

(\$75,000), the losses of \$20,000 are allowable as a deduction from gross investment income in computing taxable investment income under section 822.

Example 2. If in example 1 the gross receipts were \$76,000 and the last capital asset sold, for the purpose therein specified, resulted in gross receipts of \$2,000 and a loss of \$500, the losses allowable as a deduction from gross investment income would be \$19,750. The last sale made the gross receipts of \$76,000 exceed by \$1,000 the excess (\$75,000) of the sum of dividends, losses, and expenses paid (\$200,000) over the sum of the items described in section 822(b) (other than paragraph (1)(D) thereof) and net premiums received (\$125,000). The gross receipts and the resulting loss from the last sale are apportioned on the basis of the ratio of the excess of \$1,000 to the gross receipts of \$2,000, or 50 percent. Fifty percent of the loss of \$500 is deducted from the total loss of \$20,000. The remaining gross receipts of \$1,000 and the proportionate loss of \$250 should be reported as capital losses under subchapter P.

Example 3. If in example 1 the X Company had taxable investment income for purposes of the surtax of \$9,750 and, under the provisions of subchapter P, chapter 1 of the Code, had capital losses of \$18,000 and capital gains of \$10,000, the net capital loss for the taxable year 1963, in applying section 1212 for the purposes of section 822(c)(6), would be \$8,000. This is determined by subtracting from total losses of \$38,000 (\$18,000 capital losses under subchapter P plus \$20,000 other capital losses under section 822(c)(6)) the sum of capital gains of \$10,000 and losses from the sale or exchange of capital assets sold or exchanged to obtain funds to meet abnormal insurance losses and to provide for the payment of dividends and similar distributions to policyholders of \$20,000. Such losses of \$20,000 are added to capital gains of \$10,000, since they are less than taxable investment income for purposes of the surtax, computed without regard to gains or losses from sales or exchanges of capital assets, of \$29,750 (\$9,750 taxable investment income for purposes of the surtax plus \$20,000 other capital losses under section 822(c)(6) plus the portion of capital losses allowable under subchapter P of \$10,000 minus capital gains under subchapter P of \$10,000).

(7) *Special deductions.* Section 822(c)(7) allows a mutual insurance company the special deductions provided by part VIII (section 241 and following), except section 248, subchapter B, chapter 1 of the Code, relating to partially tax-exempt interest and to dividends received. In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of this subpara-

graph, the reference in such section to "taxable income" shall be treated as a reference to "taxable investment income".

(8) *Trade or business deductions.* (i) Under section 822(c)(8), the deductions allowed by subtitle A of the Code (without regard to this part) which are attributable to any trade or business (other than an insurance business) carried on by the insurance company, or by a partnership of which the company is a partner are, subject to the limitations in subdivision (ii) of this subparagraph, allowable as deductions from gross investment income in computing taxable investment income. Such deductions are allowable, however, only to the extent that they relate to income which is included in the company's gross investment income by reason of section 822(b)(2). Thus, a deduction shall not be allowed under section 822(c)(8) with respect to any item described in section 822(b)(1). The allowable deductions may exceed the gross income from such business.

(ii) In computing the deductions under section 822(c)(8):

(a) Any item, to the extent attributable to the carrying on of the insurance business, shall not be taken into account. For example, if the company operates a radio station primarily to advertise its own insurance services, a portion of the expenses of the radio station shall not be allowed as a deduction. The portion disallowed shall be an amount which bears the same ratio to the total expenses of the station as the value of advertising furnished to the insurance company bears to the total value of services rendered by the station.

(b) The deduction for net operating losses provided in section 172 shall not be allowed.

(9) *Depletion.* The deduction allowed by section 822(c)(9) for depletion is the same as that allowed life insurance companies under section 804(c)(4). See paragraph (b)(5) of § 1.804-4.

[T.D. 6681, 28 FR 11113, Oct. 17, 1963]

§ 1.822-9 Real estate owned and occupied.

Section 822(d)(1) provides that the amount allowable as a deduction for taxes, expenses, and depreciation on or

with respect to any real estate owned and occupied in whole or in part by a mutual insurance company subject to the tax imposed by section 821 (a) or (c) shall be limited to an amount which bears the same ratio to such deduction (computed without regard to this limitation) as the rental value of the space not so occupied bears to the rental value of the entire property. For example, if the rental value of the space not occupied by the company is equal to one-half of the rental value of the entire property, the deduction for taxes, expenses, and depreciation is one-half of the taxes, expenses, and depreciation on account of the entire property. Where a deduction is claimed as provided in this section, the parts of the property occupied and the parts not occupied by the company, together with the respective rental values thereof, must be shown in a statement accompanying the return.

[T.D. 6681, 28 FR 11115, Oct. 17, 1963]

§ 1.822-10 Amortization of premium and accrual of discount.

(a) *In general.* In computing taxable investment income for the taxable year, the gross amount of income from interest, the deduction under section 822(c)(1) for wholly tax-exempt interest, and the deduction under section 242 for partially tax-exempt interest, are, under the provisions of section 822(d)(2), each to be decreased by the appropriate amortization of premium and increased by the appropriate accrual of discount attributable to the taxable year on bonds, notes, debentures, or other evidences of indebtedness held by a mutual insurance company subject to the tax imposed by section 821 (a) or (c). However, only the accrual of discount relating to issue discount will increase the deduction for wholly tax-exempt interest. See section 103. Such amortization and accrual is the same as that provided for life insurance companies by section 818(b)(1), as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 133), and shall be determined in accordance with paragraphs (a) and (b) of § 1.818-3, except as provided by paragraph (b) of this section.

(b) *Modifications.* (1) Paragraph (b) of § 1.818-3 shall apply to mutual casualty

insurance companies subject to the tax imposed by section 821 (a) or (c) without regard to the date of acquisition of the particular securities to which the amortization of premium or accrual of discount is attributable.

(2) In computing the amount of premium or discount for purposes of section 822(d)(2) with respect to securities held by a company taxable under section 821, the basis provided by section 1012 shall be used in lieu of the acquisition value provided by paragraph (b) of § 1.818-3. In the case of a company subject to the tax imposed by section 821(c), adjustments to basis to reflect the accrual of discount and the amortization of premium shall be made in the manner provided by paragraphs (a) and (b) of § 1.818-3. However, for purposes of determining statutory underwriting income or loss for the taxable year under section 823, a company subject to the tax imposed by section 821(a) is not required to accrue discount or to amortize premium in computing its income under section 832 as if it were subject to the tax imposed by section 831. Thus, the accrual of discount and amortization of premium required in the computation of taxable investment income by a company subject to the tax imposed by section 821(a) neither increases nor decreases the mutual insurance company taxable income of such a company and, except to the extent such a company actually accrues discount or amortizes premium for purposes of making the section 832 computation, no adjustment shall be made to the basis of obligations held by it to reflect accrual of discount or amortization of premium.

[T.D. 6681, 28 FR 11115, Oct. 17, 1963]

§ 1.822-11 Net premiums.

The term "net premiums", defined in section 822(f)(1), includes deposits and assessments, but excludes amounts returned to policyholders which are treated as dividends under section 822(f)(2). Net premiums are used in sections 822(c)(6) and 832(c)(5) in determining the limitation on certain capital losses and in the application of section 1212.

[T.D. 6681, 28 FR 11115, Oct. 17, 1963]