

over for subsequent taxable years, the operations loss deduction for 1960 is \$33,000, that is, the aggregate of the \$9,000 carryover from 1958, the \$6,000 carryover from 1959, and the \$18,000 carryback from 1961. In computing the operations loss deduction for such purpose, the \$10,000 carryback from 1962 is disregarded.

(2) *Recomputation of deductions limited by section 809(f)*—(i) *In general.* If in any taxable year a life insurance company has deductions under section 809(d) (3), (5), and (6), as limited by section 809(f), and sustains a loss from operations in a succeeding taxable year which may be carried back as an operations loss deduction, such limitation and deductions shall be recomputed. This recomputation is required since the carryback must be taken into account for purposes of determining such limitation and deductions.

(ii) *Illustration of principles.* The provisions of this subparagraph may be illustrated by the following example:

(a) *Facts.* The books of P, a life insurance company, reveal the following facts:

Taxable year	Taxable investment income	Gain from operations	Loss from operations
1959 .....	\$9,000,000	\$10,000,000	.....
1960 .....	.....	.....	(\$9,800,000)

The gain from operations thus shown is computed without regard to any operations loss deduction or deductions under section 809(d) (3), (5), and (6), as limited by section 809(f). Assume that for the taxable year 1959, P has (without regard to the limitation of section 809(f) or the operations loss deduction for 1959) a deduction under section 809(d)(3) of \$2,500,000 for dividends to policyholders and no deductions under section 809(d) (5) or (6).

(b) *Determination of section 809(f) limitation and deduction for dividends to policyholders without regard to the operations loss deduction for 1959.* In order to determine gain or loss from operations for 1959, P must determine the deduction for dividends to policyholders for such year. Under the provisions of section 809(f), the amount of such deduction shall not exceed the sum of (1) the amount (if any) by which the gain from operations for such year (determined without regard to such deduction) exceeds P's taxable investment income for such year, plus (2) \$250,000. Since the gain from operations as thus determined (\$10,000,000) exceeds the taxable investment income (\$9,000,000) by \$1,000,000, the limitation on such deduction is \$1,250,000 (\$1,000,000 plus \$250,000). Accordingly, only \$1,250,000 of the \$2,500,000 deduction for dividends to policyholders shall be allowed. The gain from operations for such year is \$8,750,000 (\$10,000,000 minus \$1,250,000).

The gain from operations for such year is \$8,750,000 (\$10,000,000 minus \$1,250,000).

(c) *Recomputation of section 809(f) limitation and deduction for dividends to policyholders after application of the operations loss deduction for 1959.* Since P has sustained a loss from operations for 1960 which shall be carried back to 1959 as an operations loss deduction, it must recompute the section 809(f) limitation and deduction for dividends to policyholders. Taking into account the \$9,800,000 operations loss deduction for 1959 reduces gain from operations for such year to \$200,000 (\$10,000,000 minus \$9,800,000). Since the gain from operations as thus determined (\$200,000) is less than the taxable investment income (\$9,000,000), the limitation on the deduction for dividends to policyholders is \$250,000. Thus, only \$250,000 of the \$2,500,000 deduction for dividends to policyholders shall be allowed. The gain from operations for such year as thus determined is \$9,750,000 (\$10,000,000 minus \$250,000) since for purposes of this determination the operations loss deduction for 1959 is not taken into account (see section 812(c)(1)). Accordingly, the offset for 1959 is \$9,750,000 (the increase in the operations loss deduction for 1959, computed without regard to the carryback for 1960, which reduces life insurance company taxable income for 1959 to zero); thus, the portion of the 1960 loss from operations which shall be carried forward to 1961 is \$50,000 (the excess of the 1960 loss (\$9,800,000) over the offset for 1959 (\$9,750,000)).

(3) *Minimum limitation.* The life insurance company taxable income, as modified under this paragraph, shall in no case be considered less than zero.

[T.D. 6535, 26 FR 537, Jan. 20, 1961]

**§ 1.812-6 New company defined.**

Section 812(e) provides that for purposes of part I, subchapter L, chapter 1 of the Code, a life insurance company is a "new company" for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor if section 381(c)(22) applies or would have applied if in effect) was authorized to do business as an insurance company.

[T.D. 7326, 39 FR 35354, Oct. 1, 1974]

**§ 1.812-7 Application of subtitle A and subtitle F.**

Section 812(f) provides that except as modified by section 809(e) (relating to modifications of deduction items otherwise allowable under subtitle A of the Code) subtitles A and F of the Code