

TITLE 26 - INTERNAL REVENUE CODE
Subtitle A - Income Taxes
CHAPTER 1 - NORMAL TAXES AND SURTAXES
Subchapter L - Insurance Companies
PART I - LIFE INSURANCE COMPANIES
Subpart E - Definitions and Special Rules

§ 816. Life insurance company defined

(a) Life insurance company defined

For purposes of this subtitle, the term “life insurance company” means an insurance company which is engaged in the business of issuing life insurance and annuity contracts (either separately or combined with accident and health insurance), or noncancellable contracts of health and accident insurance, if—

- (1) its life insurance reserves (as defined in subsection (b)), plus
- (2) unearned premiums, and unpaid losses (whether or not ascertained), on noncancellable life, accident, or health policies not included in life insurance reserves,

comprise more than 50 percent of its total reserves (as defined in subsection (c)). For purposes of the preceding sentence, the term “insurance company” means any company more than half of the business of which during the taxable year is the issuing of insurance or annuity contracts or the reinsuring of risks underwritten by insurance companies.

(b) Life insurance reserves defined

(1) In general

For purposes of this part, the term “life insurance reserves” means amounts—

- (A) which are computed or estimated on the basis of recognized mortality or morbidity tables and assumed rates of interest, and
- (B) which are set aside to mature or liquidate, either by payment or reinsurance, future unaccrued claims arising from life insurance, annuity, and noncancellable accident and health insurance contracts (including life insurance or annuity contracts combined with noncancellable accident and health insurance) involving, at the time with respect to which the reserve is computed, life, accident, or health contingencies.

(2) Reserves must be required by law

Except—

- (A) in the case of policies covering life, accident, and health insurance combined in one policy issued on the weekly premium payment plan, continuing for life and not subject to cancellation, and
- (B) as provided in paragraph (3),

in addition to the requirements set forth in paragraph (1), life insurance reserves must be required by law.

(3) Assessment companies

In the case of an assessment life insurance company or association, the term “life insurance reserves” includes—

- (A) sums actually deposited by such company or association with State officers pursuant to law as guaranty or reserve funds, and
- (B) any funds maintained, under the charter or articles of incorporation or association (or bylaws approved by a State insurance commissioner) of such company or association, exclusively for the payment of claims arising under certificates of membership or policies issued on the assessment plan and not subject to any other use.

(4) Amount of reserves

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

For purposes of this subsection, subsection (a), and subsection (c), the amount of any reserve (or portion thereof) for any taxable year shall be the mean of such reserve (or portion thereof) at the beginning and end of the taxable year.

(c) Total reserves defined

For purposes of subsection (a), the term “total reserves” means—

- (1) life insurance reserves,
- (2) unearned premiums, and unpaid losses (whether or not ascertained), not included in life insurance reserves, and
- (3) all other insurance reserves required by law.

(d) Adjustments in reserves for policy loans

For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, the life insurance reserves, and the total reserves, shall each be reduced by an amount equal to the mean of the aggregates, at the beginning and end of the taxable year, of the policy loans outstanding with respect to contracts for which life insurance reserves are maintained.

(e) Guaranteed renewable contracts

For purposes of this part, guaranteed renewable life, accident, and health insurance shall be treated in the same manner as noncancellable life, accident, and health insurance.

(f) Amounts not involving life, accident, or health contingencies

For purposes only of determining under subsection (a) whether or not an insurance company is a life insurance company, amounts set aside and held at interest to satisfy obligations under contracts which do not contain permanent guarantees with respect to life, accident, or health contingencies shall not be included in reserves described in paragraph (1) or (3) of subsection (c).

(g) Burial and funeral benefit insurance companies

A burial or funeral benefit insurance company engaged directly in the manufacture of funeral supplies or the performance of funeral services shall not be taxable under this part but shall be taxable under section 831.

(h) Treatment of deficiency reserves

For purposes of this section and section 842 (b)(2)(B)(i), the terms “life insurance reserves” and “total reserves” shall not include deficiency reserves.

(Added Pub. L. 98–369, div. A, title II, § 211(a), July 18, 1984, 98 Stat. 748; amended Pub. L. 99–514, title XVIII, § 1821(1), Oct. 22, 1986, 100 Stat. 2841; Pub. L. 100–203, title X, § 10242(c)(2), Dec. 22, 1987, 101 Stat. 1330–423; Pub. L. 100–647, title I, § 1010(f)(6), title II, § 2004(q)(1), Nov. 10, 1988, 102 Stat. 3454, 3608.)

Prior Provisions

A prior section 816, act Aug. 16, 1954, ch. 736, § 816, as added Mar. 13, 1956, ch. 83, § 2, 70 Stat. 46, related to taxation of foreign life insurance companies, prior to the general revision of this part by Pub. L. 86–69, § 2(a).

Amendments

1988—Subsec. (g). Pub. L. 100–647, § 1010(f)(6), substituted “section 831” for “section 821 or section 831”.

Subsec. (h). Pub. L. 100–647, § 2004(q)(1), substituted “section 842 (b)(2)(B)(i)” for “section 842 (c)(1)(A)”.

1987—Subsec. (h). Pub. L. 100–203 substituted “section 842 (c)(1)(A)” for “section 813 (a)(4)(B)”.

1986—Subsec. (h). Pub. L. 99–514 added subsec. (h).

NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).

Effective Date of 1988 Amendment

Amendment by section 1010(f)(6) of 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.

Amendment by section 2004(q)(1) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100–203, title X, to which such amendment relates, see section 2004(u) of Pub. L. 100–647, set out as a note under section 56 of this title.

Effective Date of 1987 Amendment

Section 10242(d) of Pub. L. 100–203 provided that: “The amendments made by this section [amending this section and sections 842, 864, and 4371 of this title and repealing section 813 of this title] shall apply to taxable years beginning after December 31, 1987.”

Effective Date of 1986 Amendment

Amendment by 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.

Special Election To Treat Individual Noncancellable Accident and Health Contracts as Cancellable

Section 217(i) of Pub. L. 98–369, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095; Pub. L. 100–647, title I, § 1010(h)(1), Nov. 10, 1988, 102 Stat. 3455, provided that:

“(1) In general.—A mutual life insurance company may elect to treat all individual noncancellable (or guaranteed renewable) accident and health insurance contracts as though they were cancellable for purposes of section 816 of subchapter L of chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(2) Effect of election on subsidiaries of electing parent.—For purposes of determining the amount of the small life insurance company deduction of any controlled group which includes a mutual company which made an election under paragraph (1), the taxable income of such electing company shall be taken into account under section 806(b)(2) of the Internal Revenue Code of 1986 (relating to phaseout of small life insurance company deduction).

“(3) Election.—An election under paragraph (1) shall apply to the company’s first taxable year beginning after December 31, 1983, and all taxable years thereafter.

“(4) Time and manner.—An election under paragraph (1) shall be made—

“(A) on the return of the taxpayer for its first taxable year beginning after December 31, 1983, and

“(B) in such manner as the Secretary of the Treasury or his delegate may prescribe.”

[Section 1010(h)(2), (3) of Pub. L. 100–647 provided that:

[“(2) Effective date.—The amendment made by this subsection [amending section 217(i) of Pub. L. 98–369, set out above] shall apply to taxable years beginning after December 31, 1986, and before January 1, 1992.

[“(3) Revenue loss limited.—The decrease in the amount of Federal revenue by reason of the amendment made by this subsection shall not exceed \$300,000 per taxable year.”]