

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

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shall apply to operations loss carrybacks and carryovers, and to the operations loss deduction, in the same manner and to the same extent that such subtitles apply in respect of net operation loss carrybacks, net operating loss carryovers, and the net operating loss deduction of corporations generally. For the computation of the operations loss carrybacks and carryovers, and of the operations loss deduction in the case of certain acquisitions of the assets of a life insurance company by another life insurance company, see section 381(c)(22) and the regulations thereunder.

[T.D. 6535, 26 FR 539, Jan. 20, 1961]

§ 1.812-8 Illustration of operations loss carrybacks and carryovers.

The application of § 1.812-4 may be illustrated by the following example:

(a) *Facts.* The books of M, a life insurance company, organized in 1940, reveal the following facts:

| Taxable year | Taxable investment income | Gain from operations | Loss from operations |
|--------------|---------------------------|----------------------|----------------------|
| 1958 | \$11,000 | \$15,000 | ..... |
| 1959 | 23,000 | 30,000 | ..... |
| 1960 ..... | ..... | ..... | (\$75,000) |
| 1961 | 25,000 | 20,000 | ..... |
| 1962 ..... | ..... | ..... | (150,000) |
| 1963 | 22,000 | 30,000 | ..... |
| 1964 | 40,000 | 35,000 | ..... |
| 1965 | 62,000 | 75,000 | ..... |
| 1966 | 25,000 | 17,000 | ..... |
| 1967 | 39,000 | 53,000 | ..... |

The gain from operations thus shown is computed without regard to any operations loss deduction. The assumption is also made that none of the other modifications prescribed in paragraph (b) of § 1.812-5 apply. There are no losses from operations for 1955, 1956, 1957, 1968, 1969, 1970.

(b) *Loss sustained in 1960.* The portions of the \$75,000 loss from operations for 1960 which shall be used as carrybacks to 1958 and 1959 and as carryovers to 1961, 1962, 1963, 1964, and 1965 are computed as follows:

(1) *Carryback to 1958.* The carryback to this year is \$75,000, that is, the amount of the loss from operations.

(2) *Carryback to 1959.* The carryback to this year is \$60,000 (the excess of the loss for 1960 over the offset for 1958), computed as follows:

| | |
|---|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | 15,000 |

| | |
|-----------------|--------|
| Carryback | 60,000 |
|-----------------|--------|

(3) *Carryover to 1961.* The carryover to this year is \$30,000 (the excess, if any, of the loss for 1960 over the sum of the offsets for 1958 and 1959), computed as follows:

| | |
|--|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | \$15,000 |
| Offset for 1959 (the \$30,000 gain from operations for such year computed without the deduction of the carryback from 1960 or the carryback from 1962) | 30,000 |
| Sum of offsets | 45,000 |
| Carryover | 30,000 |

(4) *Carryover to 1962.* The carryover to this year is \$10,000 (the excess, if any, of the loss for 1960 over the sum of the offsets for 1958, 1959, and 1961), computed as follows:

| | |
|--|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | \$15,000 |
| Offset for 1959 (the \$30,000 gain from operations for such year computed without the deduction of the carryback from 1960 or the carryback from 1962) | 80,000 |
| Offset for 1961 (the \$20,000 gain from operations for such year computed without the deduction of the carryover from 1960 or the carryback from 1962) | 20,000 |
| Sum of offsets | 65,000 |
| Carryover | 10,000 |

(5) *Carryover to 1963.* The carryover to this year is \$10,000 (the excess, if any, of the loss for 1960 over the sum of the offsets for 1958, 1959, 1961, and 1962), computed as follows:

| | |
|--|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | \$15,000 |
| Offset for 1959 (the \$30,000 gain from operations for such year computed without the deduction of the carryback from 1960 or the carryback from 1962) | 30,000 |
| Offset for 1961 (the \$20,000 gain from operations for such year computed without the deduction of the carryover from 1960 or the carryback from 1962) | 20,000 |