

Subsec. (b)(4)(B)(ii). Pub. L. 100-647, §2004(q)(2)(B), struck out “held for the production of investment income” after “United States”.

Subsec. (d)(4). Pub. L. 100-647, §2004(q)(3), added par. (4).

1987—Pub. L. 100-203 substituted “companies” for “corporations” in section catchline and amended text generally. Prior to amendment, text read as follows: “If a foreign corporation carrying on an insurance business within the United States would qualify under part I or II of this subchapter for the taxable year if (without regard to income not effectively connected with the conduct of any trade or business within the United States) it were a domestic corporation, such corporation shall be taxable under such part on its income effectively connected with its conduct of any trade or business within the United States. With respect to the remainder of its income, which is from sources within the United States, such a foreign corporation shall be taxable as provided in section 881.”

1986—Pub. L. 99-514 struck out reference to part III of this subchapter.

1966—Pub. L. 89-809 substituted provisions covering the taxability of foreign corporations that are carrying on an insurance business within the United States which would qualify under part I, II, or III of this subchapter for the taxable year if (without regard to income not effectively connected with the conduct of any trade or business within the United States) it were a domestic corporation for provisions that the gross income of insurance companies subject to the tax imposed by section 802 or 831 shall not be determined in the manner provided in part I of subchapter N (relating to determination of sources of income).

1959—Pub. L. 86-69 struck out reference to section 811.

1956—Act Mar. 13, 1956, inserted reference to section 811.

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13512(c) of Pub. L. 115-97, set out as a note under section 453B 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 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective as if included in the provision of the Revenue Act of 1987, Pub. L. 100-203, title X, to which such amendment relates, see section 7823 of Pub. L. 101-239, set out as a note under section 26 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 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10242(d) of Pub. L. 100-203, set out as a note under section 816 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 1966 AMENDMENT

Amendment by Pub. L. 89-809 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 1959 AMENDMENT

Amendment by Pub. L. 86-69 applicable only with respect to taxable years beginning after Dec. 31, 1957, see section 4 of Pub. L. 86-69, set out as a note under section 381 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 under section 316 of this title.

STUDY OF UNITED STATES REINSURANCE INDUSTRY

Pub. L. 99-514, title XII, §1244, Oct. 22, 1986, 100 Stat. 2581, directed Secretary of the Treasury or his delegate to conduct a study to determine whether United States reinsurance corporations are placed at a significant competitive disadvantage with foreign reinsurance corporations by existing treaties between the United States and foreign countries, and to report before Jan. 1, 1988, the results of such study to Committee on Finance of United States Senate and Committee on Ways and Means of House of Representatives.

§ 843. Annual accounting period

For purposes of this subtitle, the annual accounting period for each insurance company subject to a tax imposed by this subchapter shall be the calendar year. Under regulations prescribed by the Secretary, an insurance company which joins in the filing of a consolidated return (or is required to so file) may adopt the taxable year of the common parent corporation even though such year is not a calendar year.

(Added Mar. 13, 1956, ch. 83, §4(a), 70 Stat. 48; amended Pub. L. 94-455, title XV, §1507(b)(2), Oct. 4, 1976, 90 Stat. 1740.)

AMENDMENTS

1976—Pub. L. 94-455 inserted provision permitting an insurance company which joins in the filing of a consolidated return to adopt the taxable year of the common parent corporation even though such year is not a calendar year.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to taxable years beginning after Dec. 31, 1980, see section 1507(c)(1) of Pub. L. 94-455, set out as a note under section 1504 of this title.

EFFECTIVE DATE

Section applicable only to taxable years beginning after Dec. 31, 1954, see Effective Date of 1956 Amendment note set out under section 316 of this title.

[§ 844. Repealed. Pub. L. 115-97, title I, § 13511(b)(2)(A), Dec. 22, 2017, 131 Stat. 2142]

Section, added Pub. L. 91-172, title IX, §907(c)(1), Dec. 30, 1969, 83 Stat. 716; amended Pub. L. 94-455, title XIX, §§1901(b)(25), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1798, 1834; Pub. L. 98-369, div. A, title II, §211(b)(11), July 18, 1984, 98 Stat. 755; Pub. L. 99-514, title X, §1024(c)(12), title XVIII, §1899A(20), Oct. 22, 1986, 100 Stat. 2408, 2959; Pub. L. 101-239, title VII, §7841(d)(16), Dec. 19, 1989, 103 Stat. 2429, related to special loss carryover rules.

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.

§ 845. Certain reinsurance agreements**(a) Allocation in case of reinsurance agreement involving tax avoidance or evasion**

In the case of 2 or more related persons (with- in the meaning of section 482) who are parties to a reinsurance agreement (or where one of the parties to a reinsurance agreement is, with re- spect to any contract covered by the agreement, in effect an agent of another party to such agreement or a conduit between related per- sons), the Secretary may—

- (1) allocate between or among such persons income (whether investment income, pre- mium, or otherwise), deductions, assets, re- serves, credits, and other items related to such agreement,
- (2) recharacterize any such items, or
- (3) make any other adjustment,

if he determines that such allocation, re- characterization, or adjustment is necessary to reflect the proper amount, source, or character of the taxable income (or any item described in paragraph (1) relating to such taxable income) of each such person.

(b) Reinsurance contract having significant tax avoidance effect

If the Secretary determines that any reinsur- ance contract has a significant tax avoidance ef- fect on any party to such contract, the Sec- retary may make proper adjustments with re- spect to such party to eliminate such tax avoid- ance effect (including treating such contract with respect to such party as terminated on De- cember 31 of each year and reinstated on Janu- ary 1 of the next year).

(Added Pub. L. 98-369, div. A, title II, §212(a), July 18, 1984, 98 Stat. 757; amended Pub. L. 108-357, title VIII, §803(a), Oct. 22, 2004, 118 Stat. 1569.)

AMENDMENTS

2004—Subsec. (a). Pub. L. 108-357 substituted “amount, source, or character” for “source and char- acter” in concluding provisions.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §803(b), Oct. 22, 2004, 118 Stat. 1569, provided that: “The amendments made by this section [amending this section] shall apply to any risk reinsured after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE

Pub. L. 98-369, div. A, title II, §217(d), July 18, 1984, 98 Stat. 762, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) Subsection (a) of section 845 of the Internal Re- venue Code of 1986 [formerly I.R.C. 1954] (as added by this title) shall apply with respect to any risk reins- ured on or after September 27, 1983.

“(2) Subsection (b) of section 845 of such Code (as so added) shall apply with respect to risks reinsured after December 31, 1984.”

§ 846. Discounted unpaid losses defined**(a) Discounted losses determined****(1) Separately computed for each accident year**

The amount of the discounted unpaid losses as of the end of any taxable year shall be the sum of the discounted unpaid losses (as of such

time) separately computed under this section with respect to unpaid losses in each line of business attributable to each accident year.

(2) Method of discounting

The amount of the discounted unpaid losses as of the end of any taxable year attributable to any accident year shall be the present value of such losses (as of such time) determined by using—

- (A) the amount of the undiscounted unpaid losses as of such time,
- (B) the applicable interest rate, and
- (C) the applicable loss payment pattern.

(3) Limitation on amount of discounted losses

In no event shall the amount of the dis- counted unpaid losses with respect to any line of business attributable to any accident year exceed the aggregate amount of unpaid losses with respect to such line of business for such accident year included on the annual state- ment filed by the taxpayer for the year ending with or within the taxable year.

(4) Determination of applicable factors

In determining the amount of the discounted unpaid losses attributable to any accident year—

- (A) the applicable interest rate shall be the interest rate determined under sub- section (c) for the calendar year with which such accident year ends, and
- (B) the applicable loss payment pattern shall be the loss payment pattern deter- mined under subsection (d) which is in effect for the calendar year with which such acci- dent year ends.

(b) Determination of undiscounted unpaid losses

For purposes of this section—

(1) In general

Except as otherwise provided in this sub- section, the term “undiscounted unpaid losses” means the unpaid losses shown in the annual statement filed by the taxpayer for the year ending with or within the taxable year of the taxpayer.

(2) Adjustment if losses discounted on annual statement

If—

- (A) the amount of unpaid losses shown in the annual statement is determined on a dis- counted basis, and
- (B) the extent to which the losses were dis- counted can be determined on the basis of information disclosed on or with the annual statement,

the amount of the unpaid losses shall be deter- mined without regard to any reduction attrib- utable to such discounting.

(c) Rate of interest**(1) In general**

For purposes of this section, the rate of in- terest determined under this subsection shall be the annual rate determined by the Sec- retary under paragraph (2).

(2) Determination of annual rate

The annual rate determined by the Sec- retary under this paragraph for any calendar