Example. For the taxable year 1958, T, a life insurance company, had investment yield of $900,000, including $150,000 of dividends received from domestic corporations subject to taxation under chapter 1 of the Code, $10,000 of wholly tax-exempt interest, and $78,000 of partially tax-exempt interest. T also had items of gross amount under section 809(c) in the amount of $12,000,000 and deductions under section 809(d) of $6,963,500 (exclusive of any deductions for wholly tax-exempt interest, partially tax-exempt interest, and dividends received). For such taxable year, the share of each and every item of investment yield set aside for policyholders was 80 percent and the company’s share of each and every item of investment yield was 20 percent. Based upon these figures, T had a gain from operations of $5,180,000 for the taxable year 1958, computed as follows:

<table>
<thead>
<tr>
<th>Col. 1</th>
<th>Col. 2 (80%×Col. 1) exclusion of policyholder’s share</th>
<th>Col. 3 (20%×Col. 1) company’s share</th>
</tr>
</thead>
<tbody>
<tr>
<td>Interest wholly tax-exempt</td>
<td>$10,000</td>
<td>$8,000</td>
</tr>
<tr>
<td>Interest partially tax-exempt</td>
<td>78,000</td>
<td>62,400</td>
</tr>
<tr>
<td>Dividends received</td>
<td>60,000</td>
<td>48,000</td>
</tr>
<tr>
<td>Other items of investment yield</td>
<td>662,000</td>
<td>529,600</td>
</tr>
<tr>
<td>Investment yield</td>
<td>900,000</td>
<td>720,000</td>
</tr>
</tbody>
</table>

Gross amount (sum of items under sec. 809(c)) .............. $12,000,000

Total ................................ 12,180,000

Less:

Deductions under sec. 809(d)(8):
Company’s share of interest wholly tax-exempt ...................................... $2,000
30/52 of company’s share of interest partially tax-exempt (30/52 × $15,600) ... 9,000
85% of company’s share of dividends received (but not to exceed 85% of gain from operations as computed under sec. 809(d)(8)(B)) (85%×$30,000) ........ 25,500
All other deductions under sec. 809(d) ........................................ 6,963,500

Total deductions .......................... 7,000,000

Gain from operations .......................... 5,180,000

Exception. (1) In accordance with section 809(b)(4), if it is established in any case to the satisfaction of the Commissioner, or by a determination of The Tax Court of the United States, or of any other court of competent jurisdiction, which has become final, that the application of the definition of gain from operations contained in section 809(b)(1) results in the imposition of tax on:

   (i) Any interest which under section 103 is excluded from gross income,
   (ii) Any amount of interest which under section 242 (as modified by section 804(a)(3)) is allowable as a deduction, or
   (iii) Any amount of dividends received which under sections 243, 244, and 245 (as modified by section 809(d)(8)(B)) is allowable as a deduction,

adjustment shall be made to the extent necessary to prevent such imposition.

(2) For the date upon which a decision by the Tax Court becomes final, see section 7481. For the date upon which a judgment of any other court becomes final, see paragraph (c) of §1.1313(a)–1.


§ 1.809–4 Gross amount.

(a) Items taken into account. For purposes of determining gain or loss from operations under section 809(b)(1) and (2), respectively, section 809(c) specifies three categories of items which shall be taken into account. Such items are in addition to the life insurance company’s share of the investment yield (as determined under section 809(a)(1) and paragraph (c) of §1.809–2), and the amount (if any) by which the net long-term capital gain exceeds the net short-term capital loss (such capital gains item is included in determining gain or loss from operations only for taxable years beginning after December 31, 1961). The additional three categories of items taken into account are:

(1) Premiums. (i) The gross amount of all premiums and other consideration on insurance and annuity contracts (including contracts supplementary thereto); less return premiums and premiums and other consideration arising out of reinsurance ceded. The term gross amount of all premiums means the premiums and other consideration provided in the insurance or annuity contract. Thus, the amount to be taken into account shall be the total of the
§ 1.809–5

Deductions.

(a) Deductions allowed. Section 809(d) provides the following deductions for purposes of determining gain or loss from operations under section 809(b) (1) and (2), respectively:

(1) Death benefits, etc. All claims and benefits accrued (less reinsurance recoverable), and all losses incurred (whether or not ascertained), during