

insurance contracts which may be transferred pursuant to this subsection shall include only those which are similar to the types of insurance contracts issued by a mutual life insurance company. Notwithstanding the first sentence of this subsection, if the aggregate fair market value of the invested assets and tangible property which are separately accounted for by the domestic life insurance company in the branch account exceeds the aggregate adjusted basis of such assets for purposes of determining gain, the domestic life insurance company shall be deemed to have sold all such assets on the first day of the taxable year for which the election under this subsection applies and the net gain shall be recognized to the domestic life insurance company on the deemed sale, but not in excess of the proportion of such net gain which equals the proportion which the aggregate fair market value of such assets which are transferred pursuant to this subsection is of the aggregate fair market value of all such assets.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 744; amended Pub. L. 105-34, title XI, §1131(c)(1), Aug. 5, 1997, 111 Stat. 980; Pub. L. 115-97, title I, §14301(c)(5), Dec. 22, 2017, 131 Stat. 2222.)

#### AMENDMENTS

2017—Subsec. (f)(1). Pub. L. 115-97 redesignated subpar. (A) as par. (1), struck out subpar. (A) heading “In general”, and struck out subpar. (B). Prior to amendment, text of subpar. (B) read as follows: “For purposes of sections 78 and 902, where any amount is added to the life insurance company taxable income of the domestic life insurance company by reason of subsection (e)(2), the contiguous country life insurance branch shall be treated as a foreign corporation. Any amount so added shall be treated as a dividend paid by a foreign corporation, and the taxes paid to any foreign country or possession of the United States with respect to such amount shall be deemed to have been paid by such branch.”

1997—Subsec. (h). Pub. L. 105-34 struck out “or 1491” after “section 367”.

#### NEW SECTION 814 TREATED AS CONTINUATION OF SECTION 819A

Pub. L. 98-369, div. A, title II, §217(a), July 18, 1984, 98 Stat. 762, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of section 814 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (relating to contiguous country branches of domestic life insurance companies)—

“(1) any election under section 819A of such Code (as in effect on the day before the date of the enactment of this Act [July 18, 1984]) shall be treated as an election under such section 814, and

“(2) any reference to a provision of such section 814 shall be treated as including a reference to the corresponding provision of such section 819A.”

#### EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years of foreign corporations beginning after Dec. 31, 2017, and to taxable years of United States shareholders in which or with which such taxable years of foreign corporations end, see section 14301(d) of Pub. L. 115-97, set out as a note under section 78 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.

#### [§ 815. Repealed. Pub. L. 115-97, title I, § 13514(a), Dec. 22, 2017, 131 Stat. 2143]

Section, added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 747; amended Pub. L. 99-514, title X, §1011(b)(10), title XVIII, §1821(k)(1), (2), Oct. 22, 1986, 100 Stat. 2389, 2841; Pub. L. 100-647, title I, §1010(j)(1), Nov. 10, 1988, 102 Stat. 3456; Pub. L. 108-357, title VII, §705(a), Oct. 22, 2004, 118 Stat. 1549; Pub. L. 113-295, div. A, title II, §221(a)(41)(G), Dec. 19, 2014, 128 Stat. 4044, related to distributions to shareholders from pre-1984 policyholders surplus account.

A prior section 815, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 129; amended Pub. L. 87-790, §3(b), Oct. 10, 1962, 76 Stat. 808; Pub. L. 87-858, §3(b)(4), (e), Oct. 23, 1962, 76 Stat. 1137; Pub. L. 88-571, §§2, 3(a), 4(a), Sept. 2, 1964, 78 Stat. 857, 859; Pub. L. 90-225, §4(a), (b), Dec. 27, 1967, 81 Stat. 733, 734; Pub. L. 91-172, title IX, §907(b), Dec. 30, 1969, 83 Stat. 715; Pub. L. 94-331, §1(a), June 30, 1976, 90 Stat. 781; Pub. L. 94-455, title XIX, §§1901(b)(1)(O), (24), (33)(H), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1791, 1798, 1801, 1834, contained provisions similar to this section, 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, 2017, see section 13514(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 801 of this title.

#### SUBPART E—DEFINITIONS AND SPECIAL RULES

- Sec. 816. Life insurance company defined.
- 817. Treatment of variable contracts.
- 817A. Special rules for modified guaranteed contracts.
- 818. Other definitions and special rules.

#### AMENDMENTS

1996—Pub. L. 104-188, title I, §1612(b), Aug. 20, 1996, 110 Stat. 1847, added item 817A.

#### § 816. Life insurance company defined

##### (a) Life insurance company defined

For purposes of this subtitle, the term “life insurance company” means an insurance company which is engaged in the business of issuing life insurance and annuity contracts (either separately or combined with accident and health insurance), or noncancellable contracts of health and accident insurance, if—

(1) its life insurance reserves (as defined in subsection (b)), plus

(2) unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable life, accident, or health policies not included in life insurance reserves,

comprise more than 50 percent of its total reserves (as defined in subsection (c)). For purposes of the preceding sentence, the term “insurance company” means any company more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

##### (b) Life insurance reserves defined

###### (1) In general

For purposes of this part, the term “life insurance reserves” means amounts—

(A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and