

(whether or not ascertained) under section 809(d)(1), such item, or any portion thereof, shall not also be allowed as a deduction for such taxable year under section 809(d)(2).

[T.D. 6535, 26 FR 527, Jan. 20, 1961, as amended by T.D. 6610, 27 FR 8718, Aug. 31, 1962; T.D. 6886, 31 FR 8687, June 23, 1966; T.D. 6992, 34 FR 827, Jan. 18, 1969]

#### § 1.809-6 Modifications.

Under section 809(e), the deductions allowed under section 809(d)(12) and paragraph (a)(12) of § 1.809-5 (relating to other deductions) are subject to the following modifications:

(a) *Interest.* No deduction shall be allowed under section 163 for interest in respect of items described in section 810(c) since such interest is taken into account in the determination of required interest under section 809.

(b) *Bad debts.* No deduction shall be allowed for an addition to reserves for bad debts under section 166(c). However, a deduction for specific bad debts shall be allowed to the extent that such deduction is allowed under section 166 and the regulations thereunder. In the case of a loss incurred on the sale of mortgaged or pledged property, see § 1.166-6 of this chapter.

(c) *Charitable, etc., contributions and gifts.* (1) The deduction by a life insurance company in any taxable year for a charitable contribution (as defined in section 170(c)) shall be limited to 5 percent of the gain from operations (as determined under section 809(b)(1)), computed without regard to any deductions for:

(i) Charitable contributions under section 170;

(ii) Dividends to policyholders under section 811(b);

(iii) Certain nonparticipating contracts under section 809(d)(5);

(iv) Group life insurance contracts and group accident and health insurance contracts under section 809(d)(6);

(v) Tax-exempt interest, dividends, etc., under section 809(d)(8); and

(vi) Any operations loss carryback to the taxable year under section 812.

(2) In applying the first sentence of section 170(b)(2) as contained in section 170 or, in the case of taxable years beginning after December 31, 1969, section 170(d)(2)(B) as contained in section

170A, any excess of the charitable contributions made by a life insurance company in a taxable year over the amount deductible in such year under the limitation contained in subparagraph (1) of this paragraph, shall be reduced to the extent that such excess:

(i) Reduces life insurance company taxable income (computed without regard to section 802(b)(3)) for the purpose of determining the offsets referred to in section 812(b)(2); and

(ii) Increases an operations loss carryover under section 812 for a succeeding taxable year.

(3) The application of the rules provided in section 809(e)(3) and this paragraph may be illustrated by the following example:

*Example.* Assume that life insurance company P is organized on January 1, 1958, and has a loss from operations for that year in the amount of \$100,000 which is an operations loss carryover to 1959. In 1959, company P has a gain from operations and tax base (computed without regard to section 802(b)(3)) of \$100,000 before the allowance of a deduction for a \$5,000 charitable contribution made in 1959 and before the application of the operations loss carryover from 1958. Under section 170(b)(2), the operations loss carryover from 1958 is first applied to eliminate the \$100,000 gain from operations and tax base in 1959 and the \$5,000 charitable contribution carryover would (except for the limitation contained in this paragraph) become a charitable contribution carryover to 1960. However, for the purpose of computing the offsets referred to in section 812(b)(2), the \$5,000 charitable contribution is applied to reduce the gain from operations and tax base for 1959 to \$95,000 before the application of the operations carryover from 1958. Since only \$95,000 of the \$100,000 loss from operations in 1958 is an offset for 1959, the remaining \$5,000 becomes an operations loss carryover to 1960. Accordingly, under the limitation contained in this paragraph, the charitable contributions carryover provided under the second sentence of section 170(b)(2) is eliminated.

(d) *Amortizable bond premium.* No deduction shall be allowed under section 171 for the amortization of bond premiums since a special deduction for such premiums is specifically taken into account under section 818(b).

(e) *Net operating loss deduction.* No deduction shall be allowed under section 172 since section 812 allows an "operations loss deduction".

(f) *Partially tax-exempt interest.* No deduction shall be allowed under section

242 for partially tax-exempt interest since section 809(d)(8) allows a deduction for such interest.

(g) *Dividends received.* No deduction shall be allowed under sections 243, 244, and 245 for dividends received since section 809(d)(8) allows a deduction for such dividends.

[T.D. 6535, 26 FR 529, Jan. 20, 1961, as amended by T.D. 7207, 37 FR 20797, Oct. 5, 1972]

**§ 1.809-7 Limitation on certain deductions.**

(a) *In general.* Section 809(f)(1) limits the deductions under section 809(d) (3), (5), and (6), relating to deductions for dividends to policyholders, certain non-participating contracts, and group life, accident, and health insurance contracts, respectively. This limitation provides that the amount of such deductions shall not exceed the sum of (1) the amount (if any) by which the gain from operations for the taxable year (determined without regard to such deductions) exceeds the taxpayer's taxable investment income for such year, plus (2) \$250,000.

(b) *Application of limitation.* Section 809(f)(2) provides a priority system for applying the limitation contained in section 809(f)(1) and paragraph (a) of this section. Under this priority system, the limitation shall be applied in the following order:

(1) For taxable years beginning before January 1, 1962:

(i) First to the amount of the deduction under section 809(d)(6) (relating to group life, accident, and health insurance);

(ii) Then to the amount of the deduction under section 809(d)(5) (relating to certain nonparticipating contracts); and

(iii) Finally to the amount of the deduction under section 809(d)(3) (relating to dividends to policyholders).

(2) For taxable years beginning after December 31, 1961, the limitation shall be applied in the following order:

(i) First to the amount of the deduction under section 809(d)(3);

(ii) Then to the amount of the deduction under section 809(d)(6); and

(iii) Finally to the amount of the deduction under section 809(d)(5).

Thus, for taxable years beginning after December 31, 1961, the limitation and priority system would operate first to disallow a deduction under section 809(d)(5), then a deduction under section 809(d)(6), and finally a deduction under section 809(d)(3). For purposes of applying the 50 percent limitation contained in section 809(d)(6) with respect to a taxable year beginning after December 31, 1961, the amount of the deductions for taxable years beginning before January 1, 1962, shall be determined by applying the priority system contained in subparagraph (1) of this paragraph.

(c) *Illustration of principles.* The operation of the limitation and priority system provided by section 809(f) and this section may be illustrated by the following examples:

*Example 1.* Assume the following facts with respect to M, a life insurance company, for the taxable year 1958:

Gain from operations computed without regard to the deductions under sec. 809(d) (3), (5), and (6) .....	\$100,000,000
Taxable investment income .....	83,000,000
Tentative deduction for group life, accident, and health insurance under sec. 809(d)(6) .....	4,000,000
Tentative deduction for certain nonparticipating contracts under sec. 809(d)(5) .....	6,000,000
Tentative deduction for dividends to policyholders under sec. 809(d)(3) .....	10,000,000

In order to determine the limitation on the deductions under section 809(d) (3), (5), and (6), M would make up the following schedule:

(1) Statutory amount provided under sec. 809(f)(1) .....	\$250,000
(2) Gain from operations computed without regard to the deductions under sec. 809(d) (3), (5), and (6) .....	\$100,000,000
(3) Taxable investment income .....	83,000,000
(4) Excess of item (2) over item (3) .....	17,000,000
(5) Limitation on deductions under sec. 809(d) (3), (5), and (6) (item (1) plus item (4)) .....	17,250,000
Since the total tentative deductions under section 809(d) (3), (5), and (6) (\$20,000,000) exceeds the limitation on such deductions (\$17,250,000), M would make up the following schedule to determine the application of the priority system:	
(6) Maximum possible deduction under sec. 809(d) (3), (5), and (6) (item (5)) .....	\$17,250,000
(7) Deduction for group life, accident, and health insurance under sec. 809(d)(6) (not in excess of item (6)) .....	4,000,000