

(as defined in section 805(b)(3)) for subsequent taxable years, the current earnings rate for the taxable year in which the short period occurs shall be the rate determined under paragraph (c)(2) of this section.

(2) For purposes of determining an operations loss deduction under section 812, the loss from operations for the short period shall be the loss from operations determined under paragraph (c)(5) of this section.

[T.D. 6558, 26 FR 2788, Apr. 4, 1961]

§ 1.818-6 Transitional rule for change in method of accounting.

(a) *In general.* Section 818(e) prescribes the rules to be followed in recomputing the taxes of a life insurance company for the taxable year 1957 in cases where the method of accounting required to be used in computing the company's taxes for 1958 under section 818(a) and paragraph (a) of § 1.818-2 is different from the method used in 1957.

(b) *Recomputation of 1957 taxes.* (1) For purposes of recomputing its taxes for 1957, a life insurance company must ascertain the net amount of those adjustments which are determined (as of the close of 1957) to be necessary solely by reason of the change to the method of accounting required by section 818(a) and paragraph (a) of § 1.818-2 in order to prevent amounts from being duplicated or omitted. Thus, for example, life insurance companies not on the accrual method of accounting for the year 1957 shall accrue, as of December 31, 1957, those items of gross investment income under section 803(b) and those items of deduction under section 803(c), as in effect for 1957, which would have been properly accruable for the year 1957 if the company had been on the accrual method of accounting.

(2) In the case of a change in the over-all method of accounting, the term "net amount of those adjustments" means the consolidation of adjustments (whether the amounts thereof represent increases or decreases in items of income or deductions) arising with respect to balances in the various accounts on December 31, 1957. In the case of a change in the treatment of a single material item, the amount of the adjustment shall be determined

with reference only to the net dollar balances in that particular account.

(3)(i) The amount of the taxpayer's tax for 1957 shall be recomputed (under the law applicable to 1957, modified as provided in section 818(e) (4) and paragraph (e) of this section) by taking into account an amount equal to one-tenth of the net amount of the adjustments determined under subparagraph (1) of this paragraph. The increase or decrease in tax attributable to the adjustments for such year is the difference between the tax for such year computed with the allocation of one-tenth of the net amount of the adjustments to such taxable year over the tax computed without the allocation of any part of the adjustments to such year.

(ii) The amount of increase or decrease (as the case may be) referred to in section 818(e) (2) or (3) and paragraphs (c) or (d) of this section, shall be the amount of the increase or decrease in tax ascertained in the manner described in subdivision (i) of this subparagraph, multiplied by 10.

(c) *Treatment of decrease.* Section 818(e) (2) provides that for purposes of subtitle F of the Code, if the recomputation under paragraph (b) (3) (ii) of this section results in a decrease, the amount of such decrease shall be treated as a decrease in the tax imposed for 1957; except that for purposes of computing the period of limitation on the making of refunds or the allowance of credits with respect to such overpayments, the amount of such decrease shall be treated as an overpayment of tax for 1959. No interest shall be paid, for any period before March 16, 1960, on any overpayment of the tax imposed for 1957 which is attributable to such decrease.

(d) *Treatment of increase—(1) In general.* Section 818(e) (3) (A) provides that for purposes of subtitle F of the Code, other than section 6016 (relating to declarations of estimated income tax by corporations) and section 6655 (relating to failure by corporations to pay estimated income tax), if the recomputation under paragraph (b) (3) (ii) of this section results in an increase, the amount of such increase shall be treated as a tax imposed for 1959. Such tax

shall be payable in 10 equal annual installments, beginning with March 15, 1960.

(2) *Special rules.* Section 818(e) (3) (B) provides that for purposes of section 818(e) (3) (A) and subparagraph (1) of this paragraph:

(i) No interest shall be paid on any installment described in section 818(e) (3) (A) and subparagraph (1) of this paragraph before the time prescribed therein for the payment of such installment.

(ii) Section 6152(c) (relating to proration of deficiencies to installments) and the regulations thereunder shall apply. However, section 6152(a) (relating to the election to make installment payments) and the regulations thereunder shall not apply.

(iii) In applying section 6502(a) (1) (relating to collection after assessment) and the regulations thereunder, the assessment of any installment described in section 818(e) (3) (A) and subparagraph (1) of this paragraph shall be treated as made at the time prescribed therein for the payment of such installment.

(iv) If for any taxable year the taxpayer is not a life insurance company, the amount of the increase in tax (as determined under paragraph (b) (3) (ii) of this section), to the extent not taken into account for prior taxable years, shall be payable on the date the return for such taxable year is due (determined without regard to any extensions of time for filing such return), unless such amount is required to be taken into account by the acquiring corporation under section 381(c) (22) and the regulations thereunder.

(e) *Modifications of 1957 tax computation.* Section 818(e) (4) provides that in recomputing the taxpayer's tax for 1957 for purposes of section 818(e) (1) and paragraph (b) of this section:

(1) Section 804(b), as in effect for 1957 (relating to the maximum reserve and other policy liability deduction), shall not apply with respect to any amount required to be taken into account by reason of section 818(e) (1) and paragraph (b) of this section; and

(2) The amount of the deduction allowed by section 805, as in effect for 1957 (relating to the special interest deduction), shall not be reduced by rea-

son of any amount required to be taken into account under section 818(e) (1) and paragraph (b) of this section.

(f) *Illustration of principles.* The application of section 818(e) and this section may be illustrated by the following examples:

Example 1. For the taxable year 1957, the life insurance taxable income of M, a life insurance company, is \$200,000 computed on the cash receipts and disbursements method of accounting. The net amount of the adjustments required under section 818(e)(1) by reason of the change to the accrual method of accounting for 1958, increases M's life insurance taxable income for 1957 by \$50,000. The increase in tax attributable to the change in method of accounting required by section 818(a) is \$26,000, computed as follows:

(1) Life insurance taxable income before adjustments	\$200,000
(2) Adjustments required by sec. 818(e) (1) (1/10×\$50,000)	5,000
(3) Life insurance taxable income after adjustments (item (1) plus item (2))	205,000
(4) Tax liability after adjustments (52%×\$205,000, minus \$5,500)	101,100
(5) Tax liability before adjustments (52%×\$200,000, minus \$5,500)	98,500
(6) Excess of item (4) over item (5)	2,600
(7) Increase in tax for purposes of sec. 818(e) (3) (item (6) multiplied by 10)	26,000

Under the provisions of section 818(e)(3), one-tenth of the increase in tax for 1957 attributable to the change in method of accounting required by section 818(a), \$2,600 (1/10×\$26,000), was due and payable on March 15, 1960, and the balance, \$23,400 (9/10×\$26,000), is due and payable in equal installments on March 15th of the nine succeeding taxable years. However, if for the taxable year 1965, M is no longer a life insurance company, and section 381(c)(22) does not apply, the balance of the installments not paid in prior taxable years, \$10,400 (4/10×\$26,000), shall be due and payable on March 15, 1966.

Example 2. Assume the facts are the same as in example 1, except that the net amount of the adjustments required by section 818(e)(1) decreases M's life insurance taxable income for 1957 by \$25,000. The decrease in tax attributable to the change in method of accounting required by section 818(a) is \$13,000, computed as follows:

(1) Life insurance taxable income before adjustments	\$200,000
(2) Adjustments required by sec. 818(e) (1) (1/10×\$25,000)	2,500
(3) Life insurance taxable income after adjustments (item (1) minus item (2))	197,500
(4) Tax liability after adjustments (52%×\$197,500, minus \$5,500)	97,200
(5) Tax liability before adjustments (52%×\$200,000, minus \$5,500)	98,500
(6) Excess of item (5) over item (4)	1,300
(7) Decrease in tax for purposes of sec. 818(e)(2) (item (6) multiplied by 10)	13,000

Under the provisions of section 818(e)(2), the entire \$13,000 decrease in tax for 1957 attributable to the change in method of accounting required by section 818(a) shall be treated as an overpayment of tax for the taxable year 1959.

[T.D. 6558, 26 FR 2789, Apr. 4, 1961]

§ 1.818-7 Denial of double deductions.

Section 818(f) provides that the same item may not be deducted more than once under subpart B, part I, subchapter L, chapter 1 of the Code (relating to the determination of taxable investment income), and more than once under subpart C, part I, subchapter L, chapter 1 of the Code (relating to the determination of gain or loss from operations).

[T.D. 6558, 26 FR 2790, Apr. 4, 1961]

§ 1.818-8 Special rules relating to consolidated returns and certain capital losses.

Section 818(g) provides that, in the case of a life insurance company filing or required to file a consolidated return under section 1501 for a taxable year, the computations of the policyholders' share of investment yield under subparts B and C, part I, subchapter L, chapter 1 of the Code (including all determinations and computations incident thereto) shall be made as if such company were not filing a consolidated return. Thus, for example, if X and Y are life insurance companies which are entitled to file a consolidated return for 1975 and X has paid dividends to Y during such taxable year, Y must include such dividends in the computation of gross investment income under section 804(b). For other rules relating to the filing of consolidated returns, see sections 1501 through 1504 and the regulations thereunder.

[T.D. 7469, 42 FR 12181, Mar. 3, 1977]

§ 1.819-1 Taxable years affected.

Section 1.819-2 is applicable only to taxable years beginning after December 31, 1957, and all references to sections of part I, subchapter L, chapter 1 of the Code, are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112).

[T.D. 6558, 26 FR 2791, Apr. 4, 1961]

§ 1.819-2 Foreign life insurance companies.

(a) *Carrying on United States insurance business.* Section 819(a) provides that a foreign life insurance company carrying on a life insurance business within the United States, if with respect to its United States business it would qualify as a life insurance company under section 801, shall be taxable on its United States business under section 802 in the same manner as a domestic life insurance company. Thus, the life insurance company taxable income of such a foreign life insurance company shall not be determined in the manner provided by part I, subchapter N, chapter 1 of the Code (relating to determination of sources of income), but shall be determined in the manner provided by part I, subchapter L, chapter 1 of the Code (relating to life insurance companies). See section 842. Accordingly, in determining its life insurance company taxable income from its United States business, such a foreign life insurance company shall take into account the appropriate items of income irrespective of whether such items of income are from sources within or without the United States. A foreign life insurance company shall take into account the appropriate items of expenses, losses, and other deductions properly allocable to such items of income from its United States business. To the extent not inconsistent with the provisions of this paragraph, section 818(a), and section 819(b), all computations entering into the determination of taxes imposed by part I shall be made in a manner consistent with the manner required for purposes of the annual statement approved by the National Association of Insurance Commissioners.

(b) *Adjustment where surplus held in the United States is less than specified minimum—(1) In general.* Section 819(b)(1) provides that if the minimum figure for the taxable year determined under section 819(b)(2) and subparagraph (2)(i) of this paragraph exceeds the surplus held in the United States as of the end of the taxable year (as defined in section 819(b)(2)(B) and subparagraph (2)(ii) of this paragraph) by a