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 $70,000 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 mutual insurance company taxable 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 1958, 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 ($10,000 capital gains of $10,000 plus $20,000 other capital losses under section 822(c)(6)) the sum of capital gains of $10,000 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 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 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 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.

(8) Trade or business deductions. (1) 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 (1) of this subparagraph, allowable as deductions from gross investment income in computing mutual insurance company taxable 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.


§ 1.822–6 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 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 en-
tire 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 pro-
vided in this section, the parts of the 
property occupied and the parts not oc-
cupied by the company, together with 
the respective rental values thereof, 
must be shown in a statement accom-
panying the return.


§ 1.822–7 Amortization of premium and 
accurrual of discount.

Section 822(d)(2) makes provision for 
the appropriate amortization of pre-
mium and 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. Such 
amortization and accrual is the same 
as that provided for life insurance com-
panies 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 para-
graphs (a) and (b) of § 1.818–3, except in 
the case of a mutual insurance com-
pany subject to the tax imposed by sec-
tion 821, paragraph (b) of § 1.818–3 shall 
apply without regard to the date of ac-
quisition and the basis provided in sec-
tion 1012 shall be used in lieu of the ac-
quisition value.


§ 1.822–8 Determination of taxable in-
vestment income.

(a) In general—(1) Taxable investment 
income defined. Section 822(a)(1) defines 
the term “taxable investment income” 
for purposes of part II, subchapter L, 
chapter 1 of the Code as the gross in-
vestment income (as defined in section 
822(b) and paragraph (b) of this sec-
tion), less the deductions provided in 
section 822(c) and paragraph (c) of this 
section for wholly tax-exempt interest, 
investment expenses, real estate ex-
penses, depreciation, interest paid or 
accrued, capital losses, special deduc-
tions, trade or business (other than an 
insurance business) expenses, and de-
pletion. However, such expenses are de-
ductible only to the extent that they 
relate to investment income and the 
deduction of such expenses is not dis-
allowed by any other provision of sub-
title A of the Code.

For example, investment expenses are 
not allowable unless they are ordinary 
and necessary expenses within the 
meaning of section 162. In addition to 
the limitations on deductions relating to 
real estate owned and occupied by a 
mutual insurance company subject to 
the tax imposed by section 821 provided 
in section 822(d)(1), the adjustment for 
amortization of premium and accrual 
of discount provided in section 
822(d)(2), and the limitation on the de-
duction for investment expenses where 
general expenses are allocated to in-
vestment income provided in section 
822(c)(2), and the limitation on the de-
duction for investment expenses where 
general expenses are allocated to in-
vestment income provided in section 
822(c)(2), mutual insurance companies 
subject to the tax imposed by section 
821 (a) or (c) are subject to the limita-
tion on deductions relating to wholly 
tax-exempt income provided in section 
265. Such companies are not entitled to 
the net operating loss deduction pro-
vided in section 172. See, however, sec-
tion 825 and paragraph (a) of § 1.825–1 
for unused loss deduction allowed 
companies taxable under section 821(a). A 
deduction shall not be permitted with 
respect to the same item more than 
one.

(2) Investment loss defined. The term 
“investment loss” is defined by section 
822(a)(2) as the amount by which the 
deductions allowable under section 
822(c) and paragraph (c) of this section 
that are subject to the tax imposed by 
section 821 (a) or (c) exceed the gross investment income (as defined in section 822(b) and paragraph (b) of this section).

(b) Gross investment income defined. 
For purposes of part II, subchapter L, 
chapter 1 of the Code, section 822(b) de-
defines the term “gross investment in-
come” of a mutual insurance company 
subject to the tax imposed by section 
821 (a) or (c) as the sum of the fol-
lowing:

(1) The gross amount of income 
during the taxable year from:

(1) Interest (including tax-exempt in-
terest and partially tax-exempt inter-
est), as described in § 1.61–7. Interest 
shall be adjusted for amortization of