

subparagraph (A)(i), 1/8 of such excess shall be included in gross income, for each of the 8 succeeding taxable years, under section 803(a)(2) or 832(b)(1)(C) of such Code, as applicable.”

EFFECTIVE DATE OF 2014 AMENDMENT

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 2004 AMENDMENT

Pub. L. 108–218, title II, §205(c), Apr. 10, 2004, 118 Stat. 610, provided that: “The amendments made by this section [amending this section and sections 808, 812, 817, and 842 of this title and repealing section 809 of this title] shall apply to taxable years beginning after December 31, 2004.”

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. 104–191 applicable to contracts issued after Dec. 31, 1997, see section 321(f) of Pub. L. 104–191, set out as an Effective Date note under section 7702B of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101–508, title XI, §11302(b), Nov. 5, 1990, 104 Stat. 1388–450, provided that: “The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning on or after September 30, 1990.”

EFFECTIVE DATE OF 1987 AMENDMENT

Pub. L. 100–203, title X, §10241(c), Dec. 22, 1987, 101 Stat. 1330–420, provided that: “The amendments made by this section [amending this section and section 812 of this title] shall apply to contracts issued in taxable years beginning after December 31, 1987.”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1023(b) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, except as otherwise provided, see section 1023(e) of Pub. L. 99–514, set out as an Effective Date note under section 846 of this title.

Amendment by section 1821(a), (s) 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.

TREATMENT OF CERTAIN ASSESSMENT LIFE INSURANCE
COMPANIES

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

“(1) MORTALITY AND MORBIDITY TABLES.—In the case of a contract issued by an assessment life insurance company, the mortality and morbidity tables used in computing statutory reserves for such contract shall be used for purposes of paragraph (2)(C) of section 807(d) 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]) if such tables were—

“(A) in use since 1965, and

“(B) developed on the basis of the experience of assessment life insurance companies in the State in which such assessment life insurance company is domiciled.

“(2) TREATMENT OF CERTAIN MUTUAL ASSESSMENT LIFE INSURANCE COMPANIES.—In the case of any contract issued by a mutual assessment life insurance company which—

“(A) has been in existence since 1965, and

“(B) operates under chapter 13 or 14 of the Texas Insurance Code,

for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986, the amount of the life insurance reserves for such contract shall be equal to the amount taken into account with respect to such contract in determining statutory reserves.

“(3) STATUTORY RESERVES.—For purposes of this subsection, the term ‘statutory reserves’ has the meaning given to such term by [former] section 809(b)(4)(B) of such Code.”

SPECIAL RULE FOR COMPANIES USING NET LEVEL RESERVE METHOD FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS

Pub. L. 98–369, div. A, title II, §217(n), July 18, 1984, 98 Stat. 766, as amended by Pub. L. 99–514, §2, title XVIII, §1823, Oct. 22, 1986, 100 Stat. 2095, 2845, provided that: “A company shall be treated as meeting the requirements of section 807(d)(3)(A)(iii) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this Act, with respect to any directly-written noncancellable accident and health insurance contract (whether under existing or new plans of insurance) for any taxable year if—

“(1) such company—

“(A) was using the net level reserve method to compute at least 99 percent of its statutory reserves on such contracts as of December 31, 1982, and

“(B) received more than half its total direct premiums in 1982 from directly-written noncancellable accident and health insurance,

“(2) after December 31, 1983, and through such taxable year, such company has continuously used the net level reserve method for computing at least 99 percent of its tax and statutory reserves on such contracts, and

“(3) for any such contract for which the company does not use the net level reserve method, such company uses the same method for computing tax reserves as such company uses for computing its statutory reserves.”

§ 808. Policyholder dividends deduction

(a) Policyholder dividend defined

For purposes of this part, the term “policyholder dividend” means any dividend or similar distribution to policyholders in their capacity as such.

(b) Certain amounts included

For purposes of this part, the term “policyholder dividend” includes—

(1) any amount paid or credited (including as an increase in benefits) where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management,

- (2) excess interest,
- (3) premium adjustments, and
- (4) experience-rated refunds.

(c) Amount of deduction

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.

(d) Definitions

For purposes of this section—

(1) Excess interest

The term “excess interest” means any amount in the nature of interest—

- (A) paid or credited to a policyholder in his capacity as such, and
- (B) in excess of interest determined at the prevailing State assumed rate for such contract.

(2) Premium adjustment

The term “premium adjustment” means any reduction in the premium under an insurance or annuity contract which (but for the reduction) would have been required to be paid under the contract.

(3) Experience-rated refund

The term “experience-rated refund” means any refund or credit based on the experience of the contract or group involved.

(e) Treatment of policyholder dividends

For purposes of this part, any policyholder dividend which—

- (1) increases the cash surrender value of the contract or other benefits payable under the contract, or
- (2) reduces the premium otherwise required to be paid,

shall be treated as paid to the policyholder and returned by the policyholder to the company as a premium.

(f) Coordination of 1984 fresh-start adjustment with acceleration of policyholder dividends deduction through change in business practice

(1) In general

The amount determined under paragraph (1) of subsection (c) for the year of change shall (before any reduction under paragraph (2) of subsection (c)) be reduced by so much of the accelerated policyholder dividends deduction for such year as does not exceed the 1984 fresh-start adjustment for policyholder dividends (to the extent such adjustment was not previously taken into account under this subsection).

(2) Year of change

For purposes of this subsection, the term “year of change” means the taxable year in which the change in business practices which results in the accelerated policyholder dividends deduction takes effect.

(3) Accelerated policyholder dividends deduction defined

For purposes of this subsection, the term “accelerated policyholder dividends deduc-

tion” means the amount which (but for this subsection) would be determined for the taxable year under paragraph (1) of subsection (c) but which would have been determined (under such paragraph) for a later taxable year under the business practices of the taxpayer as in effect at the close of the preceding taxable year.

(4) 1984 fresh-start adjustment for policyholder dividends

For purposes of this subsection, the term “1984 fresh-start adjustment for policyholder dividends” means the amounts held as of December 31, 1983, by the taxpayer as reserves for dividends to policyholders under section 811(b) (as in effect on the day before the date of the enactment of the Tax Reform Act of 1984) other than for dividends which accrued before January 1, 1984. Such amounts shall be properly reduced to reflect the amount of previously nondeductible policyholder dividends (as determined under section 809(f) as in effect on the day before the date of the enactment of the Tax Reform Act of 1984).

(5) Separate application with respect to lines of business

This subsection shall be applied separately with respect to each line of business of the taxpayer.

(6) Subsection not to apply to mere change in dividend amount

This subsection shall not apply to a mere change in the amount of policyholder dividends.

(7) Subsection not to apply to policies issued after December 31, 1983

(A) In general

This subsection shall not apply to any policyholder dividend paid or accrued with respect to a policy issued after December 31, 1983.

(B) Exchanges of substantially similar policies

For purposes of subparagraph (A), any policy issued after December 31, 1983, in exchange for a substantially similar policy issued on or before such date shall be treated as issued before January 1, 1984. A similar rule shall apply in the case of a series of exchanges.

(8) Subsection to apply to policies provided under employee benefit plans

This subsection shall not apply to any policyholder dividend paid or accrued with respect to a group policy issued in connection with a plan to provide welfare benefits to employees (within the meaning of section 419(e)(2)).

(g) Prevailing State assumed interest rate

For purposes of this subchapter—

(1) In general

The term “prevailing State assumed interest rate” means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as

the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

(2) When rate determined

The prevailing State assumed interest rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued.

(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; Pub. L. 115-97, title I, §13517(b)(1), Dec. 22, 2017, 131 Stat. 2147.)

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

2017—Subsec. (g). Pub. L. 115-97 added subsec. (g).

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 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, with transition rule and transition relief, see section 13517(c) of Pub. L. 115-97, set out as a note under section 807 of this title.

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. Repealed. Pub. L. 115-97, title I, § 13511(b)(1), Dec. 22, 2017, 131 Stat. 2142]

Section, 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, related to operations loss deduction.

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).

EFFECTIVE DATE OF REPEAL

Repeal applicable to losses arising in taxable years beginning after Dec. 31, 2017, see section 13511(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 381 of this title.

SUBPART D—ACCOUNTING, ALLOCATION, AND
FOREIGN PROVISIONS

Sec.	
811.	Accounting provisions.
812.	Definition of company's share and policyholders' share. ¹
[813.	Repealed.]
814.	Contiguous country branches of domestic life insurance companies.
[815.	Repealed.]

AMENDMENTS

2017—Pub. L. 115-97, title I, §13514(a), Dec. 22, 2017, 131 Stat. 2143, struck out item 815 “Distributions to shareholders from pre-1984 policyholders surplus account”.

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”.

¹Section catchline amended by Pub. L. 115-97 without corresponding amendment of analysis.