case that premiums deferred and uncollected and premiums due and unpaid are not properly accruable for the taxable year under section 809 and, accordingly, are not properly includible under assets (as defined in section 805(b)(4)) for the taxable year, appropriate reduction shall be made in the life insurance reserves. This reduction shall be made when the insurance company has calculated life insurance reserves on the assumption that the premiums on all policies are paid annually or that all premiums due on or prior to the date of the annual statement have been paid.

[T.D. 6513, 25 FR 12656, Dec. 10, 1960, as amended by T.D. 7172, 37 FR 5619, Mar. 17, 1972]

### § 1.801–5 Total reserves.

(a) *Total reserves defined.* For purposes of section 801(a) and § 1.801–3, the term ''total reserves'' is defined in section 801(c) as the sum of:

(1) Life insurance reserves (as defined in section 801(b) and § 1.801–4),

(2) Unearned premiums (as defined in paragraph (e) of § 1.801–3), and unpaid losses (whether or not ascertained) (as defined in paragraph (g) of § 1.801–3), not included in life insurance reserves, and

(3) All other insurance reserves required by law.

The term ''total reserves'' does not, however, include deficiency reserves (within the meaning of section 801(b)(4), and paragraph (e)(4) of § 1.801–4), even though such deficiency reserves are required by State law. In determining total reserves, a company is permitted to make use of the highest aggregate reserve required by any State or Territory or the District of Columbia in which it transacts business, but the reserve must have been actually held during the taxable year for which the reserve is claimed. For example, during the taxable year 1958 a life insurance company sells life insurance and annuity contracts in States A and B. State A requires reserves of 10 against the life and 5 against the annuity business. State B requires reserves of 9 against the life and 7 against the annuity business. Assuming the company actually holds these reserves during the taxable year 1958, its highest aggregate reserve for such taxable year is the 16 required by State B. Thus, the company is not permitted to compute its highest aggregate reserve by taking State A's requirement of 10 against its life insurance business and adding it to State B's requirement of 7 against its annuity business.

(b) *Reserves required by law defined.* For purposes of part I, subchapter L, chapter 1 of the Code, the term *reserves required by law* means reserves which are required either by express statutory provisions or by rules and regulations of the insurance department of a State, Territory, or the District of Columbia when promulgated in the exercise of a power conferred by statute, and which are reported in the annual statement of the company and accepted by state regulatory authorities as held for the fulfillment of the claims of policyholders or beneficiaries.

(c) *Information to be filed.* In any case where reserves are claimed, sufficient information must be filed with the return to enable the district director to determine the validity of the claim. See section 6012 and paragraph (c) of § 1.6012–2. If the basis (for Federal income tax purposes) for determining the amount of any of the life insurance reserves as of the close of the taxable year differs from the basis for such determination as of the beginning of the taxable year then the following information must be filed with respect to all such changes in basis:

(1) The nature of the life insurance reserve (i.e., life, annuity, etc.);

(2) The mortality or morbidity table, assumed rate of interest, method used in computing or estimating such reserve on the old basis, and the amount of such reserve at the beginning and close of the taxable year computed on the old basis;

(3) The mortality or morbidity table, assumed rate of interest, method used in computing or estimating such reserve on the new basis, and the amount of such reserve at the close of the taxable year computed on the new basis;

(4) The deviation, if any, from recognized mortality or morbidity tables, or recognized methods of computation;

(5) The reasons for the change in basis of such reserve; and

(6) Whether such change in the reserve has been approved or accepted by

the regulatory authorities of the State of domicile, and if so, a copy of the letter, certificate, or other evidence of such approval or acceptance.

(d) *Illustration of principles.* The provisions of section 801 relating to the percentage requirements for qualification as a life insurance company may be illustrated by the following example:

*Example.* The books of Y, an insurance company, selling life insurance, noncancellable health and accident insurance, and cancellable accident and health insurance, reflect (after adjustment under sections 806(a) and 801(d)) the following facts for the taxable year 1958:

| | Jan. 1 | Dec. 31 | Mean of year |
|---|---|---|---|
| 1. Life insurance reserves | $3,000 | $5,000 | $4,000 |
| 2. Unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable accident and health insurance not included in life insurance reserves | 400 | 600 | 500 |
| 3. Unearned premiums, and unpaid losses (whether or not ascertained), on cancellable accident and health insurance | 1,800 | 2,200 | 2,000 |
| 4. All other insurance reserves required by law | 900 | 1,100 | 1,000 |
| 5. Total reserves | ............ | ............ | 7,500 |

The rules provided by section 801 require that the sum of the mean of the year figures in items 1 and 2 comprise more than 50 percent of the mean of the year figure in item 5 for an insurance company to qualify as a life insurance company. Thus, Y would qualify as a life insurance company for the taxable year 1958 as the sum of the mean of the year figures in items 1 and 2 ($4,500) comprise 60 percent of the mean of the year figure in item 5 ($7,500).

[T.D. 6513, 25 FR 12657, Dec. 10, 1960]

### § 1.801–6 Adjustments in reserves for policy loans.

(a) *In general.* Section 801(d) provides that for purposes only of determining whether or not an insurance company is a life insurance company (as defined in section 801(a) and paragraph (b) of § 1.801–3), the life insurance reserves (as defined in section 801(b) and § 1.801–4), and the total reserves (as defined in section 801(c) and paragraph (a) of § 1.801–5), shall each be reduced by an amount equal to the mean of the aggregates, at the beginning and end of the taxable year, of the policy loans outstanding with respect to contracts for which life insurance reserves are maintained. Such reduction shall be made after any adjustments required under section 806(a) and § 1.806–3 have been made.

(b) *Policy loans defined.* The term *policy loans* includes loans made by the insurance company, by whatever name called, for which the reserve on a contract is the collateral.

(c) *Illustration of principles.* The provisions of section 801(d) and this section may be illustrated by the following example:

*Example.* The books of T, an insurance company, selling only life insurance and cancellable accident and health insurance, reflect (after adjustment under section 806 (a)) the following facts for the taxable year 1958:

| | Jan. 1 | Dec. 31 | Mean of year |
|---|---|---|---|
| 1. Life insurance reserves | $1,000 | $2,000 | $1,500 |
| 2. Policy loans | 50 | 850 | 450 |
| 3. Life insurance reserves less policy loans | ............ | ............ | 1,050 |
| 4. Unearned premiums, and unpaid losses (whether or not ascertained), on cancellable accident and health insurance | 900 | 1,600 | 1,250 |
| 5. Total reserves adjusted for policy loans (item 3 plus item 4) | ............ | ............ | 2,300 |

As the rules provided by section 801 (a) and (d) require that the figure in item 3 ($1,050) be more than 50 percent of the mean of the year figure in item 5 ($2,300) for an insurance company to qualify as a life insurance company, T would not qualify as a life insurance company for the taxable year 1958.

[T.D. 6513, 25 FR 12657, Dec. 10, 1960]

### § 1.801–7 Variable annuities.

(a) *In general.* (1) Section 801(g)(1) provides that for purposes of part I, subchapter L, chapter 1 of the Code, an annuity contract includes a contract which provides for the payment of a variable annuity computed on the basis of recognized mortality tables and the investment experience of the company issuing such a contract. A variable annuity differs from the ordinary or fixed dollar annuity in that the annuity benefits payable under a variable annuity contract vary with the insurance company's investment experience with respect to such contracts while the annuity benefits paid under a fixed dollar