

§ 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 interest rate in effect under section 808(g) 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; Pub. L. 115-97, title I, §13517(b)(2), Dec. 22, 2017, 131 Stat. 2147.)

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).

AMENDMENTS

2017—Subsec. (d)(1). Pub. L. 115-97 substituted “the interest rate in effect under section 808(g)” for “the greater of the prevailing State assumed interest rate or applicable Federal interest rate in effect under section 807”.

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 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 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 policyholder's share

(a) Company's share

For purposes of section 805(a)(4), the term "company's share" means, with respect to any taxable year beginning after December 31, 2017, 70 percent.

(b) Policyholder's share

For purposes of section 807, the term "policyholder's share" means, with respect to any taxable year beginning after December 31, 2017, 30 percent.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 741; amended Pub. L. 99-514, title XVIII, §1821(i), Oct. 22, 1986, 100 Stat. 2840; Pub. L. 100-203, title X, §10241(b)(2)(B), Dec. 22, 1987, 101 Stat. 1330-420; Pub. L. 100-647, title I, §1018(h)(1), title II, §2004(p)(2), Nov. 10, 1988, 102 Stat. 3583, 3608; Pub. L. 104-188, title I, §1602(b)(2), Aug. 20, 1996, 110 Stat. 1833; Pub. L. 105-34, title X, §1084(b)(3), Aug. 5, 1997, 111 Stat. 955; Pub. L. 108-218, title II, §205(b)(4), Apr. 10, 2004, 118 Stat. 610; Pub. L. 113-295, div. A, title II, §221(a)(41)(G), Dec. 19, 2014, 128 Stat. 4044; Pub. L. 115-97, title I, §13518(a), Dec. 22, 2017, 131 Stat. 2148.)

CODIFICATION

Another section 1084(b) of Pub. L. 105-34 amended sections 101 and 264 of this title.

PRIOR PROVISIONS

A prior section 812, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 127; amended Pub. L. 87-858, §3(d)(1), Oct. 23, 1962, 76 Stat. 1137; Pub. L. 88-571, §1(a), Sept. 2, 1964, 78 Stat. 857; Pub. L. 94-455, title VIII, §806(d)(1), title XIX, §1901(a)(99), Oct. 4, 1976, 90 Stat. 1598, 1781; Pub. L. 97-34, title II, §207(b), Aug. 13, 1981, 95 Stat. 225, related to operations loss deductions, prior to the general revision of this part by Pub. L. 98-369, §211(a).

Another prior section 812, act Aug. 16, 1954, ch. 736, §812, as added Mar. 13, 1956, ch. 83, §2, 70 Stat. 45, related to reserve and other policy liability deduction, prior to the general revision of this part by Pub. L. 86-69, §2(a).

AMENDMENTS

2017—Pub. L. 115-97 amended section generally. Prior to amendment, section consisted of subsecs. (a) to (f), relating to definition of company's share and policyholders' share as pertaining to net and gross investment incomes.

2014—Subsec. (e)(2)(A). Pub. L. 113-295 struck out ", 244," after "section 243".

2004—Subsec. (b)(3)(A). Pub. L. 108-218 substituted "section 808" for "sections 808 and 809".

1997—Subsec. (d)(1)(D). Pub. L. 105-34 added subpar. (D).

1996—Subsec. (g). Pub. L. 104-188 struck out subsec. (g) which read as follows: "TREATMENT OF INTEREST PARTIALLY TAX-EXEMPT UNDER SECTION 133.—For purposes of this section and subsections (a) and (b) of section 807, the terms 'gross investment income' and 'tax-exempt interest' shall not include any interest received with respect to a securities acquisition loan (as defined in section 133(b)). Such interest shall not be included in life insurance gross income for purposes of subsection (b)(3)."

1988—Subsec. (b)(2). Pub. L. 100-647, §2004(p)(2), substituted "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)." for "In any case where the prevailing State assumed rate is not used, another appropriate rate shall be treated as the prevailing State assumed rate for purposes of subparagraph (A)."

Subsec. (e). Pub. L. 100-647, §1018(h)(1), amended subsec. (e) generally. Prior to amendment, subsec. (e) read as follows: "For purposes of this section, the term 'gross investment income' shall not include any dividend received by the life insurance company which is a 100-percent dividend (as defined in section 805(a)(4)(C)). Such term also shall not include any dividend described in section 805(a)(4)(D) (relating to certain dividends in the case of foreign corporations)."

1987—Subsec. (b)(2). Pub. L. 100-203 substituted "at the greater of the prevailing State assumed rate or the applicable Federal interest rate" for "at the prevailing State assumed rate or, where such rate is not used, another appropriate rate" in subpar. (A), and inserted provision at end that in any case where the prevailing State assumed rate is not used, another appropriate rate be treated as the prevailing State assumed rate for purposes of subpar. (A).

1986—Subsec. (b)(2). Pub. L. 99-514, §1821(i)(1), inserted "or, where such rate is not used, another appropriate rate" after "assumed rate", in subpar. (A) and added subpar. (D).

Subsec. (b)(3)(B). Pub. L. 99-514, §1821(i)(2), struck out "(including tax-exempt interest)" after "insurance gross income" in cl. (ii) and inserted at end "For purposes of subparagraph (B)(ii), life insurance gross income shall be determined by including tax-exempt interest and by applying section 807(a)(2)(B) as if it did not contain clause (i) thereof."

Subsec. (c). Pub. L. 99-514, §1821(i)(3), amended subsec. (c) generally. Prior to amendment, subsec. (c) read as follows: "For purposes of this section, the term 'net investment income' means 90 percent of gross investment income."

Subsec. (g). Pub. L. 99-514, §1821(i)(4), added subsec. (g).

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13518(c), Dec. 22, 2017, 131 Stat. 2148, provided that: "The amendments made by this section [amending this section and section 817A of this title] shall apply to taxable years beginning after December 31, 2017."

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.