

method regularly employed in keeping the books of the insurance company.

(Aug. 16, 1954, ch. 736, 68A Stat. 261, §822; Mar. 13, 1956, ch. 83, §3(a)(3)–(8), 70 Stat. 47, 48; Pub. L. 87–834, §8(b), Oct. 16, 1962, 76 Stat. 991; Pub. L. 88–272, title II, §228(b)(2), Feb. 26, 1964, 78 Stat. 99; Pub. L. 89–809, title I, §104(i)(5), Nov. 13, 1966, 80 Stat. 1562; Pub. L. 94–455, title XIX, §§1901(a)(105), (b)(1)(P)–(S), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1782, 1792, 1834; renumbered §834 and amended Pub. L. 99–514, title X, §1024(a)(3), (c)(7), (8), Oct. 22, 1986, 100 Stat. 2405, 2407; Pub. L. 115–97, title I, §13001(b)(2)(I), Dec. 22, 2017, 131 Stat. 2096.)

AMENDMENTS

2017—Subsec. (b)(1)(D). Pub. L. 115–97 struck out “sec. 1201 and following,” before “relating to capital gains and losses”.

1986—Pub. L. 99–514, §1024(a)(3), renumbered section 822 of this title as this section.

Subsec. (a). Pub. L. 99–514, §1024(c)(7), amended subsec. (a) generally. Prior to amendment, subsec. (a), definitions, read as follows: “For purposes of this part—

“(1) The term ‘taxable investment income’ means the gross investment income, minus the deductions provided in subsection (c).

“(2) The term ‘investment loss’ means the amount by which the deductions provided in subsection (c) exceed the gross investment income.”

Subsec. (d). Pub. L. 99–514, §1024(c)(8), substituted “section 831” for “section 821” in pars. (1) and (2), and inserted “except in the case of discount which is original issue discount (as defined in section 1273)” at end of last sentence in par.

1976—Subsec. (c)(2). Pub. L. 94–455, §1901(b)(1)(P), struck out “partially tax-exempt interest and” before “dividends received allowed by”.

Subsec. (c)(5). Pub. L. 94–455, §1901(a)(105)(A), struck out “(other than obligations of the United States issued after September 24, 1917, and originally subscribed for by the taxpayer)” after “purchase or carry obligations”.

Subsec. (c)(6)(A). Pub. L. 94–455, §1901(b)(1)(Q), struck out “or to the deduction provided in section 242 for partially tax-exempt interest” after “exchanges of capital assets”.

Subsec. (c)(7). Pub. L. 94–455, §1901(b)(1)(R), struck out “partially tax-exempt interest and to” after “and following, relating to”.

Subsec. (d)(2). Pub. L. 94–455, §§1901(a)(105)(B), (b)(1)(S), 1906(b)(13)(A), struck out in subpar. (B) “or his delegate” after “Secretary” and substituted in provisions preceding subpar. (A) “and the deduction provided in subsection (c)(1)” for “, the deduction provided in subsection (c)(1), and the deduction allowed by section 242 (relating to partially tax-exempt interest)” and in provisions following subpar. (B) “No accrual” for “For taxable years beginning after December 31, 1962, no accrual”.

1966—Subsecs. (e), (f). Pub. L. 89–809 redesignated subsec. (f) as (e). Former subsec. (e), dealing with foreign mutual insurance companies other than life or marine, was struck out.

1964—Subsec. (d)(2). Pub. L. 88–272 provided that for taxable years beginning after Dec. 31, 1962, no accrual of discount shall be required under par. (2) on any bond.

1962—Pub. L. 87–834, §8(b)(1), substituted “Determination of taxable investment income” for “Determination of mutual insurance company taxable income” in section catchline.

Subsec. (a). Pub. L. 87–834, §8(b)(1), defined “taxable investment income” and “investment loss” for purposes of this part, and struck out provisions which defined “mutual insurance company taxable income” for purposes of section 821 of this title, which provisions are now contained in section 821(b) of this title.

Subsec. (c). Pub. L. 87–834, §8(b)(2), (3), substituted “taxable investment income” for “mutual insurance company taxable income” in opening provisions and in pars. (2) and (6)(A), and inserted sentence in par. (7) providing that in applying section 246(b) (relating to limitations on aggregate amount of deductions for dividends received) for purposes of par. (7), reference in such section to “taxable income” shall be treated as a reference to “taxable investment income”.

Subsec. (e). Pub. L. 87–834, §8(b)(2), substituted “taxable investment income” for “mutual insurance company taxable income”.

Subsec. (f). Pub. L. 87–834, §8(b)(4), added subsec. (f). Provisions of subsec. (f) were formerly contained in section 823 of this title.

1956—Subsec. (b). Act Mar. 13, 1956, §3(a)(3), principally included royalties, and the income from a trade or business other than the insurance business carried on by the insurance company in “gross investment income”.

Subsec. (c). Act Mar. 13, 1956, §3(a)(4), (5), (6), clarified the deduction for real estate expenses in par. (3), substituted in par. (6) “the sum of the items described in subsection (b) (other than paragraph (1)(D) thereof) and net premiums received. In the application of section 1212” for “the sum of interest, dividends, rents, and net premiums received. In the application of section 1211”, and inserted pars. (8) and (9).

Subsec. (d)(1). Act Mar. 13, 1956, §3(a)(7), substituted “subsection (c)(3) or (4)” for “subsection (e)(3) or (4)”.

Subsec. (e). Act Mar. 13, 1956, §3(a)(8), substituted “items described in subsection (b) (other than paragraph (1)(D) thereof)” for “interest, dividends, rents,”.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115–97 applicable to taxable years beginning after Dec. 31, 2017, see section 13001(c)(1) of Pub. L. 115–97, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 1024(e) of Pub. L. 99–514, set out as a note under section 831 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(105), (b)(1)(P)–(S) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 104(n) of Pub. L. 89–809, set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87–834 applicable with respect to taxable years beginning after Dec. 31, 1962, see section 8(h) of Pub. L. 87–834, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Amendment by act Mar. 13, 1956, applicable only to taxable years beginning after Dec. 31, 1954, see section 6 of act Mar. 13, 1956, set out as a note set out under section 316 of this title.

§ 835. Election by reciprocal

(a) In general

Except as otherwise provided in this section, any mutual insurance company which is an interinsurer or reciprocal underwriter (hereinafter in this section referred to as a “reciprocal”) subject to the taxes imposed by section

831(a) may, under regulations prescribed by the Secretary, elect to be subject to the limitation provided in subsection (b). Such election shall be effective for the taxable year for which made and for all succeeding taxable years, and shall not be revoked except with the consent of the Secretary.

(b) Limitation

The deduction for amounts paid or incurred in the taxable year to the attorney-in-fact by a reciprocal making the election provided in subsection (a) shall be limited to, but in no case increased by, the deductions of the attorney-in-fact allocable, in accordance with regulations prescribed by the Secretary, to the income received by the attorney-in-fact from the reciprocal.

(c) Exception

An election may not be made by a reciprocal under subsection (a) unless the attorney-in-fact of such reciprocal—

(1) is subject to the tax imposed by section 11;

(2) consents in such manner as the Secretary shall prescribe by regulations to make available such information as may be required during the period in which the election provided in subsection (a) is in effect, under regulations prescribed by the Secretary;

(3) reports the income received from the reciprocal and the deductions allocable thereto under the same method of accounting under which the reciprocal reports deductions for amounts paid to the attorney-in-fact; and

(4) files its return on the calendar year basis.

(d) Credit

Any reciprocal electing to be subject to the limitation provided in subsection (b) shall be credited with so much of the tax paid by the attorney-in-fact as is attributable, under regulations prescribed by the Secretary, to the income received by the attorney-in-fact from the reciprocal in such taxable year.

(e) Benefits of graduated rates denied

Any increase in the taxable income of a reciprocal attributable to the limits provided in subsection (b) shall be taxed at the highest rate of tax specified in section 11(b).

(f) Adjustment for refund

If for any taxable year an attorney-in-fact is allowed a credit or refund for taxes paid with respect to which credit or refund to the reciprocal resulted under subsection (d), the taxes of such reciprocal for such taxable year shall be properly adjusted under regulations prescribed by the Secretary.

(g) Taxes of attorney-in-fact unaffected

Nothing in this section shall increase or decrease the taxes imposed by this chapter on the income of the attorney-in-fact.

(Added Pub. L. 87-834, §8(c), Oct. 16, 1962, 76 Stat. 996, §826; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title III, §301(b)(10), Nov. 6, 1978, 92 Stat. 2822; renumbered §835 and amended Pub. L. 99-514, title X, §1024(a)(3), (c)(9), Oct. 22, 1986, 100 Stat. 2405, 2407; Pub. L. 100-647, title I, §1010(f)(2), (3), Nov. 10, 1988, 102 Stat. 3454.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647, §1010(f)(2), substituted “section 831(a)” for “section 821(a)”.

Subsec. (f). Pub. L. 100-647, §1010(f)(3), substituted “subsection (d)” for “subsection (e)”.

1986—Pub. L. 99-514, §1024(a)(3), renumbered section 826 of this title as this section.

Subsec. (d). Pub. L. 99-514, §1024(c)(9)(A), redesignated subsec. (e) as (d) and struck out former subsec. (d), special rule, which read as follows: “In applying section 824(d)(1)(D), any amount which was added to the protection against loss account by reason of an election under this section shall be treated as having been added by reason of section 824(a)(1)(A).”

Subsec. (e). Pub. L. 99-514, §1024(c)(9), redesignated subsec. (f) as (e), substituted “Benefits of graduated rates” for “Surtax exemption” in heading, and amended text generally. Prior to amendment, text read as follows: “Any increase in taxable income of a reciprocal attributable to the limitation provided in subsection (b) shall be taxed without regard to the surtax exemption provided in section 821(a)(2).” Former subsec. (e) redesignated (d).

Subsecs. (f) to (h). Pub. L. 99-514, §1024(c)(9)(A), redesignated subsecs. (f) to (h) as (e) to (g), respectively.

1978—Subsec. (c)(1). Pub. L. 95-600 substituted “the tax imposed by section 11” for “the taxes imposed by section 11(b) and (c)”.

1976—Subsecs. (a), (b), (c)(2), (e), (g). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1024(e) of Pub. L. 99-514, set out as a note under section 831 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Dec. 31, 1962, see section 8(h) of Pub. L. 87-834, set out as an Effective Date of 1962 Amendment note under section 501 of this title.

PART III—PROVISIONS OF GENERAL APPLICATION

Sec.	
841.	Credit for foreign taxes.
842.	Foreign companies carrying on insurance business.
843.	Annual accounting period.
[844.]	Repealed.]
845.	Certain reinsurance agreements.
846.	Discounted unpaid losses defined.
[847.]	Repealed.]
848.	Capitalization of certain policy acquisition expenses.

AMENDMENTS

2017—Pub. L. 115-97, title I, §§13511(b)(2)(A), 13516(a), Dec. 22, 2017, 131 Stat. 2142, 2144, struck out items 844 “Special loss carryover rules” and 847 “Special estimated tax payments”.

1990—Pub. L. 101-508, title XI, §11301(c), Nov. 5, 1990, 104 Stat. 1388-449, added item 848.