

Public Law 88-571

AN ACT

To amend the Internal Revenue Code of 1954 to correct certain inequities with respect to the taxation of life insurance companies, and for other purposes.

September 2, 1964
[H. R. 5739]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) subsection (e) of section 812 of the Internal Revenue Code of 1954 (rules relating to new companies) is amended to read as follows:

“(e) **NEW COMPANY DEFINED.**—For purposes of this part, a life insurance company is a new company for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor, if section 381(c)(22) applies or would have applied if in effect) was authorized to do business as an insurance company.”

(b) The amendment made by subsection (a) shall apply to a loss from operations for taxable years beginning after December 31, 1955; except that, in the case of a nonqualified corporation as defined in section 812(e)(2)(B) of the Internal Revenue Code of 1954 as in effect before such amendment—

(1) a loss from operations for a taxable year beginning in 1956 shall not be an operating loss carryover to the years 1962 and 1963, and there shall be no reduction in the portion of such loss from operations which may be carried to 1964 by reason of an offset with respect to the year 1962 or 1963, and

(2) a loss from operations for a taxable year beginning in 1957 shall not be an operating loss carryover to the year 1963, and there shall be no reduction in the portion of such loss from operations which may be carried to 1964 and 1965 by reason of an offset with respect to the year 1963.

SEC. 2. Section 815(b)(2)(A)(ii) of the Internal Revenue Code of 1954 (relating to additions to shareholders surplus account) is amended by adding at the end thereof the following: “reduced (in the case of a taxable year beginning after December 31, 1961) by the amount referred to in clause (i).”

SEC. 3. (a) Section 815(d) of the Internal Revenue Code of 1954 (relating to special rules with respect to distributions to shareholders) is amended by adding at the end thereof the following new paragraph:

“(5) **REDUCTION OF POLICYHOLDERS SURPLUS ACCOUNT FOR CERTAIN UNUSED DEDUCTIONS.**—If—

“(A) an amount added to the policyholders surplus account for any taxable year increased (or created) a loss from operations for such year, and

“(B) any portion of the increase (or amount created) in the loss from operations referred to in subparagraph (A) did not reduce the life insurance company taxable income for any taxable year to which such loss was carried,

the policyholders surplus account for the taxable year referred to in subparagraph (A) shall be reduced by the amount described in subparagraph (B).”

(b) Section 6501 of such Code (relating to limitations on assessment and collection) is amended by redesignating subsection (k) as subsection (l), and by inserting after subsection (j) the following new subsection:

“(k) **REDUCTIONS OF POLICYHOLDERS SURPLUS ACCOUNT OF LIFE INSURANCE COMPANIES.**—In the case of a deficiency attributable to the application to the taxpayer of section 815(d)(5) (relating to reductions of policyholders surplus account of life insurance companies

Taxes.
Life insurance
companies.
73 Stat. 128.
26 USC 812.

26 USC 381.

26 USC 815.

26 USC 6501.

for certain unused deductions), such deficiency may be assessed at any time before the expiration of the period within which a deficiency for the last taxable year to which the loss described in section 815(d)(5)(A) is carried under section 812(b)(2) may be assessed."

(c) Section 6511(d) of such Code (relating to special rules applicable to income taxes with regard to limitations on credit or refund) is amended by adding at the end thereof the following new paragraph:

"(6) SPECIAL PERIOD OF LIMITATION WITH RESPECT TO REDUCTION OF POLICYHOLDERS SURPLUS ACCOUNT OF LIFE INSURANCE COMPANIES.—

"(A) PERIOD OF LIMITATION.—If the claim for credit or refund relates to an overpayment arising by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), in lieu of the 3-year period of limitation prescribed in subsection (a), the period shall be that period which ends with the expiration of the 15th day of the 39th month following the end of the last taxable year to which the loss described in section 815(d)(5)(A) is carried under section 812(b)(2), or the period prescribed in subsection (c), in respect of such taxable year, whichever expires later. In the case of such a claim, the amount of the credit or refund may exceed the portion of the tax paid within the period provided in subsection (b)(2) or (c), whichever is applicable, to the extent of the amount of overpayment arising by operation of section 815(d)(5).

"(B) APPLICABLE RULES.—If the allowance of a credit or refund of an overpayment arising by operation of section 815(d)(5) is otherwise prevented by operation of any law or rule of law, other than section 7122 (relating to compromises), such credit or refund may be allowed or made, if claim therefor is filed within the period provided in subparagraph (A) of this paragraph. In the case of any such claim for credit or refund, the determination by any court, including the Tax Court, in any proceeding in which the decision of the court has become final, shall be conclusive except with respect to the effect of the operation of section 815(d)(5), to the extent such effect of the operation of section 815(d)(5) was not in issue in such proceeding."

(d) Section 6601(e) of such Code (relating to income tax reduced by carryback with regard to interest on underpayment, nonpayment, or extensions of time for payment of tax) is amended—

(1) by striking out the heading and inserting in lieu thereof the following: "(e) INCOME TAX REDUCED BY CARRYBACK OR ADJUSTMENT FOR CERTAIN UNUSED DEDUCTIONS.—"; and

(2) by adding at the end thereof the following new paragraph:

"(3) ADJUSTMENT FOR CERTAIN UNUSED DEDUCTIONS OF LIFE INSURANCE COMPANIES.—If the amount of any tax imposed by subtitle A is reduced by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such reduction in tax shall not affect the computation of interest under this section for the period ending with the last day of the last taxable year to which the loss described in section 815(d)(5)(A) is carried under section 812(b)(2)."

(e) Section 6611(f) of such Code (relating to interest on refunds of income tax caused by carryback) is amended—

Ante, p. 857.
73 Stat. 127.
26 USC 812.
68A Stat. 808;
76 Stat. 891;
Ante, p. 128.
26 USC 6511.

26 USC 7122.

76 Stat. 972.
26 USC 6601.

26 USC 6611.

(1) by striking out the heading and inserting in lieu thereof the following: “(f) REFUND OF INCOME TAX CAUSED BY CARRY-BACK OR ADJUSTMENT FOR CERTAIN UNUSED DEDUCTIONS.—”; and

(2) by adding at the end thereof the following new paragraph:

“(3) ADJUSTMENT FOR CERTAIN UNUSED DEDUCTIONS OF LIFE INSURANCE COMPANIES.—For purposes of subsection (a), if any overpayment of tax imposed by subtitle A arises by operation of section 815(d)(5) (relating to reduction of policyholders surplus account of life insurance companies for certain unused deductions), such overpayment shall be deemed not to have been made prior to the close of the last taxable year to which the loss described in section 815(d)(5)(A) is carried under section 812(b)(2).”

Ante, p. 857.

73 Stat. 127.
26 USC 812.

(f) The amendments made by this section shall apply with respect to amounts added to policyholders surplus accounts (within the meaning of section 815(c) of the Internal Revenue Code of 1954) for taxable years beginning after December 31, 1958.

26 USC 815.

SEC. 4. (a) Section 815 of the Internal Revenue Code of 1954 (relating to distributions to shareholders) is amended—

(1) by striking out the second and third sentences of subsection (a), and

(2) by adding at the end thereof the following new subsection:

“(f) DISTRIBUTION DEFINED.—For purposes of this section, the term ‘distribution’ includes any distribution in redemption of stock or in partial or complete liquidation of the corporation, but does not include—

“(1) any distribution made by the corporation in its stock or in rights to acquire its stock;

“(2) except for purposes of subsection (a)(3) and subsection (e)(2)(B), any distribution in redemption of stock issued before 1958 which at all times on and after the date of issuance and on and before the date of redemption is limited as to dividends and is callable, at the option of the issuer, at a price not in excess of 105 percent of the sum of the issue price and the amount of any contribution to surplus made by the original purchaser at the time of his purchase; or

(3) any distribution after December 31, 1963, of the stock of a controlled corporation to which section 355 applies, if such controlled corporation is an insurance company subject to the tax imposed by section 831 and if—

68A Stat. 113.
26 USC 355.

“(A) control was acquired prior to January 1, 1958, or

“(B) control has been acquired after December 31, 1957—

76 Stat. 997-
999.
26 USC 831.

“(i) in a transaction qualifying as a reorganization under section 368(a)(1)(B), if the distributing corporation has at all times since December 31, 1957, owned stock representing not less than 50 percent of the total combined voting power of all classes of stock entitled to vote, and not less than 50 percent of the value of all classes of stock, of the controlled corporation, or

26 USC 368.

“(ii) solely in exchange for stock of the distributing corporation which stock is immediately exchanged by the controlled corporation in a transaction qualifying as a reorganization under section 368(a)(1)(A) or (C), if the controlled corporation has at all times since its organization been wholly owned by the distributing corporation and the distributing corporation has at all times since December 31, 1957, owned stock representing not less than 50 percent of the total combined voting power of all classes of stock entitled to vote, and

68A Stat. 120.
26 USC 368.

not less than 50 percent of the value of all classes of stock, of the corporation the assets of which have been transferred to the controlled corporation in the section 368(a)(1)(A) or (C) reorganization.

Paragraph (3) shall not apply to that portion of the distribution of stock of the controlled corporation equal to the increase in the aggregate adjusted basis of such stock after December 31, 1957, except to the extent such increase results from an acquisition of stock in the controlled corporation in a transaction described in subparagraph (B) of such paragraph. If any part of the increase in the aggregate adjusted basis of stock of the controlled corporation after December 31, 1957, results from the transfer (other than as part of a transaction described in paragraph (3)(B)) by the distributing corporation to the controlled corporation of property which has a fair market value in excess of its adjusted basis at the time of the transfer, paragraph (3) also shall not apply to that portion of the distribution equal to such excess."

(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1963.

73 Stat. 119.
26 USC 805.

SEC. 5. (a) Section 805(d)(1) of the Internal Revenue Code of 1954 (relating to pension plan reserves) is amended by inserting before the period at the end of subparagraph (D) the following: "or purchased to provide retirement annuities for employees described in section 403(b)(1)(A)(ii) by an employer which is a State, a political subdivision of a State, or an agency or instrumentality of any one or more of the foregoing".

(b) The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 1963.

26 USC 613.

SEC. 6. (a) Section 613(b) of the Internal Revenue Code of 1954 (relating to percentage depletion rates) is amended—

(1) by striking out "beryl," in paragraphs (2)(B) and (6); and

(2) by inserting "beryllium," after "antimony," in paragraph (2)(B).

(b) The amendments made by subsection (a) shall apply to taxable years beginning after December 31, 1963.

Ante, p. 99.

SEC. 7. (a) Section 1212(a) of the Internal Revenue Code of 1954 (relating to capital loss carryovers of corporations) is amended to read as follows:

"(a) CORPORATIONS.—

"(1) IN GENERAL.—If for any taxable year a corporation has a net capital loss, the amount thereof shall be a short-term capital loss—

"(A) in each of the 5 succeeding taxable years, or

"(B) to the extent such loss is attributable to a foreign expropriation capital loss, in each of the 10 succeeding taxable years,

to the extent such amount exceeds the total of any net capital gains (determined without regard to this paragraph) of any taxable years intervening between the taxable year in which the net capital loss arose and such succeeding taxable year.

"(2) DEFINITIONS AND SPECIAL RULES.—

"(A) FOREIGN EXPROPRIATION CAPITAL LOSS DEFINED.—For purposes of this subsection, the term 'foreign expropriation capital loss' means, for any taxable year, the sum of the losses taken into account in computing the net capital loss for such year which are—

"(i) losses sustained directly by reason of the expropriation, intervention, seizure, or similar taking of prop-

erty by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing, or

“(ii) losses (treated under section 165(g)(1) as losses from the sale or exchange of capital assets) from securities which become worthless by reason of the expropriation, intervention, seizure, or similar taking of property by the government of any foreign country, any political subdivision thereof, or any agency or instrumentality of the foregoing.

68A Stat. 49.
26 USC 165.

“(B) PORTION OF LOSS ATTRIBUTABLE TO FOREIGN EXPROPRIATION CAPITAL LOSS.—For purposes of paragraph (1), the portion of any net capital loss for any taxable year attributable to a foreign expropriation capital loss is the amount of the foreign expropriation capital loss for such year (but not in excess of the net capital loss for such year).

“(C) PRIORITY OF APPLICATION.—For purposes of paragraph (1), if a portion of a net capital loss for any taxable year is attributable to a foreign expropriation capital loss, such portion shall be considered to be a separate net capital loss for such year to be applied after the other portion of such net capital loss.”

(b) The amendment made by subsection (a) shall apply with respect to net capital losses (to the extent attributable to foreign expropriation capital losses, as defined in section 1212(a)(2)(A) of the Internal Revenue Code of 1954) sustained in taxable years ending after December 31, 1958.

Ante, p. 860.

Approved September 2, 1964.

Public Law 88-572

AN ACT

To authorize the Secretary of the Army to acquire the building constructed on the Fort Jay Military Reservation, New York, by the Young Men's Christian Association.

September 2, 1964
[H. R. 9803]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the Secretary of the Army is authorized to acquire on behalf of the United States, out of funds appropriated pursuant to section 2 of this Act, fee simple title to the building constructed on the Fort Jay Military Reservation, New York, by the Young Men's Christian Association.

Fort Jay Military Reservation,
N.Y.

SEC. 2. The purchase price for the property acquired under this Act shall be \$150,000, provided that no funds may be expended for acquisition of title to the property in the absence of specific appropriation of funds for such acquisition, which appropriation is hereby authorized.

Appropriation
for building.

Approved September 2, 1964.