
Table of Contents

Chapter	Page
Chapter 1 Why Are There Separate Tax Rules For Insurance Companies?	1
(a) The unique characteristics of insurance companies	1
(b) Applying these characteristics to tax policy goals	4
(c) The following chapters	6
Chapter 2 What is Insurance?	7
Part I: Introduction	7
(a) Background	7
(b) Helvering v. Le Gierse	8
(c) Economics of insurance coverage	9
(d) Risk-shifting, risk-distribution and other factors	10
Part II: Self-Insurance and Captive Insurers	13
(a) Background	13
(b) Self-insurance	13
(c) Captive insurers: historic background	16
(d) The Service no longer follows the economic family theory	18
(e) No unrelated risks transferred in parent-subsidiary arrangements	18
(f) Brother-sister transactions	21
(g) Impact of undercapitalizations, guarantees and other financial enhancements	24
(h) Coverage of other “related” entities	28
(i) Coverage by an unrelated company	29
(j) Significant unrelated risks	31
(k) Sears	34
(l) Economic substance and arms length income allocations	37
(m) Premiums paid to cover others’ risks	39
(n) Insurance pools and “group captives”	40
(o) Further guidance requested	42
(p) Ruling requests	43

Part III: Characterization of Other Arrangements	43
and Contracts	
(a) Reciprocal flood insurance exchange arrangements	43
(b) Retroactive insurance	45
(c) Retrospective insurance	45
(d) Bail and surety bonds	48
(e) Warranty & extended service contracts	49
Part IV: Commercial-Type Insurance: Section 501(m)	52
(a) Background	52
(b) Insurance pools	53
(c) Incidental health insurance provided by an HMO	54
(d) Other exceptions	59
Chapter 3 What is an Insurance Company?	61
(a) The definition of insurance company	61
(b) Characterization of certain entities that provide insurance-related services	68
(c) The definition of life insurance company	74
(d) Selected differences in the tax treatment of life and nonlife insurers	82
(e) Changes in the status of insurance companies	82
(f) Termination of an insurance company	83
(g) Insurers in liquidation or rehabilitation	84
Chapter 4 Life Insurance Company Taxable Income	89
(a) A brief history of life insurance company taxation	89
(b) Life insurance company taxable income (LICTI)	92
(c) Life insurance gross income	93
(d) Life insurance deductions	97
(e) Modifications to selected deductions: section 805(b)	98
(f) Accrued benefits and losses incurred	99
(g) Operations loss deduction	103
(h) Small life insurance company deduction	105
(i) Accounting rules: in general	106
(j) Amortization of bond discount and premium	112
(k) Accounting periods	117

Chapter 5 Reinsurance Transactions and DAC 119

Part I: Reinsurance Transactions 119

(a) Background 119

(b) Indemnity reinsurance 122

(c) Assumption reinsurance 130

Part II: Section 845 136

Part III: DAC Under Section 848 146

(a) Background 146

(b) Scope of section 848 148

(c) Specified insurance contracts 150

(d) Net premiums 156

(e) Reinsurance arrangements 158

Chapter 6 Life Insurance Company Reserves 165

Part I: The Need For Life Insurance Company Reserve Rules . 165

Part II: The Definition of Life Insurance Reserves:

Section 816(b) 168

(a) Background 168

(b) Life insurance reserves must be determined using
recognized actuarial factors 169

(c) Life insurance reserves must be “set aside” 173

(d) Life insurance reserves must mature or liquidate future
unaccrued claims 173

(e) The future unaccrued claims must arise from life insurance,
annuity, and noncancellable accident and health insurance
contracts (including life insurance or annuity contracts
combined with noncancellable accident and health insurance) . . 174

(f) Future unaccrued claims must involve life, accident, or health
contingencies 182

(g) The reserves must be required by law 185

Part III Reserve Computation Rules 187

(a) Background 187

(b) Reserves under the Tax Reform Act of 1984 189

(c) Effective date and fresh start (transition) rules	191
(d) Prescribed mortality and morbidity tables.	192
(e) Curtate and continuous payment and benefit assumptions	197
(f) Prescribed assumed interest rates	199
(g) Tax reserve methods	201
(h) Principles-based reserve rules	211
(i) Other reserve items: sections 807(c)(2)-(c)(6)	212
Part IV: Special Adjustments To Reserves.	218
(a) Changes in the basis in computing reserves.	218
(b) Retroactive adjustments	223
(c) Tax benefit rule and life insurance reserve adjustments	224
Chapter 7 Separate Accounts	227
Part I: Introduction.	227
(a) Background	227
(b) Variable contracts—in general	227
(c) Investor control doctrine	231
Part II: Diversification Rules	236
(a) Background	236
(b) Diversification requirements.	237
(c) Look-through rules.	239
(d) Pension plan contracts	246
(e) Definitions	247
(f) Other rules	252
Part III: Applying Subchapter L to Variable Contracts.	256
Part IV: Modified Guaranteed Contracts	264
Chapter 8 Policyholder Dividends	269
Part I: Section 808	269
Part II: Prior-Law Section 809	281
Chapter 9 Proration.	301

(a) Background	301
(b) Proration of tax-exempt interest	303
(c) The constitutionality of the proration of tax-exempt interest	309
(d) Dividend distributions: section 805(a)(4)	309
Chapter 10 Property and Casualty Insurance Companies	313
(a) Distinguishing property and casualty from life insurance company taxation	313
(b) Taxable income: in general	314
(c) Underwriting income: in general	318
(d) Gross premiums written: in general	320
(e) Unearned premiums	320
(f) Return premiums	327
(g) Premiums paid for reinsurance	328
(h) When are gross premiums written taken into account?	330
(i) Acquisition cost matching rules	334
(j) Retrospective rate credits and debits	340
(k) Stabilization reserves	343
(l) Other items included in gross premiums written	345
(m) Losses incurred	348
(n) Fair and reasonable estimates of incurred loss reserves	353
(o) Discounting unpaid losses: section 846	363
(p) Salvage and subrogation	374
(q) The tax benefit rule	378
(r) Proration	381
(s) Expenses incurred: section 832(b)(6)	383
(t) Limitations on net operating losses	387
(u) Other components of gross income	388
(v) Mortgage guaranty insurance	391
(w) Tax-exempt section 501(c)(15) insurance companies	394
(x) The alternative tax for certain small companies under section 831(b)	397
(y) Reciprocals and interinsurers	399
(z) Perpetual policies and factory mutual insurance companies	401
Chapter 11 Blue Cross/Blue Shield Organizations	403
(a) Background	403
(b) Material changes in operation or structure	405
(c) Other qualified organizations	410

(d) The section 833(b) deduction	410
(e) Adjusted basis of assets	412
Chapter 12 Corporate Taxation of Insurance Companies	421
(a) Corporate status of insurance companies	421
(b) Distributions from the policyholders surplus account (PSA)	423
(c) The impact of corporate tax rules	430
(d) Corporate reorganizations	431
(e) Carryover rules: section 381(c)	431
(f) Section 338 transactions	433
(g) Save the charter transactions	451
(h) Demutualizations and other mutual company conversions	456
(i) Surplus notes: debt or equity?	463
(j) Life-nonlife consolidated return rules: background	466
(k) Includible life insurance companies	467
(l) Tacking rules	471
(m) Impact of investment adjustment rules	476
(n) The election	476
(o) Mutual holding company transactions	477
(p) Consolidated taxable income computation rules—in general	479
(q) Nonlife subgroup losses	480
(r) Life subgroup losses	484
(s) Decreases in policyholders surplus accounts (PSAs)	484
(t) Capital gains and losses	485
(u) Preemption and impact of other rules	487
(v) Intercompany transactions	487
Appendix I: Statutes	489
Appendix II: Treasury Regulations	503
Appendix III: Cases	511
Appendix IV: IRS Pronouncements	523
Appendix V: Written Determinations	529
Index	533