

will be subject to the tax imposed by section 831 for taxable years beginning after December 31, 1961, rather than subject to the tax imposed by section 821.

(b) *Time and manner of making election.* The election provided by section 831(c) and paragraph (a) of this section shall be made in a statement attached to the taxpayer's return for the taxable year 1962. The statement shall indicate that the taxpayer has made the election provided by section 831(c) and this section; shall include the name and address of the taxpayer, and shall be signed by the taxpayer or his duly authorized representative. In addition, the statement shall list the 5 consecutive taxable years prior to 1962 for which the taxpayer was subject to tax under section 831 (or the corresponding provisions of prior law); the types of insurance written by the company; and the percentage of marine insurance to total insurance written. The return and statement must be filed not later than the date prescribed by law (including extensions thereof) for filing the return for the taxable year 1962. However, if the last date prescribed by law (including extensions thereof) for filing the income tax return for the taxable year 1962 falls before October 17, 1963, the election provided by section 831(c) and this section may be made for such year by filing the statement and an amended return for such taxable year (and all subsequent taxable years for which returns have been filed) before January 16, 1964.

(c) *Scope of election.* An election made under section 831(c) and paragraph (b) of this section shall be binding for all taxable years beginning after December 31, 1961, unless consent to revoke the election is obtained from the Commissioner. However, if a taxpayer made the election provided by section 831(c) and this section for taxable years beginning prior to October 17, 1963, the taxpayer may revoke such election without obtaining consent from the Commissioner by filing, before January 16, 1964, a statement that the taxpayer desires to revoke such election. Such statement shall be signed by the taxpayer or its duly authorized representative. An amended return reflecting such revocation must accompany the

statement for all taxable years for which returns have been filed with respect to such election.

(d) *Limitation on certain net operating loss carryovers and carrybacks.* In the case of a taxpayer making the election allowed under section 831(c) and this section, a net operating loss shall not be carried:

(1) To or from any taxable year for which the insurance company is not subject to the tax imposed by section 831(a) (or predecessor sections); or

(2) To any taxable year if, between the loss year and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by section 831(a) (or predecessor sections).

[T.D. 6681, 28 FR 11128, Oct. 17, 1963]

§ 1.832-1 Gross income.

(a) Gross income as defined in section 832(b)(1) means the gross amount of income earned during the taxable year from interest, dividends, rents, and premium income, computed on the basis of the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners, as well as the gain derived from the sale or other disposition of property, and all other items constituting gross income under section 61, except that in the case of a mutual fire insurance company described in § 1.831-1 the amount of single deposit premiums received, but not assessments, shall be excluded from gross income. Gross income does not include increase in liabilities during the year on account of reinsurance treaties, remittances from the home office of a foreign insurance company to the United States branch, borrowed money, or gross increase due to adjustments in book value of capital assets. The underwriting and investment exhibit is presumed to reflect the true net income of the company, and insofar as it is not inconsistent with the provisions of the Code will be recognized and used as a basis for that purpose. All items of the exhibit, however, do not reflect an insurance company's income as defined in the Code. By reason of the definition of investment income, miscellaneous items which are intended to reflect surplus but do not properly enter into the

computation of income, such as dividends declared to shareholders in their capacity as such, home office remittances and receipts, and special deposits, are ignored. Gain or loss from agency balances and bills receivable not admitted as assets on the underwriting and investment exhibit will be ignored, excepting only such agency balances and bills receivable as have been allowed as deductions for worthless debts or, having been previously so allowed, are recovered during the taxable year. In computing "premiums earned on insurance contracts during the taxable year" the amount of the unearned premiums shall include (1) life insurance reserves as defined in section 803(b) and § 1.803-1 pertaining to the life, burial, or funeral insurance, or annuity business of an insurance company subject to the tax imposed by section 831 and not qualifying as a life insurance company under section 801, and (2) liability for return premiums under a rate credit or retrospective rating plan based on experience, such as the "War Department Insurance Rating Plan," and which return premiums are therefore not earned premiums. In computing "losses incurred" the determination of unpaid losses at the close of each year must represent actual unpaid losses as nearly as it is possible to ascertain them.

(b) Every insurance company to which this section applies must be prepared to establish to the satisfaction of the district director that the part of the deduction for "losses incurred" which represents unpaid losses at the close of the taxable year comprises only actual unpaid losses stated in amounts which, based upon the facts in each case and the company's experience with similar cases, can be said to represent a fair and reasonable estimate of the amount the company will be required to pay. Amounts included in, or added to, the estimates of such losses which, in the opinion of the district director are in excess of the actual liability determined as provided in the preceding sentence will be disallowed as a deduction. The district director may require any such insurance company to submit such detailed information with respect to its actual experience as is deemed necessary to estab-

lish the reasonableness of the deduction for "losses incurred."

(c) That part of the deduction for "losses incurred" which represents an adjustment to losses paid for salvage and reinsurance recoverable shall, except as hereinafter provided, include all salvage in course of liquidation, and all reinsurance in process of collection not otherwise taken into account as a reduction of losses paid, outstanding at the end of the taxable year. Salvage in course of liquidation includes all property (other than cash), real or personal, tangible or intangible, except that which may not be included by reason of express statutory provisions (or rules and regulations of an insurance department) of any State or Territory or the District of Columbia in which the company transacts business. Such salvage in course of liquidation shall be taken into account to the extent of the value thereof at the end of the taxable year as determined from a fair and reasonable estimate based upon either the facts in each case or the company's experience with similar cases. Cash received during the taxable year with respect to items of salvage or reinsurance shall be taken into account in computing losses paid during such taxable year.

§ 1.832-2 Deductions.

(a) The deductions allowable are specified in section 832(c) and by reason of the provisions of section 832(c)(10) and (12) include in addition certain deductions provided in sections 161, and 241 and following. The deductions, however, are subject to the limitation provided in section 265, relating to expenses and interest in respect of tax-exempt income. The net operating loss deduction is computed under section 172 and the regulations thereunder. For the purposes of section 172, relating to net operating loss deduction, "gross income" shall mean gross income as defined in section 832(b)(1) and the allowable deductions shall be those allowed by section 832(c) with the exceptions and limitations set forth in section 172(d). In addition to the deduction for capital losses provided in subchapter P (section 1201 and following), chapter 1 of the Code, insurance companies are allowed a deduction for losses from