

1987 .....	\$2,000,000'
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SPECIAL RULE FOR CERTAIN INTERESTS IN OIL AND GAS PROPERTIES

Section 217(m) of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—For purposes of section 806 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the ownership by a qualified life insurance company of any undivided interest in operating mineral interests with respect to any oil or gas properties held on December 31, 1983, shall be treated as an insurance business.

“(2) QUALIFIED LIFE INSURANCE COMPANY.—For purposes of paragraph (1), the term ‘qualified life insurance company’ means a mutual life insurance company which—

“(A) was originally incorporated in March of 1857, and

“(B) has a cost to such company (as of December 31, 1983) in the operating mineral interests described in paragraph (1) in excess of \$250,000,000.”

### § 807. Rules for certain reserves

#### (a) Decrease treated as gross income

If for any taxable year—

(1) the opening balance for the items described in subsection (c), exceeds

(2)(A) the closing balance for such items, reduced by

(B) the amount of the policyholders' share of tax-exempt interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 805(a)(4)(F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies,

such excess shall be included in gross income under section 803(a)(2).

#### (b) Increase treated as deduction

If for any taxable year—

(1)(A) the closing balance for the items described in subsection (c), reduced by

(B) the amount of the policyholders' share of tax-exempt interest and the amount of the policyholder's share of the increase for the taxable year in policy cash values (within the meaning of section 805(a)(4)(F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies, exceeds

(2) the opening balance for such items,

such excess shall be taken into account as a deduction under section 805(a)(2).

#### (c) Items taken into account

The items referred to in subsections (a) and (b) are as follows:

(1) The life insurance reserves (as defined in section 816(b)).

(2) The unearned premiums and unpaid losses included in total reserves under section 816(c)(2).

(3) The amounts (discounted at the appropriate rate of interest) necessary to satisfy the obligations under insurance and annuity contracts, but only if such obligations do not involve (at the time with respect to which the computation is made under this paragraph) life, accident, or health contingencies.

(4) Dividend accumulations, and other amounts, held at interest in connection with insurance and annuity contracts.

(5) Premiums received in advance, and liabilities for premium deposit funds.

(6) Reasonable special contingency reserves under contracts of group term life insurance or group accident and health insurance which are established and maintained for the provision of insurance on retired lives, for premium stabilization, or for a combination thereof.

For purposes of paragraph (3), the appropriate rate of interest for any obligation is whichever of the following rates is the highest as of the time such obligation first did not involve life, accident, or health contingencies: the applicable Federal interest rate under subsection (d)(2)(B)(i), the prevailing State assumed interest rate under subsection (d)(2)(B)(ii), or the rate of interest assumed by the company in determining the guaranteed benefit. In no case shall the amount determined under paragraph (3) for any contract be less than the net surrender value of such contract. For purposes of paragraph (2) and section 805(a)(1), the amount of the unpaid losses (other than losses on life insurance contracts) shall be the amount of the discounted unpaid losses as defined in section 846.

#### (d) Method of computing reserves for purposes of determining income

##### (1) In general

For purposes of this part (other than section 816), the amount of the life insurance reserves for any contract shall be the greater of—

(A) the net surrender value of such contract, or

(B) the reserve determined under paragraph (2).

In no event shall the reserve determined under the preceding sentence for any contract as of any time exceed the amount which would be taken into account with respect to such contract as of such time in determining statutory reserves (as defined in paragraph (6)).

##### (2) Amount of reserve

The amount of the reserve determined under this paragraph with respect to any contract shall be determined by using—

(A) the tax reserve method applicable to such contract,

(B) the greater of—

(i) the applicable Federal interest rate, or

(ii) the prevailing State assumed interest rate, and

(C) the prevailing commissioners' standard tables for mortality and morbidity adjusted as appropriate to reflect the risks (such as substandard risks) incurred under the contract which are not otherwise taken into account.

##### (3) Tax reserve method

For purposes of this subsection—

###### (A) In general

The term “tax reserve method” means—

###### (i) Life insurance contracts

The CRVM in the case of a contract covered by the CRVM.

###### (ii) Annuity contracts

The CARVM in the case of a contract covered by the CARVM.

**(iii) Noncancellable accident and health insurance contracts**

In the case of any noncancellable accident and health insurance contract (other than a qualified long-term care insurance contract, as defined in section 7702B(b)), a 2-year full preliminary term method.

**(iv) Other contracts**

In the case of any contract not described in clause (i), (ii), or (iii)—

(I) the reserve method prescribed by the National Association of Insurance Commissioners which covers such contract (as of the date of issuance), or

(II) if no reserve method has been prescribed by the National Association of Insurance Commissioners which covers such contract, a reserve method which is consistent with the reserve method required under clause (i), (ii), or (iii) or under subclause (I) of this clause as of the date of the issuance of such contract (whichever is most appropriate).

**(B) Definition of CRVM and CARVM**

For purposes of this paragraph—

**(i) CRVM**

The term “CRVM” means the Commissioners’ Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

**(ii) CARVM**

The term “CARVM” means the Commissioners’ Annuities Reserve Valuation Method prescribed by the National Association of Insurance Commissioners which is in effect on the date of the issuance of the contract.

**(C) No additional reserve deduction allowed for deficiency reserves**

Nothing in any reserve method described under this paragraph shall permit any increase in the reserve because the net premium (computed on the basis of assumptions required under this subsection) exceeds the actual premiums or other consideration charged for the benefit.

**(4) Applicable Federal interest rate; prevailing State assumed interest rate**

For purposes of this subsection—

**(A) Applicable Federal interest rate****(i) In general**

Except as provided in clause (ii), the term “applicable Federal interest rate” means the annual rate determined by the Secretary under section 846(c)(2) for the calendar year in which the contract was issued.

**(ii) Election to recompute Federal interest rate every 5 years****(I) In general**

In computing the amount of the reserve with respect to any contract to which an election under this clause applies for periods during any recomputa-

tion period, the applicable Federal interest rate shall be the annual rate determined by the Secretary under section 846(c)(2) for the 1st year of such period. No change in the applicable Federal interest rate shall be made under the preceding sentence unless such change would equal or exceed  $\frac{1}{2}$  of 1 percentage point.

**(II) Recomputation period**

For purposes of subclause (I), the term “recomputation period” means, with respect to any contract, the 5 calendar year period beginning with the 5th calendar year beginning after the calendar year in which the contract was issued (and each subsequent 5 calendar year period).

**(III) Election**

An election under this clause shall apply to all contracts issued during the calendar year for which the election was made or during any subsequent calendar year unless such election is revoked with the consent of the Secretary.

**(IV) Spread not available**

Subsection (f) shall not apply to any adjustment required under this clause.

**(B) Prevailing State assumed interest rate****(i) In general**

The term “prevailing State assumed interest rate” means, with respect to any contract, the highest assumed interest rate permitted to be used in computing life insurance reserves for insurance contracts or annuity contracts (as the case may be) under the insurance laws of at least 26 States. For purposes of the preceding sentence, the effect of nonforfeiture laws of a State on interest rates for reserves shall not be taken into account.

**(ii) When rate determined**

The prevailing State assumed interest rate with respect to any contract shall be determined as of the beginning of the calendar year in which the contract was issued.

**(5) Prevailing commissioners’ standard tables**

For purposes of this subsection—

**(A) In general**

The term “prevailing commissioners’ standard tables” means, with respect to any contract, the most recent commissioners’ standard tables prescribed by the National Association of Insurance Commissioners which are permitted to be used in computing reserves for that type of contract under the insurance laws of at least 26 States when the contract was issued.

**(B) Insurer may use old tables for 3 years when tables change**

If the prevailing commissioners’ standard tables as of the beginning of any calendar year (hereinafter in this subparagraph referred to as the “year of change”) is dif-

ferent from the prevailing commissioners' standard tables as of the beginning of the preceding calendar year, the issuer may use the prevailing commissioners' standard tables as of the beginning of the preceding calendar year with respect to any contract issued after the change and before the close of the 3-year period beginning on the first day of the year of change.

**(C) Special rule for contracts for which there are no commissioners' standard tables**

If there are no commissioners' standard tables applicable to any contract when it is issued, the mortality and morbidity tables used for purposes of paragraph (2)(C) shall be determined under regulations prescribed by the Secretary. When the Secretary by regulation changes the table applicable to a type of contract, the new table shall be treated (for purposes of subparagraph (B) and for purposes of determining the issue dates of contracts for which it shall be used) as if it were a new prevailing commissioner's standard table adopted by the twenty-sixth State as of a date (no earlier than the date the regulation is issued) specified by the Secretary.

**(D) Special rule for contracts issued before 1948**

If—

- (i) a contract was issued before 1948, and
- (ii) there were no commissioners' standard tables applicable to such contract when it was issued,

the mortality and morbidity tables used in computing statutory reserves for such contracts shall be used for purposes of paragraph (2)(C).

**(E) Special rule where more than 1 table or option applicable**

If, with respect to any category of risks, there are 2 or more tables (or options under 1 or more tables) which meet the requirements of subparagraph (A) (or, where applicable, subparagraph (B) or (C)), the table (and option thereunder) which generally yields the lowest reserves shall be used for purposes of paragraph (2)(C).

**(6) Statutory reserves**

The term "statutory reserves" means the aggregate amount set forth in the annual statement with respect to items described in section 807(c). Such term shall not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c).

**(e) Special rules for computing reserves**

**(1) Net surrender value**

For purposes of this section—

**(A) In general**

The net surrender value of any contract shall be determined—

- (i) with regard to any penalty or charge which would be imposed on surrender, but
- (ii) without regard to any market value adjustment on surrender.

**(B) Special rule for pension plan contracts**

In the case of a pension plan contract, the balance in the policyholder's fund shall be

treated as the net surrender value of such contract. For purposes of the preceding sentence, such balance shall be determined with regard to any penalty or forfeiture which would be imposed on surrender but without regard to any market value adjustment.

**(2) Issuance date in case of group contracts**

For purposes of this section, in the case of a group contract, the date on which such contract is issued shall be the date as of which the master plan is issued (or, with respect to a benefit guaranteed to a participant after such date, the date as of which such benefit is guaranteed).

**(3) Supplemental benefits**

**(A) Qualified supplemental benefits treated separately**

For purposes of this part, the amount of the life insurance reserve for any qualified supplemental benefit—

- (i) shall be computed separately as though such benefit were under a separate contract, and
- (ii) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

**(B) Supplemental benefits which are not qualified supplemental benefits**

In the case of any supplemental benefit described in subparagraph (D) which is not a qualified supplemental benefit, the amount of the reserve determined under paragraph (2) of subsection (d) shall, except to the extent otherwise provided in regulations, be the reserve taken into account for purposes of the annual statement approved by the National Association of Insurance Commissioners.

**(C) Qualified supplemental benefit**

For purposes of this paragraph, the term "qualified supplemental benefit" means any supplemental benefit described in subparagraph (D) if—

- (i) there is a separately identified premium or charge for such benefit, and
- (ii) any net surrender value under the contract attributable to any other benefit is not available to fund such benefit.

**(D) Supplemental benefits**

For purposes of this paragraph, the supplemental benefits described in this subparagraph are any—

- (i) guaranteed insurability,
- (ii) accidental death or disability benefit,
- (iii) convertibility,
- (iv) disability waiver benefit, or
- (v) other benefit prescribed by regulations,

which is supplemental to a contract for which there is a reserve described in subsection (c).

**(4) Certain contracts issued by foreign branches of domestic life insurance companies****(A) In general**

In the case of any qualified foreign contract, the amount of the reserve shall be not less than the minimum reserve required by the laws, regulations, or administrative guidance of the regulatory authority of the foreign country referred to in subparagraph (B) (but not to exceed the net level reserves for such contract).

**(B) Qualified foreign contract**

For purposes of subparagraph (A), the term “qualified foreign contract” means any contract issued by a foreign life insurance branch (which has its principal place of business in a foreign country) of a domestic life insurance company if—

- (i) such contract is issued on the life or health of a resident of such country,
- (ii) such domestic life insurance company was required by such foreign country (as of the time it began operations in such country) to operate in such country through a branch, and
- (iii) such foreign country is not contiguous to the United States.

**(5) Treatment of substandard risks****(A) Separate computation**

Except to the extent provided in regulations, the amount of the life insurance reserve for any qualified substandard risk shall be computed separately under subsection (d)(1) from any other reserve under the contract.

**(B) Qualified substandard risk**

For purposes of subparagraph (A), the term “qualified substandard risk” means any substandard risk if—

- (i) the insurance company maintains a separate reserve for such risk,
- (ii) there is a separately identified premium or charge for such risk,
- (iii) the amount of the net surrender value under the contract is not increased or decreased by reason of such risk, and
- (iv) the net surrender value under the contract is not regularly used to pay premium charges for such risk.

**(C) Limitation on amount of life insurance reserve**

The amount of the life insurance reserve determined for any qualified substandard risk shall in no event exceed the sum of the separately identified premiums charged for such risk plus interest less mortality charges for such risk.

**(D) Limitation on amount of contracts to which paragraph applies**

The aggregate amount of insurance in force under contracts to which this paragraph applies shall not exceed 10 percent of the insurance in force (other than term insurance) under life insurance contracts of the company.

**(6) Special rules for contracts issued before January 1, 1989, under existing plans of insurance, with term insurance or annuity benefits**

For purposes of this part—

**(A) In general**

In the case of a life insurance contract issued before January 1, 1989, under an existing plan of insurance, the life insurance reserve for any benefit to which this paragraph applies shall be computed separately under subsection (d)(1) from any other reserve under the contract.

**(B) Benefits to which this paragraph applies**

This paragraph applies to any term insurance or annuity benefit with respect to which the requirements of clauses (i) and (ii) of paragraph (3)(C) are met.

**(C) Existing plan of insurance**

For purposes of this paragraph, the term “existing plan of insurance” means, with respect to any contract, any plan of insurance which was filed by the company using such contract in one or more States before January 1, 1984, and is on file in the appropriate State for such contract.

**(7) Special rules for treatment of certain nonlife reserves****(A) In general**

The amount taken into account for purposes of subsections (a) and (b) as—

- (i) the opening balance of the items referred to in subparagraph (C), and
- (ii) the closing balance of such items,

shall be 80 percent of the amount which (without regard to this subparagraph) would have been taken into account as such opening or closing balance, as the case may be.

**(B) Transitional rule****(i) In general**

In the case of any taxable year beginning on or after September 30, 1990, and before September 30, 1996, there shall be included in the gross income of any life insurance company an amount equal to 3½ percent of such company’s closing balance of the items referred to in subparagraph (C) for its most recent taxable year beginning before September 30, 1990.

**(ii) Termination as life insurance company**

Except as provided in section 381(c)(22), if, for any taxable year beginning on or before September 30, 1996, the taxpayer ceases to be a life insurance company, the aggregate inclusions which would have been made under clause (i) for such taxable year and subsequent taxable years but for such cessation shall be taken into account for the taxable year preceding such cessation year.

**(C) Description of items**

For purposes of this paragraph, the items referred to in this subparagraph are the items described in subsection (c) which consist of unearned premiums and premiums re-

ceived in advance under insurance contracts not described in section 816(b)(1)(B).

**(f) Adjustment for change in computing reserves**

**(1) 10-year spread**

**(A) In general**

For purposes of this part, if the basis for determining any item referred to in subsection (c) as of the close of any taxable year differs from the basis for such determination as of the close of the preceding taxable year, then so much of the difference between—

(i) the amount of the item at the close of the taxable year, computed on the new basis, and

(ii) the amount of the item at the close of the taxable year, computed on the old basis,

as is attributable to contracts issued before the taxable year shall be taken into account under the method provided in subparagraph (B).

**(B) Method**

The method provided in this subparagraph is as follows:

(i) if the amount determined under subparagraph (A)(i) exceeds the amount determined under subparagraph (A)(ii),  $\frac{1}{10}$  of such excess shall be taken into account, for each of the succeeding 10 taxable years, as a deduction under section 805(a)(2); or

(ii) if the amount determined under subparagraph (A)(ii) exceeds the amount determined under subparagraph (A)(i),  $\frac{1}{10}$  of such excess shall be included in gross income, for each of the 10 succeeding taxable years, under section 803(a)(2).

**(2) Termination as life insurance company**

Except as provided in section 381(c)(22) (relating to carryovers in certain corporate readjustments), if for any taxable year the taxpayer is not a life insurance company, the balance of any adjustments under this subsection shall be taken into account for the preceding taxable year.

(Added Pub. L. 98-369, div. A, title II, §211(a), July 18, 1984, 98 Stat. 726; amended Pub. L. 99-514, title X, §1023(b), title XVIII, §1821(a), (s), Oct. 22, 1986, 100 Stat. 2399, 2837, 2843; Pub. L. 100-203, title X, §10241(a)-(b)(2)(A), Dec. 22, 1987, 101 Stat. 1330-419, 1330-420; Pub. L. 101-508, title XI, §11302(a), Nov. 5, 1990, 104 Stat. 1388-449; Pub. L. 104-188, title I, §1704(t)(61), Aug. 20, 1996, 110 Stat. 1890; Pub. L. 104-191, title III, §321(b), Aug. 21, 1996, 110 Stat. 2058; Pub. L. 105-34, title X, §1084(b)(2), Aug. 5, 1997, 111 Stat. 954; Pub. L. 108-218, title II, §205(b)(1), (2), Apr. 10, 2004, 118 Stat. 610.)

CODIFICATION

Another section 1084(b) of Pub. L. 105-34 amended sections 101 and 264 of this title.

PRIOR PROVISIONS

A prior section 807, act Aug. 16, 1954, ch. 736, 68A Stat. 259, related to adjustment for certain reserves, prior to the general revision of this part by act Mar. 13, 1956, ch. 83, §2, 70 Stat. 36.

AMENDMENTS

2004—Subsecs. (a)(2)(B), (b)(1)(B). Pub. L. 108-218, §205(b)(1), struck out “the sum of (i)” before “the

amount” and struck out “plus (ii) any excess described in section 809(a)(2) for the taxable year,” after “to which section 264(f) applies.”

Subsec. (d)(1). Pub. L. 108-218, §205(b)(2)(A), substituted “paragraph (6)” for “section 809(b)(4)(B)” in concluding provisions.

Subsec. (d)(6). Pub. L. 108-218, §205(b)(2)(B), added par. (6).

1997—Subsec. (a)(2)(B). Pub. L. 105-34, §1084(b)(2)(A), substituted “interest and the amount of the policyholder’s share of the increase for the taxable year in policy cash values (within the meaning of section 805(a)(4)(F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies,” for “interest.”

Subsec. (b)(1)(B). Pub. L. 105-34, §1084(b)(2)(B), substituted “interest and the amount of the policyholder’s share of the increase for the taxable year in policy cash values (within the meaning of section 805(a)(4)(F)) of life insurance policies and annuity and endowment contracts to which section 264(f) applies,” for “interest.”

1996—Subsec. (d)(3)(A)(iii). Pub. L. 104-191 inserted “(other than a qualified long-term care insurance contract, as defined in section 7702B(b))” after “insurance contract”.

Subsec. (d)(3)(B)(ii). Pub. L. 104-188 substituted “Commissioners’ Annuities” for “Commissoners’ Annuities”.

1990—Subsec. (e)(7). Pub. L. 101-508 added par. (7).

1987—Subsec. (c). Pub. L. 100-203, §10241(b)(2)(A), substituted “whichever of the following rates is the highest as of the time such obligation first did not involve life, accident, or health contingencies: the applicable Federal interest rate under subsection (d)(2)(B)(i), the prevailing State assumed interest rate under subsection (d)(2)(B)(ii), or the rate of interest assumed by the company in determining the guaranteed benefit.” for “the higher of the prevailing State assumed interest rate as of the time such obligation first did not involve life, accident, or health contingencies or the rate of interest assumed by the company (as of such time) in determining the guaranteed benefit.” in third to last sentence.

Subsec. (d)(2)(B). Pub. L. 100-203, §10241(a), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “the prevailing State assumed interest rate, and”.

Subsec. (d)(4). Pub. L. 100-203, §10241(b)(1), substituted “Applicable Federal interest rate; prevailing State assumed interest rate” for “Prevailing State assumed interest rate” in heading and amended text generally, revising and restating as subpars. (A) and (B) provisions of former subpars. (A) to (D).

1986—Subsec. (c). Pub. L. 99-514, §1023(b), inserted at end “For purposes of paragraph (2) and section 805(a)(1), the amount of the unpaid losses (other than losses on life insurance contracts) shall be the amount of the discounted unpaid losses as defined in section 846.”

Pub. L. 99-514, §1821(a), inserted at end “In no case shall the amount determined under paragraph (3) for any contract be less than the net surrender value of such contract.”

Subsec. (d)(5)(C). Pub. L. 99-514, §1821(s), inserted at end “When the Secretary by regulation changes the table applicable to a type of contract, the new table shall be treated (for purposes of subparagraph (B) and for purposes of determining the issue dates of contracts for which it shall be used) as if it were a new prevailing commissioner’s standard table adopted by the twenty-sixth State as of a date (no earlier than the date the regulation is issued) specified by the Secretary.”

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-218, title II, §205(c), Apr. 10, 2004, 118 Stat. 610, provided that: “The amendments made by this section [amending this section and sections 808, 812, 817, and 842 of this title and repealing section 809 of this title] shall apply to taxable years beginning after December 31, 2004.”

## EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to contracts issued after June 8, 1997, in taxable years ending after such date, with special provisions relating to changes in contracts to be treated as new contracts, see section 1084(d) of Pub. L. 105-34, set out as a note under section 101 of this title.

## EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-191 applicable to contracts issued after Dec. 31, 1997, see section 321(f) of Pub. L. 104-191, set out as an Effective Date note under section 7702B of this title.

## EFFECTIVE DATE OF 1990 AMENDMENT

Section 11302(b) of Pub. L. 101-508 provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning on or after September 30, 1990."

## EFFECTIVE DATE OF 1987 AMENDMENT

Section 10241(c) of Pub. L. 100-203 provided that: "The amendments made by this section [amending this section and section 812 of this title] shall apply to contracts issued in taxable years beginning after December 31, 1987."

## EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 1023(b) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, except as otherwise provided, see section 1023(e) of Pub. L. 99-514, set out as an Effective Date note under section 846 of this title.

Amendment by section 1821(a), (s) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

## EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as a note under section 801 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL  
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

TREATMENT OF CERTAIN ASSESSMENT LIFE INSURANCE  
COMPANIES

Section 217(f) of subtitle A (§§ 211-219) of title II of div. A of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) MORTALITY AND MORBIDITY TABLES.—In the case of a contract issued by an assessment life insurance company, the mortality and morbidity tables used in computing statutory reserves for such contract shall be used for purposes of paragraph (2)(C) of section 807(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by this subtitle) if such tables were—

"(A) in use since 1965, and

"(B) developed on the basis of the experience of assessment life insurance companies in the State in which such assessment life insurance company is domiciled.

"(2) TREATMENT OF CERTAIN MUTUAL ASSESSMENT LIFE INSURANCE COMPANIES.—In the case of any contract issued by a mutual assessment life insurance company which—

"(A) has been in existence since 1965, and

"(B) operates under chapter 13 or 14 of the Texas Insurance Code,

for purposes of part I of subchapter L of chapter 1 of the Internal Revenue Code of 1986, the amount of the life insurance reserves for such contract shall be equal to the amount taken into account with respect to such contract in determining statutory reserves.

"(3) STATUTORY RESERVES.—For purposes of this subsection, the term 'statutory reserves' has the meaning given to such term by [former] section 809(b)(4)(B) of such Code."

## SPECIAL RULE FOR COMPANIES USING NET LEVEL RESERVE METHOD FOR NONCANCELLABLE ACCIDENT AND HEALTH INSURANCE CONTRACTS

Section 217(n) of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, title XVIII, § 1823, Oct. 22, 1986, 100 Stat. 2095, 2845, provided that: "A company shall be treated as meeting the requirements of section 807(d)(3)(A)(iii) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], as amended by this Act, with respect to any directly-written noncancellable accident and health insurance contract (whether under existing or new plans of insurance) for any taxable year if—

"(1) such company—

"(A) was using the net level reserve method to compute at least 99 percent of its statutory reserves on such contracts as of December 31, 1982, and

"(B) received more than half its total direct premiums in 1982 from directly-written noncancellable accident and health insurance,

"(2) after December 31, 1983, and through such taxable year, such company has continuously used the net level reserve method for computing at least 99 percent of its tax and statutory reserves on such contracts, and

"(3) for any such contract for which the company does not use the net level reserve method, such company uses the same method for computing tax reserves as such company uses for computing its statutory reserves."

**§ 808. Policyholder dividends deduction****(a) Policyholder dividend defined**

For purposes of this part, the term "policyholder dividend" means any dividend or similar distribution to policyholders in their capacity as such.

**(b) Certain amounts included**

For purposes of this part, the term "policyholder dividend" includes—

(1) any amount paid or credited (including as an increase in benefits) where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management,

(2) excess interest,

(3) premium adjustments, and

(4) experience-rated refunds.

**(c) Amount of deduction**

The deduction for policyholder dividends for any taxable year shall be an amount equal to the policyholder dividends paid or accrued during the taxable year.

**(d) Definitions**

For purposes of this section—

**(1) Excess interest**

The term "excess interest" means any amount in the nature of interest—

(A) paid or credited to a policyholder in his capacity as such, and