§ 1.802(b)–1 Tax on life insurance companies.

(a) For taxable years beginning after December 31, 1953, but before January 1, 1955, and ending after August 16, 1954, section 802(b) imposes a tax on the 1954 life insurance company taxable income of all life insurance companies (including a foreign life insurance company carrying on a life insurance business within the United States if with respect to its United States business it would qualify as a life insurance company under section 801). The tax so imposed is equal to 3 3/4 percent of the amount of such income not in excess of $200,000, plus 6 1/2 percent of the amount of such income in excess of $200,000. For the definition of the term “1954 life insurance company taxable income”, see § 1.803–1.

(b) The taxable income of life insurance companies differs from the taxable income of other corporations. See section 803. Life insurance companies are entitled, in computing life insurance company taxable income, to the special deductions provided in part VIII (section 241 and following), except section 248, subchapter B, chapter 1 of the Code. The gross income, the deduction under section 803 (g)(1) for wholly tax-exempt interest, and the deduction under section 242 for partially tax-exempt interest, are decreased by the appropriate amortization of premium and increased by the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a life insurance company. See section 803 (i) and § 1.803–6. Such companies are not subject to the provisions of subchapter P (section 1201 and following), chapter 1 of the Code, relating to capital gains and losses, nor to the provisions of section 171 (amortizable bond premium).

(c) All provisions of the Code and of the regulations in this part not inconsistent with the specific provision of sections 801 to 807, inclusive, are applicable to the assessment and collection of the tax imposed by section 802, and life insurance companies are subject to the same penalties as are provided in the case of returns and payment of income tax by other corporations. The return shall be on Form 1120L.

(d) Foreign life insurance companies not carrying on an insurance business within the United States are not taxable under section 802, but are taxable as other foreign corporations. See section 881.

§ 1.802–2 Taxable years affected.

Section 1.802(b)–1 is applicable only to taxable years beginning after December 31, 1953, and before January 1, 1955, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, before amendments. Sections 1.802–3 through 1.802–5 (other than paragraph (f)(2) of § 1.802–3), except as otherwise provided therein, are applicable only to taxable years beginning after December 31, 1957, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112) and section 235(c)(1) of the Revenue Act of 1964 (78 Stat. 126). Paragraph (f)(2) of § 1.802–3 is applicable only to taxable years beginning after December 31, 1961, and all reference to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112), section 3 of the Act of October 23, 1962 (76 Stat. 1134) and section 235(c)(1) of the Revenue Act of 1964 (78 Stat. 126).

[T.D. 6886, 31 FR 6685, June 23, 1966]

§ 1.802–3 Tax imposed on life insurance companies.

(a) In general. For taxable years beginning after December 31, 1957, section 802(a)(1) imposes a tax on the life insurance company taxable income (as defined in section 802(b) and paragraph (a) of § 1.802–4) of every life insurance company (including a foreign life insurance company carrying on a life insurance business within the United States if with respect to its United States business it would qualify as a life insurance company under section 801(a)). The tax imposed by section 802(a)(1) is payable upon the basis of returns rendered by the life insurance company.
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companies liable thereto. See sub-
chapter A, chapter 61 (section 6001 and
following) of the Code.

(b) Tax imposed. The tax imposed by
section 802(a)(1) consists of a normal
tax and a surtax computed as provided
in section 11 as though the life insur-
ance company taxable income (as de-
defined in section 802(b)) were the taxable
income referred to in section 11.

(c) Normal tax. The normal tax is
computed by applying to the life insur-
ance company taxable income the reg-
ular corporate normal tax rate (as in
effect for the taxable year) provided
by section 11(b).

(d) Surtax. The surtax is computed by
applying the regular corporate surtax
rate (as in effect for the taxable year)
and the amount
by which the life insurance company
taxable income exceeds the surtax ex-
emption for the taxable year as deter-
mined under section 11(d). See sections
269 and 1551 and the regulations there-
derunder, for certain circumstances in
which the surtax exemption may be
disallowed in whole or in part.

(e) Special rule for 1959 and 1960. See
section 802(a)(3) and paragraph (a) of
§ 1.802–5 for a transitional rule appli-
cable in certain cases in determining tax-
ability for the taxable years 1959 and
1960 by reason of the operation of sec-
ction 802(b)(3).

(f) Tax imposed in case of certain cap-
tal gains—(1) Taxable years beginning
after December 31, 1958, and before Janu-
ary 1, 1962. For taxable years beginning
after December 31, 1958, and before Jan-
uary 1, 1962, if the net long-term capital
gain (as defined in section 1222(7)) of
any life insurance company exceeds
its net short-term capital loss (as de-
defined in section 1222(6)), section
802(a)(2) imposes a separate tax equal
to 25 percent of such excess. This sepa-
rate 25 percent tax rate applies wheth-
er or not there is life insurance com-
pany taxable income, taxable invest-
ment income, and the gain from op-
erations for the taxable year. For tax-
able years beginning after December 31,
1958, and before January 1, 1962, only
the excess (if any) of net short-term
capital gain over net long-term capital
loss (as defined in section 1222(8)) shall be
taken into account in computing tax-
able investment income and gain or
loss from operations. See sections
804(b) and 809(b). Except as modified by
section 817 (rules relating to certain
gains and losses), the general rules of
the Code relating to gains and losses
(such as the rules for determining the
amount, characterization, and treat-
ment thereof) shall apply with respect
to life insurance companies.

(2) Alternative tax in case of capital
gains for taxable years beginning after
December 31, 1961. For taxable years be-
ginning after December 31, 1961, if the
net long-term capital gain (as de-
defined in section 1222(7)) of any life insurance
company exceeds its net short-term
capital loss (as defined in section
1222(6)), section 802(a)(2) imposes an alter-
native tax in lieu of the tax imposed
by section 802(a)(1), if and only if such
alternative tax is less than the tax im-
posed by section 802(a)(1). The alter-
native tax is the sum of:

(i) A partial tax, computed as pro-
vided by section 802(a)(1), on the life in-
surance company taxable income de-
termined by reducing the taxable in-
vestment income, and the gain from
operations, by the amount of the ex-
cess of its net long-term capital gain
over its net short-term capital loss,
and

(ii) In the case of a taxable year
beginning before January 1, 1970, an
amount equal to 25 percent of such ex-
cess, or

(b) In the case of a taxable year be-
ginning after December 31, 1969, an
amount determined as provided in sec-
tion 1201(a) and paragraph (a)(3) of
§ 1.1201–1 on such excess.

In the computation of the partial tax,
the deductions provided by sections 170
(as modified by section 809(a)(3)), 243,
244, 245 (as modified by sections 804
(a)(5) and 809(d)(8)(B)), and the limita-
tion provided by section 809(f), shall
not be recomputed as a result of the re-
duction of taxable investment income,
and gain from operations, as by the
amount of such excess. Except as modi-
fied by section 817 (rules relating to
certain gains and losses), the general
rules of the Code relating to gains and
losses (such as the rules for deter-
minting the amount, characterization
and treatment thereof) shall apply
with respect to life insurance companies.

(g) Foreign life insurance companies. Foreign life insurance companies not carrying on an insurance business within the United States are not taxable under section 802, but are taxable as other foreign corporations. See section 881.

(h) Assessment and collection of tax imposed. All provisions of the Internal Revenue Code and of the regulations in this part not inconsistent with the specific provisions of sections 801 to 820, inclusive, are applicable to the assessment and collection of the tax imposed by section 802(a), and life insurance companies are subject to the same penalties as are provided in the case of returns and payment of income tax by other corporations. The return shall be on Form 1120L.

(i) Illustration of principles. The provisions of section 802(a), other than paragraph (3) thereof, and this section may be illustrated by the following example:

Example. For the taxable year 1959, T, a life insurance company, has life insurance company taxable income of $300,000 (including $25,000 of net short-term capital gain) and $80,000 of net long-term capital gain. The tax of T under section 802(a) for 1959 is $170,500 ($90,000 normal tax, $60,500 surtax, and $20,000 capital gains tax) computed as follows:

\[
\begin{align*}
\text{COMPUTATION OF NORMAL TAX} \\
\text{Life insurance company taxable income} & \quad \text{\$300,000} \\
\text{Normal tax (30\% of \$300,000)} & \quad \text{\$90,000} \\
\text{Life insurance company taxable income} & \quad \text{\$300,000} \\
\text{Less: Exemption from surtax} & \quad \text{\$25,000} \\
\text{Excess of life insurance company taxable income subject to surtax} & \quad \text{\$275,000} \\
\text{Surtax (22\% of \$275,000)} & \quad \text{\$60,500} \\
\text{COMPUTATION OF SURTAX} \\
\text{Excess of net long-term capital gain over net short-term capital loss} & \quad \text{\$80,000} \\
\text{Capital gains tax (25\% of \$80,000)} & \quad \text{\$20,000}
\end{align*}
\]

(j) Cross reference. In the case of a taxable year of a life insurance company ending after December 31, 1963, for which an election under section 1562(a)(1) by a controlled group of corporations is effective, the additional tax imposed by section 1562 may apply. See section 1562 and the regulations thereunder.