

**Internal Revenue Service, Treasury**

**§ 1.809-9**

(8) Maximum possible deduction under sec. 809(d)(5) (item (6) less item (7)) .....	13,250,000
(9) Deduction for certain nonparticipating contracts under sec. 809(d)(5) (not in excess of item (8)) .....	6,000,000
<hr/>	
(10) Maximum possible deduction under sec. 809(d)(3) (item (8) less item (9)) .....	7,250,000
(11) Deduction for dividends to policyholders under sec. 809(d)(3) (not in excess of item (10)) .....	7,250,000

Thus, as a result of the application of the limitation and priority system for the taxable year 1958, M shall be allowed a deduction of \$4,000,000 under section 809(d)(6), \$6,000,000 under section 809(d)(5), and only \$7,250,000 of the \$10,000,000 tentative deduction under section 809(d)(3).

*Example 2.* The facts are the same as in example 1, except that the taxable year is 1962. 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:

(1) Maximum possible deductions under sec. 809(d) (3), (5), and (6) (item (5) in example 1) .....	\$17,250,000
(2) Deduction for dividends to policyholders under sec. 809(d)(3) (not in excess of item (1)) .....	10,000,000
<hr/>	
(3) Maximum possible deduction under sec. 809(d)(6) (item (1) less item (2)) .....	7,250,000
(4) Deduction for certain accident, health, and group life insurance under sec. 809(d)(6) (not in excess of item (3)) .....	4,000,000
<hr/>	
(5) Maximum possible deduction under sec. 809(d)(5) (item (4) less item (5)) .....	3,250,000
(6) Deduction for certain nonparticipating contracts under sec. 809(d)(5) (not in excess of item (5)) .....	3,250,000

Thus, as a result of the application of the limitation and priority system for the taxable year 1962, M shall be allowed a deduction of \$10,000,000 under section 809(d)(3), \$4,000,000 under section 809(d)(6), and only \$3,250,000 of the \$6,000,000 tentative deduction under section 809(d)(5).

[T.D. 6535, 26 FR 530, Jan. 20, 1961, as amended by T.D. 6886, 31 FR 8688, June 23, 1966]

**§ 1.809-8 Limitation on deductions for certain mutualization distributions.**

(a) *Deduction not to reduce taxable investment income.* Section 809(g)(1) limits the deduction under section 809(d)(11) for certain mutualization distributions. This limitation provides that such deduction shall not exceed the amount (if any) by which the gain from operations for the taxable year, computed without regard to such deduction (but after the application of the limitation contained in section 809(f) and § 1.809-7), exceeds the taxpayer's taxable investment income for such year.

(b) *Deduction not to reduce tax below that imposed by 1957 law.* Section 809(g)(2) further limits the deduction under section 809(d)(11). Under section 809(g)(2), such deduction shall be allowed only to the extent that it (after the application of all other deductions) does not reduce the tax imposed by section 802(a)(1) for the taxable year below the amount of tax which would have been imposed for such taxable year if the law in effect for 1957 applied for such taxable year. If such deduction is claimed for 1958 (or 1959), the company shall attach to its return a schedule showing what its tax for 1958 (or 1959) would have been had such tax been computed under the law in effect for 1957.

(c) *Application of section 815.* Section 809(g)(3) provides that any portion of a distribution which is allowed as a deduction under section 809(d)(11) shall not be treated as a distribution to shareholders for purposes of section 815; except that in the case of any distributions made in 1959, such portion shall be treated as a distribution with respect to which a reduction is required under section 815(e)(2)(B) (relating to adjustment in allocation ratio for certain distributions after December 31, 1958).

[T.D. 6535, 26 FR 530, Jan. 20, 1961]

**§ 1.809-9 Computation of the differential earnings rate and the recomputed differential earnings rate.**

(a) *In general.* Neither the differential earnings rate under section 809(c) nor the recomputed differential earnings rate that is used in computing the recomputed differential earnings amount under section 809(f)(3) may be less than zero.

(b) *Definitions—(1) Recomputed differential earnings amount.* The recomputed differential earnings amount, with respect to any taxable year, is the amount equal to the product of—