

TITLE 26 - INTERNAL REVENUE CODE
Subtitle A - Income Taxes
CHAPTER 1 - NORMAL TAXES AND SURTAXES
Subchapter L - Insurance Companies
PART II - OTHER INSURANCE COMPANIES

§ 831. Tax on insurance companies other than life insurance companies

(a) General rule

Taxes computed as provided in section 11 shall be imposed for each taxable year on the taxable income of every insurance company other than a life insurance company.

(b) Alternative tax for certain small companies

(1) In general

In lieu of the tax otherwise applicable under subsection (a), there is hereby imposed for each taxable year on the income of every insurance company to which this subsection applies a tax computed by multiplying the taxable investment income of such company for such taxable year by the rates provided in section 11 (b).

(2) Companies to which this subsection applies

(A) In general

This subsection shall apply to every insurance company other than life (including interinsurers and reciprocal underwriters) if—

- (i)** the net written premiums (or, if greater, direct written premiums) for the taxable year do not exceed \$1,200,000, and
- (ii)** such company elects the application of this subsection for such taxable year.

The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary.

(B) Controlled group rules

(i) In general

For purposes of subparagraph (A), in determining whether any company is described in clause (i) of subparagraph (A), such company shall be treated as receiving during the taxable year amounts described in such clause (i) which are received during such year by all other companies which are members of the same controlled group as the insurance company for which the determination is being made.

(ii) Controlled group

For purposes of clause (i), the term “controlled group” means any controlled group of corporations (as defined in section 1563 (a)); except that—

- (I)** “more than 50 percent” shall be substituted for “at least 80 percent” each place it appears in section 1563 (a), and
- (II)** subsections (a)(4) and (b)(2)(D) of section 1563 shall not apply.

(3) Limitation on use of net operating losses

For purposes of this part, except as provided in section 844, a net operating loss (as defined in section 172) shall not be carried—

- (A)** to or from any taxable year for which the insurance company is not subject to the tax imposed by subsection (a), or

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(B) to any taxable year if, between the taxable year from which such loss is being carried and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by subsection (a).

(c) Insurance company defined

For purposes of this section, the term “insurance company” has the meaning given to such term by section 816 (a).¹

(d) Cross references

- (1)** For alternative tax in case of capital gains, see section 1201 (a).
- (2)** For taxation of foreign corporations carrying on an insurance business within the United States, see section 842.
- (3)** For exemption from tax for certain insurance companies other than life, see section 501 (c)(15).

Footnotes

¹ So in original. Second closing parenthesis probably should not appear.

(Aug. 16, 1954, ch. 736, 68A Stat. 264; Pub. L. 87–834, § 8(e)(1), (f), (g)(4)(B), Oct. 16, 1962, 76 Stat. 997–999; Pub. L. 89–809, title I, § 104(i)(6), Nov. 13, 1966, 80 Stat. 1562; Pub. L. 94–455, title XIX, §§ 1901(a)(107), 1906 (b)(13)(A), Oct. 4, 1976, 90 Stat. 1782, 1834; Pub. L. 99–514, title X, § 1024(a)(4), Oct. 22, 1986, 100 Stat. 2405; Pub. L. 100–647, title I, § 1010(f)(1), (9), Nov. 10, 1988, 102 Stat. 3454, 3455; Pub. L. 108–218, title II, § 206(c), (d), Apr. 10, 2004, 118 Stat. 611.)

Amendments

2004—Subsec. (b)(2)(A)(i). Pub. L. 108–218, § 206(d), struck out “exceed \$350,000 but” after “taxable year”.

Subsecs. (c), (d). Pub. L. 108–218, § 206(c), added subsec. (c) and redesignated former subsec. (c) as (d).

1988—Subsec. (b)(2)(A). Pub. L. 100–647, § 1010(f)(1), inserted at end “The election under clause (ii) shall apply to the taxable year for which made and for all subsequent taxable years for which the requirements of clause (i) are met. Such an election, once made, may be revoked only with the consent of the Secretary.”

Subsec. (b)(3). Pub. L. 100–647, § 1010(f)(9), added par. (3).

1986—Pub. L. 99–514 amended section generally, substituting provisions imposing taxes on insurance companies other than life insurance companies, with an alternative tax on certain small companies, for provisions imposing taxes on insurance companies (other than life or mutual), mutual marine insurance companies, and certain mutual fire or flood insurance companies, with an election for multiple line companies to be taxed on total income.

1976—Subsec. (a). Pub. L. 94–455, § 1901(a)(107), substituted “on the taxable income” for “or the taxable income”.

Subsec. (b). Pub. L. 94–455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary” wherever appearing.

1966—Subsec. (b). Pub. L. 89–809, § 104(i)(6)(A), redesignated subsec. (c) as (b). Former subsec. (b), which excepted foreign insurance companies other than life or mutual insurance companies, foreign mutual marine insurance companies, and foreign mutual fire insurance companies not carrying on an insurance business within the United States and provided that they would be taxable as other foreign corporations, was struck out.

Subsecs. (c), (d). Pub. L. 89–809, § 104(i)(6)(B), redesignated subsec. (d) as (c) and added item (2). Former subsec. (c) redesignated (b).

1962—Pub. L. 87–834, § 8(g)(4)(B), substituted “and certain mutual fire or flood insurance companies” for “and mutual fire insurance companies issuing perpetual policies” in section catchline.

Subsec. (a). Pub. L. 87–834, § 8(e)(1), included flood insurance companies, and substituted provisions authorizing imposition of the tax on those companies whose principal business is the issuance of policies for which the premium deposits are the same, regardless of the length of the term for which the policies are written, if the unabsorbed portion of such premium deposits not required for losses, expenses, or establishment of reserves is returned or credited to the policyholder on cancellation or expiration of the policy for provisions which authorized imposition of tax on those companies which issued policies for which the sole premium charged is a single deposit which (except for such deduction of underwriting costs as may be provided) is refundable on cancellation or expiration of the policy.

Subsecs. (c), (d). Pub. L. 87–834, § 8(f), added subsec. (c) and redesignated former subsec. (c) as (d).

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Effective Date of 2004 Amendment

Amendment by Pub. L. 108–218 applicable to taxable years beginning after Dec. 31, 2003, with exception for companies in receivership or liquidation, see section 206(e) of Pub. L. 108–218, set out as a note under section 501 of this title.

Effective Date of 1988 Amendment

Amendment by Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Effective Date of 1986 Amendment

Section 1024(e) of Pub. L. 99–514 provided that: “The amendments made by this section [amending this section and sections 501, 832, 834, 835, 841, 842, 844, 891, 1201, 1504, and 1563 of this title, redesignating former sections 822 and 826 of this title as sections 834 and 835 of this title, respectively, and repealing sections 821, 823, 824, and 825 of this title] (and the provisions of subsection (d) [set out below]) shall apply to taxable years beginning after December 31, 1986.”

Effective Date of 1976 Amendment

Amendment by section 1901(a)(107) of Pub. L. 94–455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as a note under section 2 of this title.

Effective Date of 1966 Amendment

Amendment by Pub. L. 89–809 applicable with respect to taxable years beginning after Dec. 31, 1966, see section 104(n) of Pub. L. 89–809, set out as a note under section 11 of this title.

Effective Date of 1962 Amendment

Amendment by Pub. L. 87–834 applicable with respect to taxable years beginning after Dec. 31, 1962, see section 8(h) of Pub. L. 87–834, set out as a note under section 501 of this title.

Transitional Rules for 1984 Amendment

Section 1024(d) of Pub. L. 99–514, as amended by Pub. L. 100–647, title I, § 1010(f)(8), Nov. 10, 1988, 102 Stat. 3454, provided that:

“(1) Treatment of amounts in protection against loss account.—In the case of any insurance company which had a protection against loss account for its last taxable year beginning before January 1, 1987, there shall be included in the gross income of such company for any taxable year beginning after December 31, 1986, the amount which would have been included in gross income for such taxable year under section 824 of the Internal Revenue Code of 1954 [now 1986] (as in effect on the day before the date of the enactment of this Act [Oct. 22, 1986]). For purposes of the preceding sentence, no addition to such account shall be made for any taxable year beginning after December 31, 1986. In the case of a company taxable under section 831(b) of the Internal Revenue Code of 1986 (as amended by subsection (a)), any amount included in gross income under this paragraph shall be treated as gross investment income.

“(2) Transitional rule for unused loss carryover under section 825.—Any unused loss carryover under section 825 of the Internal Revenue Code of 1954 (as in effect on the day before the date of the enactment of this Act [Oct. 22, 1986]) which—

“(A) is from a taxable year beginning before January 1, 1987, and

“(B) could have been carried under such section to a taxable year beginning after December 31, 1986, but for the repeal made by subsection (a)(1) [repealing sections 821 and 823 to 825 of this title],

shall be included in the net operating loss deduction under section 832(c)(10) of such Code without regard to the limitations of section 844(b) of such Code.”