Pub. L. 97-248, title II, § 255(b)(1), Sept. 3, 1982, 96 Stat. 533; Pub. L. 98-369, div. A, title VII, § 714(a), July 18, 1984, 98 Stat. 960, related to dividends to policyholders, prior to the general revision of this part by Pub. L. 98-369, § 211(a).

Another prior section 811, act Aug. 16, 1954, ch. 736, § 811, as added Mar. 13, 1956, ch. 83, § 2, 70 Stat. 44; amended July 24, 1956, ch. 696, § 2(c), 70 Stat. 633; Mar. 17, 1958, Pub. L. 85-345, § 2(c), 72 Stat. 37, imposed a tax on the life insurance company taxable income of all life insurance companies for taxable years beginning after Dec. 31, 1957, prior to the general revision of this part by Pub. L. 86-69, § 2(a).

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1988—Subsec. (d)(1). Pub. L. 100-647 substituted “the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807 for the contract” for “the prevailing State assumed interest rate for the contract”.

1984—Subsec. (b)(3). Pub. L. 98-369, § 42(a)(8), substituted “section 1273” for “section 1232(b)”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100-647, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 42(a)(8) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 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.

§ 812. Definition of company's share and policyholders' share

(a) General rule

(1) Company's share

For purposes of section 805(a)(4), the term “company's share” means, with respect to any taxable year, the percentage obtained by dividing—

(A) the company's share of the net investment income for the taxable year, by

(B) the net investment income for the taxable year.

(2) Policyholders' share

For purposes of section 807, the term “policyholders' share” means, with respect to any taxable year, the excess of 100 percent over the percentage determined under paragraph (1).

(b) Company's share of net investment income

(1) In general

For purposes of this section, the company's share of net investment income is the excess (if any) of—

(A) the net investment income for the taxable year, over

(B) the sum of—

(i) the policy interest, for the taxable year, plus

(ii) the gross investment income's proportionate share of policyholder dividends for the taxable year.

(2) Policy interest

For purposes of this subsection, the term “policy interest” means—

(A) required interest (at the greater of the prevailing State assumed rate or the applicable Federal interest rate) on reserves under section 807(c) (other than paragraph (2) thereof),

(B) the deductible portion of excess interest,

(C) the deductible portion of any amount (whether or not a policyholder dividend), and not taken into account under subparagraph (A) or (B), credited to—

(i) a policyholder's fund under a pension plan contract for employees (other than retired employees), or

(ii) a deferred annuity contract before the annuity starting date, and

(D) interest on amounts left on deposit with the company.

In any case where neither the prevailing State assumed interest rate nor the applicable Federal interest rate is used, another appropriate rate shall be used for purposes of subparagraph (A).

(3) Gross investment income's proportionate share of policyholder dividends

For purposes of paragraph (1), the gross investment income's proportionate share of policyholder dividends is—

(A) the deduction for policyholders' dividends determined under section 808 for the taxable year, but not including—

(i) the deductible portion of excess interest,

(ii) the deductible portion of policyholder dividends on contracts referred to in clauses (i) and (ii) of paragraph (2)(C), and

(iii) the deductible portion of the premium and mortality charge adjustments with respect to contracts paying excess interest for such year,

multiplied by

(B) the fraction—

(i) the numerator of which is gross investment income for the taxable year (reduced by the policy interest for such year), and