

manner provided by §§ 1.826-3 and 1.826-4 so as to reflect the adjustments (if any) in such items which resulted in the credit or refund of tax for the taxable year. The taxpayer shall then recompute the tax attributable to income received from its reciprocal for such taxable year in the manner provided by § 1.826-5. The district director may require such additional information as may be necessary in the circumstances to verify the computations required by this paragraph.

[T.D. 6681, 28 FR 11126, Oct. 17, 1963]

§ 1.826-7 Examples.

The application of section 826 may be illustrated by the following examples:

Example 1. For the taxable year 1963, R, a reciprocal underwriter subject to the taxes imposed by section 821(a), has the following items (determined before applying any election under section 826):

| | |
|---|-------|
| Gross income under sec. 832 | \$578 |
| Gross investment income | 50 |
| <hr/> | |
| Deductions under sec. 832 (as modified by sec. 823(b)): | |
| Deduction for amounts paid by R to attorney-in-fact A | \$100 |
| All other deductions | 500 |
| <hr/> | |
| Total deductions under sec. 832 | 600 |
| Deductions under sec. 822(c) | 40 |
| Incurred losses | 400 |
| Protection against loss deduction | 4 |
| Underwriting gain | 0 |
| Mutual insurance company taxable income | 0 |
| Unused loss | 22 |
| Credit or refund for taxes paid | 0 |

Assume that the deductions of attorney-in-fact A allocable to the income received by A from R are 60 and the tax paid by A allocable to the income received from R is 16. If R elects to be subject to the limitation provided in section 826(b), the results for 1963 would be as follows:

| | |
|---|-------|
| Gross income under sec. 832 | \$578 |
| Gross investment income | 50 |
| <hr/> | |
| Deductions under sec. 832 (as modified by sec. 823(b)): | |
| Deduction for amounts paid by R to attorney-in-fact A | \$60 |
| All other deductions | 500 |
| <hr/> | |
| Total deduction under sec. 832 | 560 |
| Deductions under sec. 822(c) | 40 |
| Incurred losses | 400 |
| Underwriting gain | 8 |
| Protection against loss deduction | 6 |
| Mutual insurance company taxable income | 12 |
| Unused loss | 0 |
| Credit or refund for taxes paid | 16 |

Under the provisions of section 826(b), R's deduction for amounts paid or incurred to the attorney-in-fact in the taxable year 1963 would be limited to the deductions of A allocable to the income received by A from R. Thus, R's deductions under section 832 (as modified by section 823(b)) for 1963 would be 60 (the deductions of A which are allocable to the income received by A from R). As a result of making the election under section 826(a) for the taxable year 1963, R's underwriting gain would be 8, and its statutory underwriting income would be 2 (the underwriting gain of 8 minus the protection against loss deduction of 6—of which 4 represents the amount determined under section 824(a)(1)(A)—and 2 represents the amount determined under section 824(a)(1)(B)—or 8 minus 6). R's mutual insurance company taxable income for 1963 would be 12, consisting of taxable investment income of 10 (gross investment income minus deductions under section 822(c), or 50 minus 40) plus statutory underwriting income of 2. Since all of R's mutual insurance company taxable income of 12 is attributable to the limitation under section 826(b), the entire amount is subject to the surtax under section 821(a)(2) without regard to the \$25,000 surtax exemption. The credit of 16, representing that part of the tax paid by A which is allocable to the income received by A from R, may be applied by R against its taxes with respect to its mutual insurance company taxable income of 12 for 1963, and R would be entitled to a refund of any excess of the amount of such credit over its tax liability for 1963.

Under the provisions of section 826(d), no portion of the amount added to the protection against loss account in 1963 by reason of the election under section 826(a), 2 (25 percent of the amount by which the consolidated underwriting gain exceeds 25 percent of the underwriting gain determined without regard to the election under section 826(a), or the amount by which 25 percent of 8 exceeds 25 percent of 0), may remain in such account beyond the taxable year 1968.

Example 2. For the taxable year 1963, F is a corporate attorney-in-fact subject to the taxes imposed by section 11(b) and (c) of the Code. F files its return on the calendar year basis and reports income received from its reciprocal and the deductions allocable thereto under the same method of accounting used by its reciprocal in reporting its deductions for amounts paid to R. F properly consents to provide the information required by paragraph (b) of § 1.826-3. In addition to its attorney-in-fact business, F owns real estate for investment purposes, and operates a real estate management service. For the taxable year 1963, F has gross income from these various sources as follows:

| | |
|-----------------------------------|----------|
| Attorney-in-fact fees | \$85,000 |
| Real estate management fees | 18,000 |

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Rental income.....25,000

F allocates its expenses for the taxable year on the basis of their direct relation to each source of income. During 1963, F acquired property for use in its attorney-in-fact operations which entitled F to an investment credit of \$800 under section 38. For 1963, F determines that the tax paid by it which is attributable to its reciprocal is \$21,863, computed as follows:

| | Attorney-in-fact fees | Real estate management | Rental income | Total |
|--------------------------------|-----------------------|------------------------|---------------|-----------|
| Gross income | \$85,000 | \$18,000 | \$25,000 | \$128,000 |
| Allocable expenses | 25,000 | 3,000 | 35,000 | 63,000 |
| Taxable income (loss) | 60,000 | 15,000 | (10,000) | 65,000 |
| Normal tax (30 percent) | 18,000 | 4,500 | 0 | 19,500 |
| Surtax exemption .. | 20,000 | 5,000 | 0 | 25,000 |
| Income subject to surtax | 40,000 | 10,000 | 0 | 40,000 |
| Surtax (22 percent) .. | 8,800 | 2,200 | 0 | 8,800 |
| Total tax | 26,800 | 6,700 | 0 | 28,300 |
| Investment credit | 800 | 0 | 0 | 800 |
| 1963 tax liability | 26,000 | 6,700 | 0 | 27,500 |
| 1963 tax paid | | | | 27,500 |
| Allocation of tax paid .. | 21,863 | 5,637 | 0 | 27,500 |

Under paragraph (b)(1) of § 1.826-5, F computes its taxable income from its attorney-in-fact fees to be \$60,000 (\$85,000 minus \$25,000), and its taxable income from its real estate management to be \$15,000 (\$18,000 minus \$3,000). Since F's rental operations resulted in a \$10,000 loss for the taxable year (\$25,000 minus \$35,000), F's taxable income from its rental operations is zero. Using the 30 percent rate provided by section 11(b), F computes its normal tax to be \$18,000 on its attorney-in-fact fees and \$4,500 on its real estate management operations. F's normal tax on total income is \$19,500. The \$3,000 difference between the normal tax on F's total income and the normal taxes on F's profitable operations results from the loss on F's rental operations. Under paragraph (b)(3) of § 1.826-5, F allocates its surtax exemption as follows: \$20,000 $\frac{\$60,000}{\$75,000} \times \$25,000$ to its attorney-in-fact fees; and \$5,000 $\frac{\$15,000}{\$75,000} \times \$25,000$ to its real estate management operations. F computes its surtax on its profitable operations at the 22 percent rate provided by section 11(c) as follows: \$8,800 (22 percent of \$40,000) on attorney-in-fact fees; and \$2,200 (22 percent of \$10,000) on real estate management income. F adds its normal

tax and surtax on its profitable operations and determines its total tax to be \$26,800 on its attorney-in-fact operations; \$6,700 on its real estate management operations; and \$28,300 on its total income. F must allocate its investment credit on the same basis as it used to allocate its expenses. Thus, F's entire investment credit must be allocated to its attorney-in-fact operations. Accordingly, F's 1963 tax liability is \$26,000 on its attorney-in-fact fees; \$6,700 on its real estate management operations; \$0 on its rental operations; and \$27,500 on its total income. Under paragraph (b)(7) of § 1.826-5, F allocates \$21,863 $(\frac{\$26,000}{\$32,700} \times \$27,500)$ of its 1963 tax paid to its attorney-in-fact fees; and \$5,637 $(\frac{\$6,700}{\$32,700} \times \$27,500)$ of its 1963 tax paid to its real estate management business. F's reciprocal will be allowed a credit or refund of \$21,863 for taxes paid by F which are attributable to F's income received from its reciprocal.

Example 3. Assume the same facts as in example 2, and assume further that in 1966 F sustains a net operating loss on its overall operations of \$5,000. In carrying the loss back to 1963 as a net operating loss deduction under section 172, F must allocate the deduction under the same method it used in allocating its 1963 deductions. Thus, if the loss was entirely attributable to F's rental operations for the taxable year 1966, F would reduce its taxable income attributable to those operations by the entire amount of the loss and would recompute the tax attributable to those operations under paragraph (b) of § 1.826-5. As recomputed in the table below, F's 1963 tax liability from attorney-in-fact fees would be \$19,800 and F's total tax liability would be \$24,900.

| | Attorney-in-fact fees | Real estate management | Rental income | Total |
|--------------------------------|-----------------------|------------------------|---------------|-----------|
| Gross income | \$85,000 | \$18,000 | \$25,000 | \$128,000 |
| Allocable expenses | 25,000 | 3,000 | 35,000 | 63,000 |
| Net operating loss deduction | 0 | 0 | 5,000 | 5,000 |
| Taxable income (loss) | 60,000 | 15,000 | (15,000) | 60,000 |
| Normal tax (30 percent) | 18,000 | 4,500 | 0 | 18,000 |
| Surtax exemption .. | 20,000 | 5,000 | 0 | 25,000 |
| Income subject to surtax | 40,000 | 10,000 | 0 | 35,000 |
| Surtax (22 percent) .. | 8,800 | 2,200 | 0 | 7,700 |
| Total tax | 26,800 | 6,700 | 0 | 25,700 |
| Investment credit | 800 | 0 | 0 | 800 |
| 1963 tax liability | 26,000 | 6,700 | 0 | 24,900 |

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| | Attorney-in-fact fees | Real estate management | Rental income | Total |
|---------------------------|-----------------------|------------------------|---------------|--------|
| 1963 tax paid | | | | 24,900 |
| Allocation of tax paid .. | 19,800 | 5,100 | 0 | 24,900 |

As a result of its 1966 net operating loss, F would be entitled to a refund of \$2,600 (1963 taxes paid of \$27,500 minus recomputed 1963 taxes of \$24,900). Under paragraph (a) of §1.826-6, F would be required to notify its reciprocal of its claim for refund and of the amount of the refund or credit attributable to taxes paid on income received from the reciprocal. Since the 1963 tax paid by F attributable to its reciprocal (as recomputed) is less than the amount claimed in 1963 by F's reciprocal as a credit, F's reciprocal would be required, under section 826(g), to add the difference—\$2,063 (\$21,863 minus \$19,800), to its tax liability for 1966. Thus, F's reciprocal would first compute its tax liability for 1966 without regard to section 826(g) and then would increase such liability by \$2,063.

[T.D. 6681, 28 FR 11126, Oct. 17, 1963]

OTHER INSURANCE COMPANIES

§ 1.831-1 Tax on insurance companies (other than life or mutual), mutual marine insurance companies, and mutual fire insurance companies issuing perpetual policies.

(a) All insurance companies, other than life or mutual or foreign insurance companies not carrying on an insurance business within the United States, and all mutual marine insurance companies and mutual fire insurance companies exclusively issuing either perpetual policies, or policies for which the sole premium charged is a single deposit which, except for such deduction of underwriting costs as may be provided, is refundable upon cancellation or expiration of the policy, are subject to the tax imposed by section 831. As used in this section and §§1.832-1 and 1.832-2, the term "insurance companies" means only those companies which qualify as insurance companies under the definition provided by paragraph (b) of §1.801-1 and which are subject to the tax imposed by section 831.

(b) All provisions of the Code and of the regulations in this part not inconsistent with the specific provisions of section 831 are applicable to the assessment and collection of the tax imposed

by section 831(a), and insurance companies are subject to the same penalties as are provided in the case of returns and payment of income tax by other corporations.

(c) Since section 832 provides that the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners shall be the basis for computing gross income and since the annual statement is rendered on the calendar year basis, the returns under section 831 shall be made on the basis of the calendar year and shall be on Form 1120. Insurance companies are entitled, in computing insurance company taxable income, to the deductions provided in part VIII (section 241 and following), subchapter B, chapter 1 of the Code.

(d) Foreign insurance companies not carrying on an insurance business within the United States are not taxable under section 831 but are taxable as other foreign corporations. See section 881.

(e) Insurance companies are subject to both normal tax and surtax. The normal tax shall be computed as provided in section 11(b) and the surtax shall be computed as provided in section 11(c). For the circumstances under which the \$25,000 exemption from surtax for certain taxable years may be disallowed in whole or in part, see section 1551. For alternative tax where the net long-term capital gain for any taxable year exceeds the net short-term capital loss, see section 1201(a) and the regulations thereunder.

§ 1.831-2 Taxable years affected.

Section 1.831-1 is applicable only to taxable years beginning after December 31, 1953, but before January 1, 1963, and ending after August 16, 1954, and all references therein to sections of the Code and regulations are to sections of the Internal Revenue Code of 1954 and the regulations thereunder before amendments. Section 1.831-3 is applicable only to taxable years beginning after December 31, 1962, and all references therein to sections of the Code and regulations are to sections of the Internal Revenue Code of 1954 as amended. Section 1.831-4 is applicable