

§ 1.811-3 Cross-reference.

For special rules regarding the treatment of modified guaranteed contracts (as defined in section 817A and § 1.817A-1(a)(1)), see § 1.817A-1.

[T.D. 9058, 68 FR 24350, May 7, 2003]

§ 1.812-1 Taxable years affected.

Sections 1.812-2 through 1.812-8, except as otherwise provided therein, are applicable only to taxable years beginning after December 31, 1957, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112) and the Act of October 23, 1962 (76 Stat. 1134).

[T.D. 6886, 31 FR 8689, June 23, 1966]

§ 1.812-2 Operations loss deduction.

(a) *Allowance of deduction.* Section 812 provides that a life insurance company shall be allowed a deduction in computing gain or loss from operations for any taxable year beginning after December 31, 1957, in an amount equal to the aggregate of the operations loss carryovers and operations loss carrybacks to such taxable year. This deduction is referred to as the operations loss deduction. The loss from operations (computed under section 809), is the basis for the computation of the operations loss carryovers and operations loss carrybacks and ultimately for the operations loss deduction itself. Section 809(e)(5) provides that the net operating loss deduction provided in section 172 shall not be allowed a life insurance company since the operations loss deduction provided in section 812 and this paragraph shall be allowed in lieu thereof.

(b) *Steps in computation of operations loss deduction.* The three steps to be taken in the ascertainment of the operations loss deduction for any taxable year beginning after December 31, 1957, are as follows:

(1) Compute the loss from operations for any preceding or succeeding taxable year from which a loss from operations may be carried over or carried back to such taxable year.

(2) Compute the operations loss carryovers to such taxable year from

such preceding taxable years and the operations loss carrybacks to such taxable year from such succeeding taxable years.

(3) Add such operations loss carryovers and carrybacks in order to determine the operations loss deduction for such taxable year.

(c) *Statement with tax return.* Every life insurance company claiming an operations loss deduction for any taxable year shall file with its return for such year a concise statement setting forth the amount of the operations loss deduction claimed and all material and pertinent facts relative thereto, including a detailed schedule showing the computation of the operations loss deduction.

(d) *Ascertainment of deduction dependent upon operations loss carryback.* If a life insurance company is entitled in computing its operations loss deduction to a carryback which it is not able to ascertain at the time its return is due, it shall compute the operations loss deduction on its return without regard to such operations loss carryback. When the life insurance company ascertains the operations loss carryback, it may within the applicable period of limitations file a claim for credit or refund of the overpayment, if any, resulting from the failure to compute the operations loss deduction for the taxable year with the inclusion of such carryback; or it may file an application under the provisions of section 6411 for a tentative carryback adjustment.

(e) *Law applicable to computations.* The following rules shall apply to all taxable years beginning after December 31, 1957:

(1) In determining the amount of any operations loss carryback or carryover to any taxable year, the necessary computations involving any other taxable year shall be made under the law applicable to such other taxable year.

(2) The loss from operations for any taxable year shall be determined under the law applicable to that year without regard to the year to which it is to be carried and in which, in effect, it is to be deducted as part of the operations loss deduction.

(3) The amount of the operations loss deduction which shall be allowed for

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any taxable year shall be determined under the law applicable for that year.

(f) *Special rules.* For purposes of taxable years beginning after December 31, 1954, and before January 1, 1958:

- (1) The amount of any:
 - (i) Loss from operations;
 - (ii) Operations loss carryback; and
 - (iii) Operations loss carryover

shall be computed as if part I, subchapter L, chapter 1 of the Code (as in effect for 1958) and section 381(c)(22) applied to such taxable years.

(2) A loss from operations (determined in accordance with the provisions of section 812(b)(1)(C) and this paragraph) for such taxable years shall in no way affect the tax liability of any life insurance company for such taxable years. However, such loss may, to the extent allowed as an operations loss carryover under section 812, affect the tax liability of a life insurance company for a taxable year beginning after December 31, 1957. For example, for the taxable year 1956, X, a life insurance company, has a loss from operations (determined in accordance with the provisions of section 812(b)(1)(C) and this paragraph). Such loss shall in no way affect X's tax liability for the taxable years 1956 (the year of the loss), 1955 (a year to which such loss shall be carried back), or 1957 (a year to which such loss shall be carried forward). However, to the extent allowed under section 812, any amount of the loss for 1956 remaining after such carryback and carryforward shall be taken into account in determining X's tax liability for taxable years beginning after December 31, 1957.

[T.D. 6535, 26 FR 536, Jan. 20, 1961]

§ 1.812-3 Computation of loss from operations.

(a) *Modification of deductions.* A loss from operations is sustained by a life insurance company in any taxable year, if and to the extent that, for such year, there is an excess of the sum of the deductions provided by section 809(d) over the sum of (1) the life insurance company's share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received) as determined under section 809(b)(3), and (2) the sum of the items of

gross amount taken into account under section 809(c). In determining the loss from operations for purposes of section 812:

(i) No deduction shall be allowed under section 812 for the operations loss deduction.

(ii) The 85 percent limitation on dividends received provided by section 246 (b) as modified by section 809(d)(8)(B) shall not apply to the deductions otherwise allowed under:

(a) Section 243(a) in respect to dividends received by corporations.

(b) Section 244 in respect of dividends received on certain preferred stock of public utilities, and

(c) Section 245 in respect of dividends received from certain foreign corporations.

(b) *Illustration of principles.* The application of paragraph (a) of this section may be illustrated by the following example:

Example. For the taxable year 1960, X, a life insurance company, has items taken into account under section 809(c) amounting to \$150,000, its share of the investment yield amounts to \$250,000, and total deductions allowed by section 809(d) of \$375,000, exclusive of any operations loss deduction and exclusive of any deduction for dividends received. In 1960, X received as its share of dividends entitled to the benefits of section 243(a) the amount of \$100,000. These dividends are included in X's share of the investment yield. X has no other deductions to which section 812(c) applies. On the basis of these facts, X has a loss from operations for the taxable year 1960 of \$60,000, computed as follows:

| | |
|---|-----------|
| Deductions for 1960 | \$375,000 |
| Plus: Deduction for dividends received computed without regard to the limitation provided by sec. 246(b), as modified by sec. 809(d)(8)(B) (85% of \$100,000) | 85,000 |
| <hr/> | |
| Total deductions as modified by sec. 812(c) | 460,000 |
| Less: Sum of sec. 809(c) items and X's share of investment yield (including \$100,000 of dividends) | 400,000 |
| <hr/> | |
| Loss from operations for 1960 | (60,000) |

[T.D. 6535, 26 FR 536, Jan. 20, 1961]

§ 1.812-4 Operations loss carrybacks and operations loss carryovers.

(a) *In general*—(1) *Years to which loss may be carried.* In order to compute the operations loss deduction of a life insurance company the company must first determine the part of any losses

from operations for any preceding or succeeding taxable years which are carryovers or carrybacks to the taxable year in issue. Except as otherwise provided by this paragraph, a loss from operations for taxable years beginning after December 31, 1954, shall be carried back to each of the 3 taxable years preceding the loss year and shall be carried forward to each of the 5 taxable years succeeding the loss year. Except as limited by section 812(e)(2) and paragraph (b) of § 1.812-6, if the life insurance company is a new company (as defined in section 812(e)(1)) for the loss year, the loss from operations shall be carried back to each of the 3 taxable years preceding the loss year and shall be carried forward to each of the 8 taxable years succeeding the loss year. In determining the span of years for which a loss from operations may be carried, taxable years in which a company does not qualify as a life insurance company (as defined in section 801(a)), or is not treated as a new company, shall be taken into account.

(2) *Special transitional rules.* (i) A loss from operations for any taxable year beginning before January 1, 1958, shall not be carried back to any taxable year beginning before January 1, 1955. Furthermore, a loss from operations for any taxable year beginning after December 31, 1957, shall not be carried back to any taxable year beginning before January 1, 1958.

(ii) If for any taxable year a life insurance company has made an election under section 810(e) (relating to certain decreases in reserves for voluntary employees' beneficiary associations) which is effective for such taxable year, the provisions of section 812(b)(1) and subparagraph (1) of this paragraph shall not apply with respect to any loss from operations for any taxable year beginning before January 1, 1958.

(3) *Illustration of principles.* The provisions of section 812(b)(1) and of this paragraph may be illustrated by the following examples:

Example 1. P, a life insurance company, organized in 1940, has a loss from operations of \$1,000 in 1958. This loss cannot be carried back, but shall be carried forward to each of the 5 taxable years following 1958.

Example 2. Q, a life insurance company, organized in 1940, has a loss from operations of \$1,200 in 1959. This loss shall be carried back

to the taxable year 1958 and then shall be carried forward to each of the 5 taxable years following 1959.

Example 3. R, a life insurance company, organized in 1940, has a loss from operations of \$1,300 for the taxable year 1956. This loss shall first be carried back to the taxable year 1955 and then shall be carried forward to each of the 5 taxable years following 1956. The loss for 1956, carryback to 1955, and carryover to 1957 shall each be computed as if part I, subchapter L, chapter 1 of the Code (as in effect for 1958) applied to such taxable years.

Example 4. S, a life insurance company, organized in 1958 and meeting the provisions of section 812(e) (rules relating to new companies), has a loss from operations of \$1,400 for the taxable year 1958. This loss cannot be carried back, but shall be carried forward to each of the 8 taxable years following 1958, provided, however, S is not a nonqualified corporation at any time during the loss year (1958) or any taxable year thereafter.

Example 5. T, a life insurance company, organized in 1954 and meeting the provisions of section 812(e) (rules relating to new companies), has a loss from operations of \$1,500 for the taxable year 1956. This loss shall first be carried back to the taxable year 1955 and then carried forward to each of the 8 taxable years following 1956, provided, however, T is not a nonqualified corporation at any time during the loss year (1956) or any taxable year thereafter. The loss for 1956, carryback to 1955, and carryover to 1957 shall each be computed as if part I of subchapter L (as in effect for 1958) applied to such taxable years.

(4) *Periods of less than 12 months.* A fractional part of a year which is a taxable year under sections 441(b) and 7701(a)(23) is a preceding or a succeeding taxable year for the purpose of determining under section 812 the first, second, etc., preceding or succeeding taxable year. For the determination of the loss from operations for periods of less than 12 months, see section 818(d) and the regulations thereunder.

(5) *Amount of loss to be carried.* The amount which is carried back or carried over to any taxable year is the loss from operations to the extent it was not absorbed in the computation of gain from operations for other taxable years, preceding such taxable year, to which it may be carried back or carried over. For the purpose of determining the gain from operations for any such preceding taxable year, the various operations loss carryovers and carrybacks to such taxable year are considered to be applied in reduction of

the gain from operations in the order of the taxable years from which such losses are carried over or carried back, beginning with the loss for the earliest taxable year.

(6) *Corporate acquisitions.* For the computation of the operations loss carryovers in the case of certain acquisitions of the assets of a life insurance company by another life insurance company, see section 381(c)(22) and the regulations thereunder.

(b) *Portion of loss from operations which is a carryback or a carryover to the taxable year in issue—(1) Manner of computation.* (i) A loss from operations shall first be carried back to the earliest taxable year permissible under section 812(b) and paragraph (a) of this section for which such loss is allowable as a carryback or a carryover. The entire amount of the loss from operation shall be carried back to such earliest year.

(ii) Section 812(b)(2) provides that the portion of the loss from operations which shall be carried to each of the taxable years subsequent to the earliest taxable year shall be the excess (if any) of the amount of the loss from operations over the sum of the offsets (as defined in section 812(d) and paragraph (a) of § 1.812-5) for all prior taxable years to which the loss from operations may be carried.

(2) *Illustration of principles.* The application of this paragraph may be illustrated by the following example:

Example. T, a life insurance company (which is not a new company as defined in section 812(e)(1)), has a loss from operations for 1960. The entire amount of the loss from operations for 1960 shall first be carried back to 1958. The amount of the carryback to 1959 is the excess (if any) of the 1960 loss over the offset for 1958. The amount of the carryover to 1961 is the excess (if any) of the 1960 loss over the sum of the offsets for 1958 and 1959. The amount of the 1960 loss remaining (if any) to be carried over to 1962, 1963, or 1964 shall be computed in a like manner.

[T.D. 6535, 26 FR 537, Jan. 20, 1961]

§ 1.812-5 Offset.

(a) *Offset defined.* Section 812(d) defines the term “offset” for purposes of section 812(b)(2) and paragraph (b)(1)(ii) of § 1.812-4. For any taxable year the offset is only that portion of the increase in the operations loss deduction

for the taxable year which is necessary to reduce the life insurance company taxable income (computed without regard to section 802(b)(3)) for such year to zero. For purposes of the preceding sentence, the offset shall be determined with the modifications prescribed in paragraph (b) of this section. Such modifications shall be made independently of, and without reference to, the modifications required by paragraph (a) of § 1.812-3 for purposes of computing the loss from operations itself.

(b) *Modifications—(1) Operations loss deduction—(i) In general.* Section 812(d)(2) provides that for purposes of section 812(d)(1) (relating to the definition of offset), the operations loss deduction for any taxable year shall be computed by taking into account only such losses from operations otherwise allowable as carryovers or as carrybacks to such taxable year as were sustained in taxable years preceding the taxable year in which the life insurance company sustained the loss from operations from which the offset is to be deducted. Thus, for such purposes the loss from operations for the loss year or for any taxable year thereafter shall not be taken into account.

(ii) *Illustration of principles.* The provisions of this subparagraph may be illustrated by the following example:

Example. In computing the operations loss deduction for 1960, Y, a life insurance company, has a carryover from 1958 of \$9,000, a carryover from 1959 of \$6,000, a carryback from 1961 of \$18,000, and a carryback from 1962 of \$10,000, or an aggregate of \$43,000 in carryovers and carrybacks. Thus, the operations loss deduction for 1960, for purposes of determining the tax liability for 1960, is \$43,000. However, in computing the offset for 1960 which is subtracted from the loss from operations for 1961 for the purpose of determining the portion of such loss which may be carried over to subsequent taxable years, the operations loss deduction for 1960 is \$15,000, that is, the aggregate of the \$9,000 carryover from 1958 and the \$6,000 carryover from 1959. In computing the operations loss deduction for such purpose, the \$18,000 carryback from 1961 and the \$10,000 carryback from 1962 are disregarded. In computing the offset for 1960, however, which is subtracted from the loss from operations for 1962 for the purpose of determining the portion of such 1962 loss which may be carried

over for subsequent taxable years, the operations loss deduction for 1960 is \$33,000, that is, the aggregate of the \$9,000 carryover from 1958, the \$6,000 carryover from 1959, and the \$18,000 carryback from 1961. In computing the operations loss deduction for such purpose, the \$10,000 carryback from 1962 is disregarded.

(2) *Recomputation of deductions limited by section 809(f)*—(i) *In general.* If in any taxable year a life insurance company has deductions under section 809(d) (3), (5), and (6), as limited by section 809(f), and sustains a loss from operations in a succeeding taxable year which may be carried back as an operations loss deduction, such limitation and deductions shall be recomputed. This recomputation is required since the carryback must be taken into account for purposes of determining such limitation and deductions.

(ii) *Illustration of principles.* The provisions of this subparagraph may be illustrated by the following example:

(a) *Facts.* The books of P, a life insurance company, reveal the following facts:

| Taxable year | Taxable investment income | Gain from operations | Loss from operations |
|--------------|---------------------------|----------------------|----------------------|
| 1959 | \$9,000,000 | \$10,000,000 | ..... |
| 1960 ..... | ..... | ..... | (\$9,800,000) |

The gain from operations thus shown is computed without regard to any operations loss deduction or deductions under section 809(d) (3), (5), and (6), as limited by section 809(f). Assume that for the taxable year 1959, P has (without regard to the limitation of section 809(f) or the operations loss deduction for 1959) a deduction under section 809(d)(3) of \$2,500,000 for dividends to policyholders and no deductions under section 809(d) (5) or (6).

(b) *Determination of section 809(f) limitation and deduction for dividends to policyholders without regard to the operations loss deduction for 1959.* In order to determine gain or loss from operations for 1959, P must determine the deduction for dividends to policyholders for such year. Under the provisions of section 809(f), the amount of such deduction shall not exceed the sum of (1) the amount (if any) by which the gain from operations for such year (determined without regard to such deduction) exceeds P's taxable investment income for such year, plus (2) \$250,000. Since the gain from operations as thus determined (\$10,000,000) exceeds the taxable investment income (\$9,000,000) by \$1,000,000, the limitation on such deduction is \$1,250,000 (\$1,000,000 plus \$250,000). Accordingly, only \$1,250,000 of the \$2,500,000 deduction for divi-

dends to policyholders shall be allowed. The gain from operations for such year is \$8,750,000 (\$10,000,000 minus \$1,250,000).

(c) *Recomputation of section 809(f) limitation and deduction for dividends to policyholders after application of the operations loss deduction for 1959.* Since P has sustained a loss from operations for 1960 which shall be carried back to 1959 as an operations loss deduction, it must recompute the section 809(f) limitation and deduction for dividends to policyholders. Taking into account the \$9,800,000 operations loss deduction for 1959 reduces gain from operations for such year to \$200,000 (\$10,000,000 minus \$9,800,000). Since the gain from operations as thus determined (\$200,000) is less than the taxable investment income (\$9,000,000), the limitation on the deduction for dividends to policyholders is \$250,000. Thus, only \$250,000 of the \$2,500,000 deduction for dividends to policyholders shall be allowed. The gain from operations for such year as thus determined is \$9,750,000 (\$10,000,000 minus \$250,000) since for purposes of this determination the operations loss deduction for 1959 is not taken into account (see section 812(c)(1)). Accordingly, the offset for 1959 is \$9,750,000 (the increase in the operations loss deduction for 1959, computed without regard to the carryback for 1960, which reduces life insurance company taxable income for 1959 to zero); thus, the portion of the 1960 loss from operations which shall be carried forward to 1961 is \$50,000 (the excess of the 1960 loss (\$9,800,000) over the offset for 1959 (\$9,750,000)).

(3) *Minimum limitation.* The life insurance company taxable income, as modified under this paragraph, shall in no case be considered less than zero.

[T.D. 6535, 26 FR 537, Jan. 20, 1961]

§ 1.812-6 New company defined.

Section 812(e) provides that for purposes of part I, subchapter L, chapter 1 of the Code, a life insurance company is a "new company" for any taxable year only if such taxable year begins not more than 5 years after the first day on which it (or any predecessor if section 381(c)(22) applies or would have applied if in effect) was authorized to do business as an insurance company.

[T.D. 7326, 39 FR 35354, Oct. 1, 1974]

§ 1.812-7 Application of subtitle A and subtitle F.

Section 812(f) provides that except as modified by section 809(e) (relating to modifications of deduction items otherwise allowable under subtitle A of the Code) subtitles A and F of the Code

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shall apply to operations loss carrybacks and carryovers, and to the operations loss deduction, in the same manner and to the same extent that such subtitles apply in respect of net operation loss carrybacks, net operating loss carryovers, and the net operating loss deduction of corporations generally. For the computation of the operations loss carrybacks and carryovers, and of the operations loss deduction in the case of certain acquisitions of the assets of a life insurance company by another life insurance company, see section 381(c)(22) and the regulations thereunder.

[T.D. 6535, 26 FR 539, Jan. 20, 1961]

§ 1.812-8 Illustration of operations loss carrybacks and carryovers.

The application of § 1.812-4 may be illustrated by the following example:

(a) *Facts.* The books of M, a life insurance company, organized in 1940, reveal the following facts:

| Taxable year | Taxable investment income | Gain from operations | Loss from operations |
|--------------|---------------------------|----------------------|----------------------|
| 1958 | \$11,000 | \$15,000 | ..... |
| 1959 | 23,000 | 30,000 | ..... |
| 1960 ..... | ..... | ..... | (\$75,000) |
| 1961 | 25,000 | 20,000 | ..... |
| 1962 ..... | ..... | ..... | (150,000) |
| 1963 | 22,000 | 30,000 | ..... |
| 1964 | 40,000 | 35,000 | ..... |
| 1965 | 62,000 | 75,000 | ..... |
| 1966 | 25,000 | 17,000 | ..... |
| 1967 | 39,000 | 53,000 | ..... |

The gain from operations thus shown is computed without regard to any operations loss deduction. The assumption is also made that none of the other modifications prescribed in paragraph (b) of § 1.812-5 apply. There are no losses from operations for 1955, 1956, 1957, 1968, 1969, 1970.

(b) *Loss sustained in 1960.* The portions of the \$75,000 loss from operations for 1960 which shall be used as carrybacks to 1958 and 1959 and as carryovers to 1961, 1962, 1963, 1964, and 1965 are computed as follows:

(1) *Carryback to 1958.* The carryback to this year is \$75,000, that is, the amount of the loss from operations.

(2) *Carryback to 1959.* The carryback to this year is \$60,000 (the excess of the loss for 1960 over the offset for 1958), computed as follows:

| | |
|---|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | 15,000 |

| | |
|-----------------|--------|
| Carryback | 60,000 |
|-----------------|--------|

(3) *Carryover to 1961.* The carryover to this year is \$30,000 (the excess, if any, of the loss for 1960 over the sum of the offsets for 1958 and 1959), computed as follows:

| | |
|--|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | \$15,000 |
| Offset for 1959 (the \$30,000 gain from operations for such year computed without the deduction of the carryback from 1960 or the carryback from 1962) | 30,000 |
| Sum of offsets | 45,000 |
| Carryover | 30,000 |

(4) *Carryover to 1962.* The carryover to this year is \$10,000 (the excess, if any, of the loss for 1960 over the sum of the offsets for 1958, 1959, and 1961), computed as follows:

| | |
|--|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | \$15,000 |
| Offset for 1959 (the \$30,000 gain from operations for such year computed without the deduction of the carryback from 1960 or the carryback from 1962) | 80,000 |
| Offset for 1961 (the \$20,000 gain from operations for such year computed without the deduction of the carryover from 1960 or the carryback from 1962) | 20,000 |
| Sum of offsets | 65,000 |
| Carryover | 10,000 |

(5) *Carryover to 1963.* The carryover to this year is \$10,000 (the excess, if any, of the loss for 1960 over the sum of the offsets for 1958, 1959, 1961, and 1962), computed as follows:

| | |
|--|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | \$15,000 |
| Offset for 1959 (the \$30,000 gain from operations for such year computed without the deduction of the carryback from 1960 or the carryback from 1962) | 30,000 |
| Offset for 1961 (the \$20,000 gain from operations for such year computed without the deduction of the carryover from 1960 or the carryback from 1962) | 20,000 |

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| | |
|--|--------|
| Offset for 1962 (a year in which a loss from operations was sustained) | 0 |
| Sum of offsets | 65,000 |
| Carryover | 10,000 |

(6) *Carryover to 1964.* The carryover to this year is \$0 (the excess, if any, of the loss from 1960 over the sum of the offsets for 1958, 1959, 1961, 1962, and 1963), computed as follows:

| | |
|--|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | \$15,000 |
| Offset for 1959 (the \$30,000 gain from operations for such year computed without the deduction of the carryback from 1960 or the carryback from 1962) | 30,000 |
| Offset for 1961 (the \$20,000 gain from operations for such year computed without the deduction of the carryover from 1960 or the carryback from 1962) | 20,000 |
| Offset for 1962 (a year in which a loss from operations was sustained) | 0 |
| Offset for 1963 (the \$30,000 gain from operations for such year computed without the deduction of the carryover from 1960 or the carryover from 1962) | 30,000 |
| Sum of offsets | 95,000 |
| Carryover | 0 |

(7) *Carryover to 1965.* The carryover to this year is \$0 (the excess, if any, of the loss from 1960 over the sum of the offsets for 1958, 1959, 1961, 1962, 1963, and 1964), computed as follows:

| | |
|---|----------|
| Loss from operations | \$75,000 |
| Less: | |
| Offset for 1958 (the \$15,000 gain from operations for such year computed without the deduction of the carryback from 1960) | \$15,000 |
| Offset for 1959 (the \$30,000 gain from operations for such year computed without the deduction for the carryback from 1960 or the carryback from 1962) | 30,000 |
| Offset for 1961 (the \$20,000 gain from operations for such year computed without the deduction for the carryover from 1960 or the carryback from 1962) | 20,000 |
| Offset for 1962 (a year in which a loss from operations was sustained) | 0 |

| | |
|---|---------|
| Offset for 1963 (the \$30,000 gain from operations for such year computed without the deduction for the carryover from 1960 or the carryover from 1962) | 30,000 |
| Offset for 1964 (the \$35,000 gain from operations for such year computed without the deduction of the carryover from 1960 or the carryover from 1962) | 35,000 |
| Sum of offsets | 130,000 |
| Carryover | 0 |

(c) *Loss sustained in 1962.* The portions of the \$150,000 loss from operations for 1962 which shall be used as carrybacks to 1959, 1960, and 1961 and as carryovers to 1963, 1964, 1965, 1966, and 1967 are computed as follows:

(1) *Carryback to 1959.* The carryback to this year is \$150,000, that is, the amount of the loss from operations.

(2) *Carryback to 1960.* The carryback to this year is \$150,000 (the excess, if any, of the loss from 1962 over the offset for 1959), computed as follows:

| | |
|---|-----------|
| Loss from operations | \$150,000 |
| Less: | |
| Offset for 1959 (the \$30,000 gain from operations for such year reduced by the carryback to such year of \$60,000 from 1960, the carryback from 1962 to 1959 not being taken into account) | 0 |
| Carryback | 150,000 |

(3) *Carryback to 1961.* The carryback to this year is \$150,000 (the excess, if any, of the loss from 1962 over the sum of the offsets for 1959 and 1960), computed as follows:

| | |
|---|-----------|
| Loss from operations | \$150,000 |
| Less: | |
| Offset for 1959 (the \$30,000 gain from operations for such year reduced by the carryback to such year of \$60,000 from 1960, the carryback from 1962 to 1959 not being taken into account) | 0 |
| Offset for 1960 (a year in which a loss from operations was sustained) | 0 |
| Sum of offsets | 0 |
| Carryback | 150,000 |

(4) *Carryover to 1963.* The carryover to this year is \$150,000 (the excess, if any, of the loss from 1962 over the sum of the offsets for 1959, 1960, and 1961), computed as follows:

| | |
|---|-----------|
| Loss from operations | \$150,000 |
| Less: | |
| Offset for 1959 (the \$30,000 gain from operations for such year reduced by the carryback to such year of \$60,000 from 1960, the carryback from 1962 to 1959 not being taken into account) | 0 |
| Offset for 1960 (a year in which a loss from operations was sustained) | 0 |

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|---|---------|
| Offset for 1961 (the \$20,000 gain from operations for such year reduced by the carryover to such year of \$30,000 from 1960, the carryback from 1962 to 1961 not being taken into account) | 0 |
| Sum of offsets | 0 |
| Carryover | 150,000 |

(5) *Carryover to 1964.* The carryover to this year is \$130,000 (the excess, if any, of the loss from 1962 over the sum of the offsets for 1959, 1960, 1961, and 1963), computed as follows:

| | |
|---|-----------|
| Loss from operations | \$150,000 |
| Less: | |
| Offset for 1959 (the \$30,000 gain from operations for such year reduced by the carryback to such year of \$60,000 from 1960, the carryback from 1962 to 1959 not being taken into account) | 0 |
| Offset for 1960 (a year in which a loss from operations was sustained) | 0 |
| Offset for 1961 (the \$20,000 gain from operations for such year reduced by the carryover to such year of \$30,000 from 1960, the carryback from 1962 to 1961 not being taken into account) | 0 |
| Offset for 1963 (the \$30,000 gain from operations for such year reduced by the carryover to such year of \$10,000 from 1960, the carryover from 1962 to 1963 not being taken into account) | 20,000 |
| Sum of offsets | 20,000 |
| Carryover | 130,000 |

(6) *Carryover to 1965.* The carryover to this year is \$95,000 (the excess, if any, of the loss from 1962 over the sum of the offsets for 1959, 1960, 1961, 1963, and 1964), computed as follows:

| | |
|---|-----------|
| Loss from operations | \$150,000 |
| Less: | |
| Offset for 1959 (the \$30,000 gain from operations for such year reduced by the carryback to such year of \$60,000 from 1960, the carryback from 1962 to 1959 not being taken into account) | 0 |
| Offset for 1960 (a year in which a loss from operations was sustained) | 0 |

| | |
|---|--------|
| Offset for 1961 (the \$20,000 gain from operations for such year reduced by the carryover to such year of \$30,000 from 1960 the carryback from 1962 to 1961 not being taken into account) | 0 |
| Offset for 1963 (the \$30,000 gain from operations for such year reduced by the carryover to such year of \$10,000 from 1960, the carryover from 1962 to 1963 not being taken into account) | 20,000 |
| Offset for 1964 (the \$35,000 gain from operations for such year reduced by the carryover to such year of \$0 from 1960, the carryover from 1962 to 1964 not being taken into account) ... | 35,000 |
| Sum of offsets | 55,000 |
| Carryover | 95,000 |

(7) *Carryover to 1966.* The carryover to this year is \$20,000 (the excess, if any, of the loss from 1962 over the sum of the offsets for 1959, 1960, 1961, 1963, 1964, and 1965), computed as follows:

| | |
|--|-----------|
| Loss from operations | \$150,000 |
| Less: | |
| Offset for 1959 (the \$30,000 gain from operations for such year reduced by the carryback to such year of \$60,000 from 1960, the carryback from 1962 to 1959 not being taken into account) | 0 |
| Offset for 1960 (a year in which a loss from operations was sustained) | 0 |
| Offset for 1961 (the \$20,000 gain from operations for such year reduced by the carryover to such year of \$30,000 from 1960, the carryback from 1962 to 1961 not being taken into account) | 0 |
| Offset for 1963 (the \$30,000 gain from operations for such year reduced by the carryover for such year of \$10,000 from 1960, the carryover from 1962 to 1963 not being taken into account) | 20,000 |
| Offset for 1964 (the \$35,000 gain from operations for such year reduced by the carryover to such year of \$0 from 1960, the carryover from 1962 to 1964 not being taken into account) ... | 35,000 |

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| | |
|--|-----------|
| Offset for 1965 (the \$75,000 gain from operations for such year reduced by the carryover to such year of \$0 to 1960, the carryover from 1962 to 1965 not being taken into account) | \$75,000 |
| Sum of offsets | \$130,000 |
| Carryover | 20,000 |

(8) *Carryover to 1967.* The carryover to this year is \$3,000 (the excess, if any, of the loss from 1962 over the sum of the offsets for 1959, 1960, 1961, 1963, 1964, 1965, and 1966), computed as follows:

| | |
|---|-----------|
| Loss from operations | \$150,000 |
| Less: | |
| Offset for 1959 (the \$30,000 gain from operations for such year reduced by the carryback to such year of \$60,000 from 1960, the carryback from 1962 to 1959 not being taken into account) | 0 |
| Offset for 1960 (a year in which a loss from operations was sustained) | 0 |
| Offset for 1961 (the \$20,000 gain from operations for such year reduced by the carryover to such year of \$30,000 from 1960, the carryback from 1962 to 1961 not being taken into account) | 0 |

| | |
|---|---------|
| Offset for 1963 (the \$30,000 gain from operations for such year reduced by the carryover to such year of \$10,000 from 1960, the carryover from 1962 to 1963 not being taken into account) | 20,000 |
| Offset for 1964 (the \$35,000 gain from operations for such year reduced by the carryover to such year of \$0 from 1960, the carryover from 1962 to 1964 not being taken into account) ... | 35,000 |
| Offset for 1965 (the \$75,000 gain from operations for such year reduced by the carryover to such year of \$0 from 1960, the carryover from 1962 to 1965 not being taken into account) ... | 75,000 |
| Offset for 1966 (the \$17,000 gain from operations for such year computed without the deduction of the carryover from 1962) | 17,000 |
| Sum of offsets | 147,000 |
| Carryover | 3,000 |

(d) *Determination of operations loss deduction for each year.* The carryovers and carrybacks computed under paragraphs (b) and (c) of this section are used as a basis for the computation of the operations loss deduction in the following manner:

| Taxable year | Carryover | | Carryback | | Operations loss deductions |
|--------------|-----------|-----------|-----------|-----------|----------------------------|
| | From 1960 | From 1962 | From 1960 | From 1962 | |
| 1958 | | | \$75,000 | | \$75,000 |
| 1959 | | | 60,000 | \$150,000 | 210,000 |
| 1961 | \$30,000 | | | 150,000 | 180,000 |
| 1963 | 10,000 | \$150,000 | | | 160,000 |
| 1964 | | 130,000 | | | 130,000 |
| 1965 | | 95,000 | | | 95,000 |
| 1966 | | 20,000 | | | 20,000 |
| 1967 | | 3,000 | | | 3,000 |

[T.D. 6535, 26 FR 539, Jan. 20, 1961]

§ 1.812-9 Cross-reference.

For special rules regarding the treatment of modified guaranteed contracts (as defined in section 817A and §1.817A-1(a)(1)), see § 1.817A-1.

[T.D. 9058, 68 FR 24350, May 7, 2003]

DISTRIBUTIONS TO SHAREHOLDERS

§ 1.815-1 Taxable years affected.

Sections 1.815-2 through 1.815-6, except as otherwise provided therein, are applicable only to taxable years begin-

ning after December 31, 1957, and all references to sections of part I, subchapter L, chapter 1 of the Code are to the Internal Revenue Code of 1954, as amended by the Life Insurance Company Income Tax Act of 1959 (73 Stat. 112), the Act of October 10, 1962 (76 Stat. 808), and the Act of October 23, 1962 (76 Stat. 1134).

[T.D. 6886, 31 FR 8689, June 23, 1966]