

§ 1.825-2

26 CFR Ch. I (4-1-10 Edition)

823(a)(2)) and the investment loss (as defined in section 822(a)(2)) exceeds

(2) The sum of:

(i) The taxable investment income (as defined in section 822(a)(1)),

(ii) The statutory underwriting income (as defined in section 823(a)(1)), and

(iii) The amounts required to be subtracted from the protection against loss account under section 824(d).

(c) *Steps in computation of unused loss deduction.* The three steps to be taken in the ascertainment of the unused loss deduction for any taxable year are as follows:

(1) Compute the unused loss for any preceding or succeeding taxable year from which an unused loss may be carried over or carried back to the taxable year.

(2) Compute the unused loss carryovers to the taxable year from such preceding taxable years and the unused loss carrybacks to the taxable year from such succeeding taxable years.

(3) Add such unused loss carryovers and carrybacks in order to determine the unused loss deduction for the taxable year.

(d) *Statement with tax return.* Every mutual insurance company taxable under section 821(a) claiming an unused loss deduction for any taxable year shall file with its return for such year a concise statement setting forth the amount of the unused loss deduction claimed and all material and pertinent facts relative thereto, including a detailed schedule showing the computation of the unused loss deduction.

(e) *Ascertainment of deduction dependent upon unused loss carryback.* If a mutual insurance company taxable under section 821(a) is entitled in computing its unused loss deduction to a carryback which it is not able to ascertain at the time its return is due, it shall compute the unused loss deduction on its return without regard to such unused loss carryback. When the company ascertains the unused loss carryback, it may within the applicable period of limitations file a claim for credit or refund of the overpayment, if any, resulting from the failure to compute the unused loss deduction for the taxable year with the inclusion

of such carryback; or it may file an application under the provisions of section 6411 for a tentative carryback adjustment.

(f) *Law applicable to computations.* The following rules shall apply to taxable years for which the taxpayer is subject to the tax imposed by section 821(a):

(1) In determining the amount of any unused loss carryback or carryover to any taxable year, the necessary computations involving any other taxable year shall be made under the law applicable to such other taxable year.

(2) The unused loss for any taxable year shall be determined under the law applicable to that year without regard to the year to which it is to be carried and in which, in effect, it is to be deducted as part of the unused loss deduction.

(3) The amount of the unused loss deduction which shall be allowed for any taxable year shall be determined under the law applicable for that year.

[T.D. 6681, 28 FR 11122, Oct. 17, 1963]

§ 1.825-2 Unused loss carryovers and carrybacks.

(a) *Years to which loss may be carried—*

(1) *In general.* In order to determine its unused loss deduction for any taxable year, a mutual insurance company taxable under section 821(a) must first determine the part of any unused losses for any preceding or succeeding taxable years which are carryovers or carrybacks to the taxable year in issue. An unused loss is to be an unused loss carryback to each of the 3 taxable years preceding the loss year, and an unused loss carryover to each of the 5 taxable years following the loss year, subject to the limitations provided in section 825(g) and subparagraph (2) of this paragraph.

(2) *Limitations.* An unused loss may not be carried:

(i) To or from any taxable year beginning before January 1, 1963,

(ii) To or from any taxable year for which the taxpayer is not subject to the tax imposed by section 821(a), nor

(iii) To any taxable year if, between the loss year and such taxable year, there is an intervening taxable year for which the taxpayer was not subject to the tax imposed by section 821(a).

(3) *Periods of less than 12 months.* A fractional part of a year which is a taxable year under sections 441(b) and 7701(a)(23) is a preceding or a succeeding taxable year for the purpose of determining under section 825 the first, second, etc., preceding or succeeding taxable year.

(b) *Loss year defined.* The term “loss year” as used in this section means any taxable year for which a company subject to the tax imposed by section 821(a) has an unused loss in excess of zero.

(c) *Amount of carrybacks and carryovers.* Section 825(e) provides that in the case of a loss year for a company taxable under section 821(a), the entire amount of the unused loss shall be carried to the earliest taxable year to which such loss may be carried under section 825(d) (subject to the limitations of section 825(g)). The amount of the unused loss carried to each of the other taxable years to which such loss may be carried under section 825(d) following such earliest taxable year shall be the excess (if any) of such loss over the sum of the offsets for each taxable year preceding the taxable year to which the unused loss is carried.

(d) *Offset defined—(1) In general.* Section 825(f) defines the term “offset” and provides that the taxable year to which an unused loss is carried shall be referred to as the “offset year”. The definition of the term offset in the case of an unused loss carryback to an offset year, differs from the definition of such term in the case of an unused loss carryover to an offset year.

(2) *Offset in case of carryback.* In the case of an unused loss carryback from the loss year to the offset year, the offset is the mutual insurance company

taxable income for the offset year, computed without regard to any unused loss carryback from the loss year or any taxable year thereafter.

(3) *Offset in case of carryover.* In the case of an unused loss carryover from the loss year to the offset year, the offset is equal to the sum of:

(i) The amount required to be subtracted from the protection against loss account under section 824(d)(1)(C) (relating to amounts equal to the unused loss carryovers to the offset year), plus

(ii) The mutual insurance company taxable income for the taxable year, computed without regard to any unused loss carryback or carryover from the loss year or any taxable year thereafter.

[T.D. 6681, 28 FR 11123, Oct. 17, 1963]

§ 1.825-3 Examples.

The application of section 825 may be illustrated by the following examples:

Example 1. For the taxable year 1967, F, a mutual insurance company subject to the tax imposed by section 821(a), has the following items:

Taxable investment income	1
Underwriting loss	59
Addition to protection against loss account	8
Statutory underwriting loss	67

The subtractions from the protection against loss account are as follows:

Amount subtracted from amounts in account with respect to taxable years 1963 through 1966	18
Amount subtracted from amounts in account with respect to taxable year 1967	8

Total subtractions from protection against loss account under section 824(d)	26
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The application of section 825 in this case may be illustrated by the facts and results shown in the following table and explained below:

	TAXABLE YEAR					
	1963	1964	1965	1966	1967	1968
Protection against loss account:						
Addition to account during taxable year	6	2	3	7	8	7
Subtraction from account during taxable year	0	0	0	0	8	7
Protection against loss account (at end of year)	6	2	3	7	0	0
Protection against loss account (at end of taxable year 1968)	0	0	0	0	0	0
Unused loss	0	0	0	0	40	0
Unused loss carryback	0	40	35	25	0	0
Unused loss carryover	0	0	0	0	0	18
Unused loss deduction	0	40	35	25	0	18
Mutual insurance company taxable income (computed without regard to unused loss)	13	5	10	7	0	2