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§ 1.846–2T Election by taxpayer to use its own historical loss payment pattern (temporary).

(a) through (c) [Reserved]. For further guidance, see §1.846–2(a) through (c).

(d) Effect of section 338 election on section 846(e) election. For rules regarding qualified stock purchases occurring on or after April 10, 2006, see §§1.338–1(b)(2)(vii) and 1.338–11T(e).

[T.D. 9257, 71 FR 18005, Apr. 10, 2006]

§ 1.846–3 Fresh start and reserve strengthening.

(a) In general. Section 1023(e) of the Tax Reform Act of 1986 (“the 1986 Act”) provides rules relating to fresh start and reserve strengthening. For purposes of section 1023(e) of the 1986 Act, a taxpayer must discount its unpaid losses as of the end of the last taxable year beginning in 1986. The excess of undiscounted unpaid losses over discounted unpaid losses as of that time is not required to be included in income, except (as provided in paragraph (e) of this section) to the extent of any “reserve strengthening” in a taxable year beginning in 1986. The exclusion from income of this excess is known as “fresh start.” The amount of fresh start is, however, included in earnings and profits for the first taxable year beginning after December 31, 1986.

(b) Applicable discount factors—(1) Calculation of beginning balance. For purposes of section 1023(e) of the 1986 Act, a taxpayer discounts unpaid losses as of the end of the last taxable year beginning in 1987—

(i) By using the same discount factors that are used in the succeeding taxable year to discount unpaid losses attributable to the 1987 accident year and prior accident years (see section 1023(e)(2) of the 1986 Act); and

(ii) By applying those discount factors as if the 1986 accident year were the 1987 accident year.

(2) Example. The following example illustrates the principles of this paragraph (b):

Example. X, a calendar year taxpayer, does not make an election in 1987 to use its own historical loss payment pattern. When X computes discounted unpaid losses for its last taxable year beginning before January 1, 1987, the taxpayer reports losses and loss expenses incurred (in Schedule P, part 1, column 24 of the 1990 annual statement or comparable location in an earlier or subsequently revised blank) for at least the number of accident years for which losses and loss expenses incurred for that line of business are required to be separately reported on that annual statement. For example, for the 1987 determination year, the 1983 annual statement is used. The annual statement to be used to determine eligibility in subsequent determination years is the annual statement for each fifth year after 1985 (e.g., 1990, 1995, etc.).

(2) Other published guidance. A line of business is also an eligible line of business for purposes of the election if the line is an eligible line under requirements published for this purpose in the Internal Revenue Bulletin.

(3) Special rule for 1987 determination year. A line of business is an eligible line of business in the 1987 determination year if it is eligible under paragraph (b) (1) or (2) of this section, or if on the most recent annual statement filed by the taxpayer before the beginning of the 1987 determination year, the taxpayer reports written premiums for the line of business for at least the number of accident years that unpaid losses for that line of business are required to be separately reported on that annual statement.

(c) Anti-abuse rule. To prevent avoidance of the requirement that the election to use historical loss payment patterns apply to all eligible lines of business of a taxpayer, the district director may—

(1) Nullify a taxpayer’s election to compute discounted unpaid losses based on its historical loss payment pattern;

(2) Adjust a taxpayer’s historical loss payment pattern; or

(3) Make other proper adjustments.

(d) Effect of section 338 election on section 846(e) election. For rules regarding qualified stock purchase occurring on or after April 10, 2006, see §§1.338–1(b)(2)(vii) and 1.338–11T(e).