

ysis, which is the analysis for subpart C of such part, to reflect the probable intent of Congress.

2004—Pub. L. 108-218, title II, §205(b)(7), Apr. 10, 2004, 118 Stat. 610, struck out item 809 “Reduction in certain deductions of mutual life insurance companies”.

1986—Pub. L. 99-514, title X, §1011(b)(11)(B), Oct. 22, 1986, 100 Stat. 2389, substituted “Small life insurance company deduction” for “Special deductions” in item 806.

§ 804. Life insurance deductions

For purposes of this part, the term “life insurance deductions” means the general deductions provided in section 805.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 722; amended Pub. L. 99-514, title X, §1011(b)(2), Oct. 22, 1986, 100 Stat. 2389; Pub. L. 115-97, title I, §13512(b)(4), Dec. 22, 2017, 131 Stat. 2143.)

Editorial Notes

PRIOR PROVISIONS

A prior section 804, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 115; amended Pub. L. 87-858, §3(b)(2), Oct. 23, 1962, 76 Stat. 1137; Pub. L. 88-272, title II, §214(b)(3), Feb. 26, 1964, 78 Stat. 55; Pub. L. 91-172, title IV, §401(b)(2)(D), Dec. 30, 1969, 83 Stat. 602; Pub. L. 94-455, title XIX, §1901(a)(96), (b)(1)(J)(i), (iii), (K), (M), (33)(F), Oct. 4, 1976, 90 Stat. 1780, 1791, 1801, defined the term “taxable investment income” and provided for the computation of such income, prior to the general revision of this part by Pub. L. 98-369, §211(a).

Another prior section 804, acts Aug. 16, 1954, ch. 736, 68A Stat. 258; Mar. 13, 1956, ch. 83, §2, 70 Stat. 41, related to reserve and other policy liability deductions, prior to the general revision of this part by Pub. L. 86-69, §2(a).

AMENDMENTS

2017—Pub. L. 115-97 substituted “means the general deductions provided in section 805.” for “means—

“(1) the general deductions provided in section 805, and

“(2) the small life insurance company deduction (if any) determined under section 806(a).”

1986—Pars. (2), (3), Pub. L. 99-514 redesignated par. (3) as (2), substituted “section 806(a)” for “section 806(b)”, and struck out former par. (2), which read as follows: “the special life insurance company deduction determined under section 806(a), and”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13512(c) of Pub. L. 115-97, set out as a note under section 453B of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1011(c)(1) of Pub. L. 99-514, set out as a note under section 453B of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as a note under section 801 of this title.

§ 805. General deductions

(a) General rule

For purposes of this part, there shall be allowed the following deductions:

(1) Death benefits, etc.

All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts.

(2) Increases in certain reserves

The net increase in reserves which is required by section 807(b) to be taken into account under this paragraph.

(3) Policyholder dividends

The deduction for policyholder dividends (determined under section 808(c)).

(4) Dividends received by company

(A) In general

The deductions provided by sections 243 and 245 (as modified by subparagraph (B))—

- (i) for 100 percent dividends received, and
- (ii) for the life insurance company’s share of the dividends (other than 100 percent dividends) received.

(B) Application of section 246(b)

In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A), the limit on the aggregate amount of the deductions allowed by sections 243(a)(1) and 245 shall be the percentage determined under section 246(b)(3) of the life insurance company taxable income (and such limitation shall be applied as provided in section 246(b)(3)), computed without regard to—

- (i) the deduction allowed under section 172,
- (ii) the deductions allowed by sections 243(a)(1) and 245, and
- (iii) any capital loss carryback to the taxable year under section 1212(a)(1),

but such limit shall not apply for any taxable year for which there is a loss from operations.

(C) 100 percent dividend

For purposes of subparagraph (A)—

(i) In general

Except as provided in clause (ii), the term “100 percent dividend” means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 245(b) is 100 percent.

(ii) Treatment of dividends from noninsurance companies

The term “100 percent dividend” does not include any distribution by a corporation which is not an insurance company to the extent such distribution is out of tax-exempt interest, or out of the increase for the taxable year in policy cash values (within the meaning of subparagraph (F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies, or out of dividends which are not 100 percent dividends (determined with the application of this clause as if it applies to distributions by all corporations including insurance companies).

(D) Special rules for certain dividends from insurance companies**(i) In general**

In the case of any 100 percent dividend paid to any life insurance company out of the earnings and profits for any taxable year beginning after December 31, 1983, of another life insurance company if—

(I) the paying company's share determined under section 812 for such taxable year, exceeds

(II) the receiving company's share determined under section 812 for its taxable year in which the dividend is received or accrued,

the deduction allowed under section 243 or 245(b) (as the case may be) shall be reduced as provided in clause (ii).

(ii) Amount of reduction

The reduction under this clause for a dividend is an amount equal to—

(I) the portion of such dividend attributable to prorated amounts, multiplied by

(II) the percentage obtained by subtracting the share described in subclause (II) of clause (i) from the share described in subclause (I) of such clause.

(iii) Prorated amounts

For purposes of this subparagraph, the term "prorated amounts" means tax-exempt interest, the increase for the taxable year in policy cash values (within the meaning of subparagraph (F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies, and dividends other than 100 percent dividends.

(iv) Portion of dividend attributable to prorated amounts

For purposes of this subparagraph, in determining the portion of any dividend attributable to prorated amounts—

(I) any dividend by the paying corporation shall be treated as paid first out of earnings and profits for taxable years beginning after December 31, 1983, attributable to prorated amounts (to the extent thereof), and

(II) by determining the portion of earnings and profits so attributable without any reduction for the tax imposed by this chapter.

(v) Subparagraph to apply to dividends from other insurance companies

Rules similar to the rules of this subsection shall apply in the case of 100 percent dividends paid by an insurance company which is not a life insurance company.

(E) Certain dividends received by foreign corporations

Subparagraph (A)(i) (and not subparagraph (A)(ii)) shall apply to any dividend received by a foreign corporation from a domestic corporation which would be a 100 percent dividend if section 1504(b)(3) did not apply for purposes of applying section 243(b)(2).

(F) Increase in policy cash values

For purposes of subparagraphs (C) and (D)—

(i) In general

The increase in the policy cash value for any taxable year with respect to policy or contract is the amount of the increase in the adjusted cash value during such taxable year determined without regard to—

(I) gross premiums paid during such taxable year, and

(II) distributions (other than amounts includible in the policyholder's gross income) during such taxable year to which section 72(e) applies.

(ii) Adjusted cash value

For purposes of clause (i), the term "adjusted cash value" means the cash surrender value of the policy or contract increased by the sum of—

(I) commissions payable with respect to such policy or contract for the taxable year, and

(II) asset management fees, surrender charges, mortality and expense charges, and any other fees or charges specified in regulations prescribed by the Secretary which are imposed (or which would be imposed were the policy or contract canceled) with respect to such policy or contract for the taxable year.

[5) Repealed. Pub. L. 115-97, title I, § 13511(b)(5), Dec. 22, 2017, 131 Stat. 2142]

(6) Assumption by another person of liabilities under insurance, etc., contracts

The consideration (other than consideration arising out of indemnity reinsurance) in respect of the assumption by another person of liabilities under insurance and annuity contracts.

(7) Reimbursable dividends

The amount of policyholder dividends which—

(A) are paid or accrued by another insurance company in respect of policies the taxpayer has reinsured, and

(B) are reimbursable by the taxpayer under the terms of the reinsurance contract.

(8) Other deductions

Subject to the modifications provided by subsection (b), all other deductions allowed under this subtitle for purposes of computing taxable income.

Except as provided in paragraph (3), no amount shall be allowed as a deduction under this part in respect of policyholder dividends.

(b) Modifications

The modifications referred to in subsection (a)(8) are as follows:

(1) Interest

In applying section 163 (relating to deduction for interest), no deduction shall be allowed for interest in respect of items described in section 807(c).

(2) Charitable, etc., contributions and gifts

In applying section 170—

(A) the limit on the total deductions under such section provided by section 170(b)(2) shall be 10 percent of the life insurance company taxable income computed without regard to—

- (i) the deduction provided by section 170,
- (ii) the deductions provided by paragraphs (3) and (4) of subsection (a),
- (iii) any net operating loss carryback to the taxable year under section 172, and
- (iv) any capital loss carryback to the taxable year under section 1212(a)(1), and

(B) under regulations prescribed by the Secretary, a rule similar to the rule contained in section 170(d)(2)(B) (relating to special rule for net operating loss carryovers) shall be applied.

(3) Amortizable bond premium

(A) In general

Section 171 shall not apply.

(B) Cross reference

For rules relating to amortizable bond premium, see section 811(b).

(4) Dividends received deduction

Except as provided in subsection (a)(4), the deductions for dividends received provided by sections 243 and 245 shall not be allowed.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 722; amended Pub. L. 99-514, title VI, §611(a)(5), title VIII, §805(c)(6), title X, §1011(b)(4), title XVIII, §1821(p), Oct. 22, 1986, 100 Stat. 2249, 2362, 2389, 2842; Pub. L. 100-203, title X, §10221(c)(2), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 104-188, title I, §1702(h)(3), Aug. 20, 1996, 110 Stat. 1873; Pub. L. 105-34, title X, §1084(b)(1), Aug. 5, 1997, 111 Stat. 954; Pub. L. 113-295, div. A, title II, §221(a)(41)(G), (I), Dec. 19, 2014, 128 Stat. 4044; Pub. L. 115-97, title I, §§13511(a), (b)(4)-(6), 13512(b)(5), (6), Dec. 22, 2017, 131 Stat. 2142, 2143.)

Editorial Notes

CODIFICATION

Another section 1084(b) of Pub. L. 105-34 amended sections 101 and 264 of this title.

PRIOR PROVISIONS

A prior section 805, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 118; amended Pub. L. 87-792, §7(g), Oct. 10, 1962, 76 Stat. 829; Pub. L. 88-571, §5(a), Sept. 2, 1964, 78 Stat. 860; Pub. L. 91-172, title IX, §907(a)(1), Dec. 30, 1969, 83 Stat. 715; Pub. L. 93-406, title II, §§1016(a)(6), 2002(g)(9), 2004(c)(3), Sept. 2, 1974, 88 Stat. 929, 970, 986; Pub. L. 94-267, §1(c)(4), Apr. 15, 1976, 90 Stat. 367; Pub. L. 94-455, title XIX, §1901(a)(97), Oct. 4, 1976, 90 Stat. 1780; Pub. L. 95-600, title I, §§141(f)(9), 155(a), Nov. 6, 1978, 92 Stat. 2795, 2801; Pub. L. 97-248, title II, §§257(a), 260(b), 261, 264(a)-(c)(1), Sept. 3, 1982, 96 Stat. 537, 540, 543, 544, related to policy and other contract liability requirements, prior to general revision of this part by Pub. L. 98-369, §211(a).

Another prior section 805, acts Aug. 16, 1954, ch. 736, 68A Stat. 258; Mar. 13, 1956, ch. 83, §2, 70 Stat. 43, authorized a special interest deduction, prior to the general revision of this part by Pub. L. 86-69, §2(a).

AMENDMENTS

2017—Subsec. (a)(4)(B)(i). Pub. L. 115-97, §13512(b)(5), redesignated cl. (ii) as (i) and struck out former cl. (i)

which read as follows: “the small life insurance company deduction.”

Subsec. (a)(4)(B)(ii). Pub. L. 115-97, §13512(b)(5), redesignated cl. (iii) as (ii). Former cl. (ii) redesignated (i). Pub. L. 115-97, §13511(b)(4), amended cl. (ii) generally. Prior to amendment, cl. (ii) read as follows: “the operations loss deduction provided by section 810.”

Subsec. (a)(4)(B)(iii), (iv). Pub. L. 115-97, §13512(b)(5), redesignated cls. (iii) and (iv) as (ii) and (iii), respectively.

Subsec. (a)(5). Pub. L. 115-97, §13511(b)(5), struck out par. (5) which provided for the operations loss deduction determined under section 810.

Subsec. (b)(2)(A)(iii). Pub. L. 115-97, §13512(b)(6), redesignated cl. (iv) as (iii) and struck out former cl. (iii) which read as follows: “the small life insurance company deduction.”

Subsec. (b)(2)(A)(iv). Pub. L. 115-97, §13512(b)(6), redesignated cl. (v) as (iv). Former cl. (iv) redesignated (iii).

Pub. L. 115-97, §13511(b)(6), amended cl. (iv) generally. Prior to amendment, cl. (iv) read as follows: “any operations loss carryback to the taxable year under section 810, and”.

Subsec. (b)(2)(A)(v). Pub. L. 115-97, §13512(b)(6), redesignated cl. (v) as (iv).

Subsec. (b)(4), (5). Pub. L. 115-97, §13511(a), redesignated par. (5) as (4) and struck out former par. (4) which did not allow the net operating loss deduction provided in section 172, except as provided by section 844.

2014—Subsec. (a)(4)(A). Pub. L. 113-295, §221(a)(41)(G), struck out “, 244,” after “sections 243” in introductory provisions.

Subsec. (a)(4)(B). Pub. L. 113-295, §221(a)(41)(I), struck out “, 244(a),” after “sections 243(a)(1)” in introductory provisions and in cl. (iii).

Subsec. (a)(4)(C)(i), (D)(i). Pub. L. 113-295, §221(a)(41)(G), struck out “, 244,” after “section 243”.

Subsec. (b)(5). Pub. L. 113-295, §221(a)(41)(G), struck out “, 244,” after “sections 243”.

1997—Subsec. (a)(4)(C)(ii). Pub. L. 105-34, §1084(b)(1)(A), inserted “, or out of the increase for the taxable year in policy cash values (within the meaning of subparagraph (F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies,” after “tax-exempt interest”.

Subsec. (a)(4)(D)(iii). Pub. L. 105-34, §1084(b)(1)(B), substituted “, the increase for the taxable year in policy cash values (within the meaning of subparagraph (F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies, and” for “and”.

Subsec. (a)(4)(F). Pub. L. 105-34, §1084(b)(1)(C), added subpar. (F).

1996—Subsec. (a)(4)(E). Pub. L. 104-188 substituted “243(b)(2)” for “243(b)(5)”.

1987—Subsec. (a)(4)(B). Pub. L. 100-203 substituted “shall be the percentage determined under section 246(b)(3) of the life insurance company taxable income (and such limitation shall be applied as provided in section 246(b)(3))” for “shall be 80 percent of the life insurance company taxable income”.

1986—Subsec. (a)(4)(B). Pub. L. 99-514, §611(a)(5), substituted “80 percent” for “85 percent” in introductory provisions.

Subsec. (a)(4)(B)(i). Pub. L. 99-514, §1011(b)(4), struck out “the special life insurance company deduction and” before “the small life”.

Subsec. (a)(4)(C) to (E). Pub. L. 99-514, §1821(p), added subpars. (C) and (D), redesignated former subpar. (D) as (E), and struck out former subpar. (C) which read as follows: “For purposes of subparagraph (A), the term ‘100 percent dividend’ means any dividend if the percentage used for purposes of determining the deduction allowable under section 243 or 244 is 100 percent. Such term does not include any dividend to the extent it is a distribution out of tax-exempt interest or out of dividends which are not 100 percent dividends (determined with the application of this sentence).”

Subsec. (b)(2). Pub. L. 99-514, §805(c)(6), redesignated par. (3) as (2). Former par. (2), which provided that sec-

tion 166(c) (relating to reserve for bad debts) shall not apply, was struck out.

Subsec. (b)(2)(A)(iii). Pub. L. 99-514, §1011(b)(4), which directed that subsec. (b)(3)(A)(iii) be amended by striking out “the special life insurance company deduction and” before “the small life”, was executed to subsec. (b)(2)(A)(iii) to reflect the probable intent of Congress and the redesignation of subsec. (b)(3) as (b)(2) by Pub. L. 99-514, §805(c)(6).

Subsec. (b)(3) to (6). Pub. L. 99-514, §805(c)(6), redesignated pars. (3) to (6) as (2) to (5), respectively.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 2017 AMENDMENT

Amendment by section 13511(a), (b)(4)–(6) of Pub. L. 115-97 applicable to losses arising in taxable years beginning after Dec. 31, 2017, see section 13511(c) of Pub. L. 115-97, set out as a note under section 381 of this title.

Amendment by section 13512(b)(5), (6) of Pub. L. 115-97 applicable to taxable years beginning after Dec. 31, 2017, see section 13512(c) of Pub. L. 115-97, set out as a note under section 453B of this title.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 not applicable to preferred stock issued before Oct. 1, 1942 (determined in the same manner as under section 247 of this title as in effect before its repeal by Pub. L. 113-295), see section 221(a)(41)(K) of Pub. L. 113-295, set out as a note under section 172 of this title.

Except as otherwise provided in section 221(a) of Pub. L. 113-295, amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to contracts issued after June 8, 1997, in taxable years ending after such date, with special provisions relating to changes in contracts to be treated as new contracts, see section 1084(d) of Pub. L. 105-34, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to taxable years beginning after Dec. 31, 1987, see section 10221(e)(2) of Pub. L. 100-203, as amended, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 611(a)(5) of Pub. L. 99-514 applicable to dividends received or accrued after Dec. 31, 1986, in taxable years ending after such date, see section 611(b)(1) of Pub. L. 99-514, set out as a note under section 246 of this title.

Amendment by section 805(c)(6) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, with certain changes required in method of accounting, see section 805(d) of Pub. L. 99-514, set out as a note under section 166 of this title.

Amendment by section 1011(b)(4) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1011(c)(1) of Pub. L. 99-514, set out as a note under section 453B of this title.

Amendment by section 1821(p) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369,

div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as a note under section 801 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101–1147 and 1171–1177] or title XVIII [§§1800–1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 806. Repealed. Pub. L. 115-97, title I, § 13512(a), Dec. 22, 2017, 131 Stat. 2142]

Section, added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 724; amended Pub. L. 99-514, title X, § 1011(a), (b)(5)–(8), (11)(A), Oct. 22, 1986, 100 Stat. 2388, 2389, related to small life insurance company deduction.

A prior section 806, added Pub. L. 86-69, §2(a), June 25, 1959, 73 Stat. 120; amended Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834, related to certain changes in reserves and assets, prior to the general revision of this part by Pub. L. 98-369, §211(a).

Another prior section 806, act Aug. 16, 1954, ch. 736, 68A Stat. 258, related to adjustment for certain reserves, prior to the general revision of this part by act Mar. 13, 1956, ch. 83, §2, 70 Stat. 36.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 2017, see section 13512(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 453B of this title.

§ 807. Rules for certain reserves

(a) Decrease treated as gross income

If for any taxable year—

(1) the opening balance for the items described in subsection (c), exceeds

(2)(A) the closing balance for such items, reduced by

(B) the amount of the policyholders' share of tax-exempt interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 805(a)(4)(F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies,

such excess shall be included in gross income under section 803(a)(2).

(b) Increase treated as deduction

If for any taxable year—

(1)(A) the closing balance for the items described in subsection (c), reduced by

(B) the amount of the policyholders' share of tax-exempt interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 805(a)(4)(F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies, exceeds