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1963 provided that for each of such succeeding taxable years M is subject to the tax imposed by section 821(a).

Example 4. Assume the facts are the same as in example 3, except that for the taxable year 1964, the gross amount received by M from the items described in section 822(b) (other than paragraph (1)(D) thereof) and premiums (including deposits and assessments) exceeds \$150,000 but does not exceed \$500,000. If M does not make the election under section 821(d) (relating to election to be taxed under section 821(a)) for 1964, M's 1963 unused loss of \$65,000 will not be allowed as an unused loss carryover or carryback since, by reason of section 825(g)(3), the unused loss may not be carried to any taxable year if, between the loss year and such taxable year, there is an intervening taxable year for which the insurance company was not subject to the tax imposed by section 821(a), and by reason of section 825(g)(1), the unused loss may not be carried to any taxable year beginning before 1963.

[T.D. 6681, 28 FR 11123, Oct. 17, 1963]

§ 1.826-1 Election by reciprocal underwriters and interinsurers.

(a) *In general.* Except as otherwise provided in section 826(c), any mutual insurance company which is an interinsurer or reciprocal underwriter taxable under section 821(a) may elect under section 826(a) to limit its deductions for amounts paid or incurred to its attorney-in-fact to the deductions of its attorney-in-fact which are allocable to income received by the attorney-in-fact from the reciprocal during the taxable year. See § 1.826-4 for rules relating to allocation of expenses. In no case may such an election increase the amount deductible by the reciprocal for amounts paid or due its attorney-in-fact for the taxable year. The election allowed by section 826(a) and this section in effect increases the income of the reciprocal by the net income of the attorney-in-fact attributable to its business with the reciprocal. A reciprocal making the election is allowed a credit for the amount of tax paid by the attorney-in-fact for the taxable year which is attributable to income received by the attorney-in-fact from the reciprocal. See section 826(e) and § 1.826-5.

(b) *Companies eligible to elect under section 826(a).* Any mutual insurance company which is a reciprocal underwriter or interinsurer subject to the tax imposed by section 821(a) may elect

(in the manner prescribed by paragraph (c) of this section) to be subject to the limitation provided by section 826(b) and paragraph (a) of this section provided the attorney-in-fact of the electing reciprocal:

(1) Is subject to the taxes imposed by section 11 (b) and (c) and the regulations thereunder;

(2) Consents (in the manner provided by paragraph (a) of § 1.826-3) to provide the information required under paragraph (b) of § 1.826-3 during the period in which the election made under section 826(a) and this section is in effect;

(3) Reports the income received from the reciprocal and the deductions allocable thereto under the same method of accounting used by the reciprocal in reporting its deductions for amounts paid or due its attorney-in-fact; and

(4) Files its income tax return on a calendar year basis.

(c) *Manner of making election.* The election provided by section 826(a) and this section shall be made in a statement attached to the taxpayer's income tax return for the first taxable year for which such election is to apply. The statement shall include the name and address of the taxpayer, shall be signed by the taxpayer (or its duly authorized representative), and shall be filed not later than the time prescribed by law for filing the income tax return (including extensions thereof) for the first taxable year for which such election is to apply. For information required of an electing reciprocal, see paragraph (e) of this section.

(d) *Scope of election.* The election allowed by section 826(a) is binding for the taxable year for which made and all succeeding taxable years unless the Commissioner consents to a revocation of such election. Whether revocation will be permitted will depend upon the facts and circumstances of each particular case.

(e) *Information required of an electing company.* Every reciprocal underwriter or interinsurer making the election provided by section 826(a) and this section shall, in the manner provided by paragraph (f) of this section, furnish the following information for each taxable year during which such election is in effect:

(1) The name and address of the attorney-in-fact with respect to which the election allowed by section 826(a) and this section is in effect; the district in which such attorney-in-fact filed its return for the taxable year; and a copy of the consent required by section 826 and §1.826-3 and the date and district in which such consent was filed;

(2) The deductible amount paid or due to such attorney-in-fact from the reciprocal computed without regard to the limitation provided by section 826(b);

(3) The total amount claimed as a deduction by the reciprocal for amounts paid to its attorney-in-fact after giving effect to the limitation provided by section 826(b);

(4) The amount of the increase (if any) in underwriting gain (as defined in section 824(a)) attributable to the election allowed by section 826(a);

(5) The amount of the increase (if any) in the deduction allowed by section 824(a) (relating to deduction to provide protection against losses) attributable to the election allowed by section 826(a);

(6) The amount of any increase or decrease in the statutory underwriting income or loss for the taxable year (as computed under section 823) attributable to the election allowed by section 826(a);

(7) The amount of any increase or decrease in the mutual insurance company taxable income or unused loss for the taxable year attributable to the election allowed by section 826(a);

(8) The amount of the increase (if any) in the tax liability of the reciprocal for the taxable year attributable to the election allowed by section 826(a) before taking into account the credit provided by section 826(e);

(9) The amount of tax attributable to income received by the attorney-in-fact from the reciprocal during the taxable year (as determined under §1.826-5) claimed (under section 826(e) and paragraph (a) of this section) by the reciprocal as a credit for the taxable year; and

(10) The information which the attorney-in-fact is required to submit to the reciprocal under paragraphs (b) and (c) of §1.826-3.

(f) *Manner in which information is to be provided.* The information required by paragraph (e) of this section shall be set forth in a statement attached to the taxpayer's income tax return for each taxable year for which such information is required. Such statement shall include the name and address of the taxpayer; and shall be filed not later than the date prescribed by law (including extensions thereof) for filing the income tax return for the taxable year with respect to which such information is being provided.

[T.D. 6681, 28 FR 11124, Oct. 17, 1963]

§1.826-2 Special rules applicable to electing reciprocals.

(a) *Protection against loss account.* Section 826(d) provides that for purposes of determining the amount to be subtracted from the protection against loss account under section 824(d)(1)(D) and the regulations thereunder (relating to amounts added to the account for the fifth preceding taxable year) for any taxable year, any amount which was added to such account by reason of the election under section 826(a) and paragraph (a) of §1.826-1 shall be treated as having been added by reason of section 824(a)(1)(A) and the regulations thereunder (relating to amounts equal to 1 percent of losses incurred during the taxable year). Thus, no amount added to the protection against loss account by reason of an election made under section 826(a) may remain in such account beyond the end of the fifth taxable year following the taxable year with respect to which such amount was added. See section 824(d)(1)(D) and paragraph (b)(3) of §1.824-1. The amount added to the protection against loss account by reason of an election under section 826(a) is that amount which is equal to 25 percent (plus, in the case of a reciprocal which qualifies as a concentrated risk company under section 824(a), so much of the concentrated wind-storm, etc., premium percentage as exceeds 40 percent) of the amount by which:

(1) The underwriting gain (as defined by section 824(a)(1)) computed after taking into account the limitation provided by section 826(b) and §1.826-1, exceeds

(2) The underwriting gain computed without regard to the limitation provided by section 826(b) and § 1.826-1.

(b) *Denial of surtax exemption.* Section 826(f) provides that the tax imposed upon any increase in the mutual insurance company taxable income of a reciprocal which is attributable to the limitation provided by section 826(b) shall be computed without regard to the surtax exemption provided by section 821(a)(2) and the regulations thereunder. Thus, a company making the election provided under section 826(a) will be subject to surtax, as well as normal tax, on the increase in its mutual insurance company taxable income for the taxable year which is attributable to such election. Similarly, any amount which was added to the protection against loss account by reason of an election under section 826(a) and § 1.826-1, and which is subtracted from such account in accordance with section 826(d) and paragraph (a) of this section, will be subject to surtax, as well as normal tax, to the extent such amount increases mutual insurance company taxable income in the year in which the subtraction is made. Furthermore, the company will be subject to surtax on such increases notwithstanding the fact that it may have no normal tax liability for the taxable year, because its mutual insurance company taxable income (after giving effect to the election provided by section 826(a)) does not exceed \$6,000.

(c) *Adjustment for refunds.* Section 826(g) provides that if for any taxable year an attorney-in-fact is allowed a credit or refund for taxes paid with respect to which credit or refund to the reciprocal resulted under section 826(e), the taxes of such reciprocal for such taxable year shall be properly adjusted. The reciprocal shall make the adjustment required by section 826(g) by increasing its income tax liability for its taxable year in which the credit or refund is allowed to the attorney-in-fact by the amount of such credit or refund which is attributable to taxes paid by the attorney-in-fact on income received from the reciprocal, as determined under § 1.826-6, but only to the extent that the payment of such amount by the attorney-in-fact resulted in a credit or refund to the re-

ciprocal. However, if the refund or credit to the attorney-in-fact is the result of an error in determining its items of income or deduction for the taxable year with respect to which the refund or credit is allowed, and such error affects the amount of deductions allocable to its reciprocal for such taxable year, then, if the reciprocal's period for filing an amended return has not otherwise expired, the preceding sentence shall not apply and the reciprocal shall make the adjustment required by section 826(g) by filing an amended return for such taxable year and all subsequent taxable years for which an adjustment is required. The reciprocal's amended return or returns shall give effect to the change in the deductions of the attorney-in-fact allocable to income received from the reciprocal and the tax paid by the attorney-in-fact attributable to such income. The amount of any adjustment required by section 826(g) and this section and the computation thereof shall be set forth in a statement attached to and filed with the taxpayer's income tax return for the taxable year for which the adjustment is made. Such statement shall include the name and address of the taxpayer, and a copy of the notification received by the attorney-in-fact indicating that it has been allowed the credit or refund requiring adjustment of the reciprocal's taxes.

[T.D. 6681, 28 FR 11125, Oct. 17, 1963, as amended by T.D. 7100, 36 FR 5334, Mar. 20, 1971]

§ 1.826-3 Attorney-in-fact of electing reciprocals.

(a) *Manner of making consent.* Section 826(c)(2) provides that a reciprocal may not elect to be subject to the limitation provided by section 826(b) unless its attorney-in-fact consents to make certain information available. See paragraph (b) of this section. The attorney-in-fact of a reciprocal making the election provided by section 826(a) shall signify the consent required by section 826(c) in a statement attached to its income tax return for the first taxable year for which the reciprocal's election is to apply. Such statement shall include the name and address of the consenting taxpayer; the name and address of the reciprocal with respect

to which such consent is to apply; shall be signed by the taxpayer (or its duly authorized representative); and shall be filed not later than the date prescribed by law (including extensions thereof) for filing the income tax return for the first taxable year for which such consent is to apply. In addition, such statement shall specify that the taxpayer is subject to the taxes imposed by section 11 (b) and (c); the method of accounting used in reporting income received from its reciprocal and the deductions allocable thereto; and that its return is filed on the calendar year basis. Consent, once given, shall be irrevocable for the period during which the election provided for the reciprocal by section 826(a) is in effect. See paragraph (e) of § 1.826-1.

(b) *Information required of consenting attorney-in-fact.* Every attorney-in-fact making the consent provided by section 826(c)(2) and paragraph (a) of this section shall, in the manner prescribed by paragraph (c) of this section, furnish the following information for each taxable year during which the consent provided by section 826(c)(2) and paragraph (a) of this section is in effect:

(1) The name and address of the reciprocal with respect to which the consent required by section 826(c)(2) and paragraph (a) of this section is to apply;

(2) Gross income in total and by sources, adjusted for returns and allowances;

(3) Deductions (itemized to the same extent as on taxpayer's income tax return and accompanying schedules) allocable to each source of gross income and in total (see § 1.826-4);

(4) Method of allocation used in subparagraph (3) of this paragraph;

(5) Taxable income (if any) in total and by sources, as in subparagraph (2) of this paragraph (income by sources from subparagraph (2) of this paragraph minus expenses allocable thereto under subparagraph (3) of this paragraph);

(6) Total income tax liability (if any) for the taxable year;

(7) Taxes paid attributable (under § 1.826-5) to income earned by the taxpayer in dealing with the reciprocal;

(8) Such other information as may be required by the district director.

(c) *Manner in which information is to be provided.* (1) The information required by paragraph (b) of this section shall be set forth in a statement attached to the taxpayer's income tax return for each taxable year for which the consent provided by section 826(c)(2) and paragraph (a) of this section is in effect. Such statement shall include the name and address of the taxpayer, and shall be filed not later than the date prescribed by law (including extensions thereof) for filing the income tax return for each taxable year for which such information is required.

(2) A copy of the statement containing the information required by paragraph (b) of this section shall be submitted to the board of advisors (or other comparable body) of the reciprocal on whose behalf the consent provided under section 826(c)(2) is given. The copy shall be executed in the same manner as the original and shall be delivered to such board not later than 10 days before the last date prescribed by law (including extensions thereof) for filing the reciprocal's income tax return for the taxable year for which the information is required unless the attorney-in-fact establishes to the satisfaction of the district director that the failure to furnish such copy or the failure to furnish such copy within the prescribed 10 day period was due to circumstances beyond its control. In addition, there shall be attached to and made a part of such copy, a copy of the income tax return of the attorney-in-fact (including accompanying schedules) for each taxable year for which such statement is required.

[T.D. 6681, 28 FR 11125, Oct. 17, 1963]

§ 1.826-4 Allocation of expenses.

An attorney-in-fact allocating expenses as required by section 826(b) and paragraph (b) of § 1.826-3 shall allocate each expense itemized in its income tax return (and accompanying schedules) for the taxable year to each source of gross income (as set forth pursuant to paragraph (b)(2) of § 1.826-3). However, no portion of the net operating loss deduction allowed by section 172 shall be allocated to income received or due from the reciprocal, and no expenses, other than those directly

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related thereto, shall be allocated to capital gains. Where the method of allocation used by the taxpayer does not reasonably reflect the expenses of the taxpayer allocable to income received or due from the reciprocal, the district director may require the taxpayer to use such other method of allocation as is reasonable under the circumstances.

[T.D. 6681, 28 FR 11126, Oct. 17, 1963]

§ 1.826-5 Attribution of tax.

(a) *In general.* Section 826(e) provides that a reciprocal making the election allowed by section 826(a) shall be credited with so much of the tax paid by the attorney-in-fact as is attributable to the income received by the attorney-in-fact from the reciprocal in such taxable year.

(b) *Computation.* For purposes of section 826(e) and paragraph (a) of this section, the amount of tax attributable to income received by the attorney-in-fact from the reciprocal in the taxable year shall be computed in the following manner:

(1) First, compute the taxable income (if any) from each source of gross income set forth in paragraph (b)(2) of § 1.826-3 by deducting from each such amount the expenses allocable thereto under § 1.826-4;

(2) Second, compute the normal tax on each amount of taxable income computed in subparagraph (1) of this paragraph at the rate provided by section 11(b) of the Code;

(3) Third, deduct from each amount determined in subparagraph (1) of this paragraph an amount which bears the same proportion to the surtax exemption provided by section 11(c) of the Code as each amount computed under subparagraph (1) of this paragraph bears to the total of the amounts computed under subparagraph (1) of this paragraph;

(4) Fourth, compute the surtax on each remainder computed in subparagraph (3) of this paragraph at the rate provided by section 11(c) of the Code;

(5) Fifth, add the normal tax computed under subparagraph (2) of this paragraph to the surtax computed under subparagraph (4) of this paragraph for each amount computed under subparagraph (1) of this paragraph;

(6) Sixth, deduct from each amount of tax computed under subparagraph (5) of this paragraph any tax credits (other than those arising from payments made with respect to the tax liability for the taxable year or other taxable years) allocable (in the same manner as provided for expenses under § 1.826-4) to such amount;

(7) Seventh, compute that amount which bears the same proportion to the tax actually paid with respect to the taxable year as each individual amount computed under subparagraph (6) of this paragraph bears to the total of the amounts computed under subparagraph (6) of this paragraph. The amount so determined with respect to each amount computed under subparagraph (6) of this paragraph is the tax paid which is attributable to the amount computed under subparagraph (1) of this paragraph.

To the extent the amounts determined under subparagraph (1) of this paragraph are attributable to amounts received from the reciprocal for the taxable year, the tax attributable to such amounts (as determined under subparagraph (7) of this paragraph) shall be the amount of tax attributable to income received by the attorney-in-fact from the reciprocal during the taxable year.

(c) *Taxes of attorney-in-fact unaffected.* Nothing in section 826 or the regulations thereunder shall increase or decrease the taxes imposed on the income of the attorney-in-fact.

[T.D. 6681, 28 FR 11126, Oct. 17, 1963]

§ 1.826-6 Credit or refund.

(a) *Notification required.* In any case where a taxpayer applies for a credit or refund of taxes paid by it in respect of a taxable year for which the taxpayer was the consenting attorney-in-fact of a reciprocal making the election provided by section 826(a), such taxpayer shall give notice to its reciprocal for such taxable year, first, upon applying for the credit or refund; and again, within 10 days from the date on which a final determination is made that such credit or refund has been allowed or denied.

(b) *Notice form.* The notices required by this section shall include the name and address of the taxpayer and shall

be signed by the taxpayer or its duly authorized representative. In addition, there shall be attached to and made a part of each first notice a concise statement of the claim upon which the application for refund or credit is based; and there shall be attached to and made a part of each second notice:

(1) A copy of the notification (if any) received by the taxpayer indicating that the credit or refund has been allowed; and

(2) A statement setting forth the amount of such credit or refund attributable to taxes paid by the taxpayer on income received from the reciprocal, and the computation by which such amount was determined.

(c) *Manner of apportioning refund or credit.* The taxpayer shall determine the amount of the refund or credit attributable to taxes paid on income received from its reciprocal by reallocating its income and expense items for the taxable year, with respect to which the refund or credit is allowed, in the manner provided by §§ 1.826-3 and 1.826-4 so as to reflect the adjustments (if any) in such items which resulted in the credit or refund of tax for the taxable year. The taxpayer shall then recompute the tax attributable to income received from its reciprocal for such taxable year in the manner provided by § 1.826-5. The district director may require such additional information as may be necessary in the circumstances to verify the computations required by this paragraph.

[T.D. 6681, 28 FR 11126, Oct. 17, 1963]

§ 1.826-7 Examples.

The application of section 826 may be illustrated by the following examples:

Example 1. For the taxable year 1963, R, a reciprocal underwriter subject to the taxes imposed by section 821(a), has the following items (determined before applying any election under section 826):

Gross income under sec. 832	\$578	
Gross investment income	50	
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Deductions under sec. 832 (as modified by sec. 823(b)):		
Deduction for amounts paid by R to attorney-in-fact A	\$100	
All other deductions	500	
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Total deductions under sec. 832	600	
Deductions under sec. 822(c)		40

Incurring losses	400
Protection against loss deduction	4
Underwriting gain	0
Mutual insurance company taxable income	0
Unused loss	22
Credit or refund for taxes paid	0

Assume that the deductions of attorney-in-fact A allocable to the income received by A from R are 60 and the tax paid by A allocable to the income received from R is 16. If R elects to be subject to the limitation provided in section 826(b), the results for 1963 would be as follows:

Gross income under sec. 832	\$578	
Gross investment income	50	
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Deductions under sec. 832 (as modified by sec. 823(b)):		
Deduction for amounts paid by R to attorney-in-fact A	\$60	
All other deductions	500	
<hr/>		
Total deduction under sec. 832	560	
Deductions under sec. 822(c)		40
Incurring losses		400
Underwriting gain		8
Protection against loss deduction		6
Mutual insurance company taxable income		12
Unused loss		0
Credit or refund for taxes paid		16

Under the provisions of section 826(b), R's deduction for amounts paid or incurred to the attorney-in-fact in the taxable year 1963 would be limited to the deductions of A allocable to the income received by A from R. Thus, R's deductions under section 832 (as modified by section 823(b)) for 1963 would be 60 (the deductions of A which are allocable to the income received by A from R). As a result of making the election under section 826(a) for the taxable year 1963, R's underwriting gain would be 8, and its statutory underwriting income would be 2 (the underwriting gain of 8 minus the protection against loss deduction of 6—of which 4 represents the amount determined under section 824(a)(1)(A)—and 2 represents the amount determined under section 824(a)(1)(B)—or 8 minus 6). R's mutual insurance company taxable income for 1963 would be 12, consisting of taxable investment income of 10 (gross investment income minus deductions under section 822(c), or 50 minus 40) plus statutory underwriting income of 2. Since all of R's mutual insurance company taxable income of 12 is attributable to the limitation under section 826(b), the entire amount is subject to the surtax under section 821(a)(2) without regard to the \$25,000 surtax exemption. The credit of 16, representing that part of the tax paid by A which is allocable to the income received by A from R, may be applied by R against its taxes with respect to its mutual insurance company taxable income of 12 for 1963, and R would be entitled to a refund of any excess of the amount of such credit over its tax liability for 1963.

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Under the provisions of section 826(d), no portion of the amount added to the protection against loss account in 1963 by reason of the election under section 826(a), 2 (25 percent of the amount by which the consolidated underwriting gain exceeds 25 percent of the underwriting gain determined without regard to the election under section 826(a), or the amount by which 25 percent of 8 exceeds 25 percent of 0), may remain in such account beyond the taxable year 1968.

Example 2. For the taxable year 1963, F is a corporate attorney-in-fact subject to the taxes imposed by section 11(b) and (c) of the Code. F files its return on the calendar year basis and reports income received from its reciprocal and the deductions allocable thereto under the same method of accounting used by its reciprocal in reporting its deductions for amounts paid to R. F properly consents to provide the information required by paragraph (b) of § 1.826-3. In addition to its attorney-in-fact business, F owns real estate for investment purposes, and operates a real estate management service. For the taxable year 1963, F has gross income from these various sources as follows:

Attorney-in-fact fees	\$85,000
Real estate management fees.....	18,000
Rental income.....	25,000

F allocates its expenses for the taxable year on the basis of their direct relation to each source of income. During 1963, F acquired property for use in its attorney-in-fact operations which entitled F to an investment credit of \$800 under section 38. For 1963, F determines that the tax paid by it which is attributable to its reciprocal is \$21,863, computed as follows:

	Attorney-in-fact fees	Real estate management	Rental income	Total
Gross income	\$85,000	\$18,000	\$25,000	\$128,000
Allocable expenses	25,000	3,000	35,000	63,000
Taxable income (loss)	60,000	15,000	(10,000)	65,000
Normal tax (30 percent)	18,000	4,500	0	19,500
Surtax exemption ..	20,000	5,000	0	25,000
Income subject to surtax	40,000	10,000	0	40,000
Surtax (22 percent) ..	8,800	2,200	0	8,800
Total tax	26,800	6,700	0	28,300
Investment credit	800	0	0	800
1963 tax liability	26,000	6,700	0	27,500
1963 tax paid	27,500
Allocation of tax paid ..	21,863	5,637	0	27,500

Under paragraph (b)(1) of § 1.826-5, F computes its taxable income from its attorney-in-fact fees to be \$60,000 (\$85,000 minus \$25,000), and its taxable income from its real estate management to be \$15,000 (\$18,000 minus \$3,000). Since F's rental operations resulted in a \$10,000 loss for the taxable year (\$25,000 minus \$35,000), F's taxable income from its rental operations is zero. Using the 30 percent rate provided by section 11(b), F computes its normal tax to be \$18,000 on its attorney-in-fact fees and \$4,500 on its real estate management operations. F's normal tax on total income is \$19,500. The \$3,000 difference between the normal tax on F's total income and the normal taxes on F's profitable operations results from the loss on F's rental operations. Under paragraph (b)(3) of § 1.826-5, F allocates its surtax exemption as follows: \$20,000 \$60,000/\$75,000×\$25,000) to its attorney-in-fact fees; and \$5,000 \$15,000/\$75,000×\$25,000) to its real estate management operations. F computes its surtax on its profitable operations at the 22 percent rate provided by section 11(c) as follows: \$8,800 (22 percent of \$40,000) on attorney-in-fact fees; and \$2,200 (22 percent of \$10,000) on real estate management income. F adds its normal tax and surtax on its profitable operations and determines its total tax to be \$26,800 on its attorney-in-fact operations; \$6,700 on its real estate management operations; and \$28,300 on its total income. F must allocate its investment credit on the same basis as it used to allocate its expenses. Thus, F's entire investment credit must be allocated to its attorney-in-fact operations. Accordingly, F's 1963 tax liability is \$26,000 on its attorney-in-fact fees; \$6,700 on its real estate management operations; \$0 on its rental operations; and \$27,500 on its total income. Under paragraph (b)(7) of § 1.826-5, F allocates \$21,863 (\$26,000/\$32,700×\$27,500) of its 1963 tax paid to its attorney-in-fact fees; and \$5,637 (\$6,700/\$32,700×\$27,500) of its 1963 tax paid to its real estate management business. F's reciprocal will be allowed a credit or refund of \$21,863 for taxes paid by F which are attributable to F's income received from its reciprocal.

Example 3. Assume the same facts as in example 2, and assume further that in 1966 F sustains a net operating loss on its overall operations of \$5,000. In carrying the loss back to 1963 as a net operating loss deduction under section 172, F must allocate the deduction under the same method it used in allocating its 1963 deductions. Thus, if the loss was entirely attributable to F's rental operations for the taxable year 1966, F would reduce its taxable income attributable to those operations by the entire amount of the loss and would recompute the tax attributable to those operations under paragraph (b) of § 1.826-5. As recomputed in the table below, F's 1963 tax liability from attorney-in-fact

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fees would be \$19,800 and F's total tax liability would be \$24,900.

	Attorney-in-fact fees	Real estate management	Rental income	Total
Gross income	\$85,000	\$18,000	\$25,000	\$128,000
Allocable expenses	25,000	3,000	35,000	63,000
Net operating loss deduction	0	0	5,000	5,000
Taxable income (loss)	60,000	15,000	(15,000)	60,000
Normal tax (30 percent)	18,000	4,500	0	18,000
Surtax exemption ..	20,000	5,000	0	25,000
Income subject to surtax	40,000	10,000	0	35,000
Surtax (22 percent) ..	8,800	2,200	0	7,700
Total tax	26,800	6,700	0	25,700
Investment credit	800	0	0	800
1963 tax liability	26,000	6,700	0	24,900
1963 tax paid	24,900
Allocation of tax paid ..	19,800	5,100	0	24,900

As a result of its 1966 net operating loss, F would be entitled to a refund of \$2,600 (1963 taxes paid of \$27,500 minus recomputed 1963 taxes of \$24,900). Under paragraph (a) of § 1.826-6, F would be required to notify its reciprocal of its claim for refund and of the amount of the refund or credit attributable to taxes paid on income received from the reciprocal. Since the 1963 tax paid by F attributable to its reciprocal (as recomputed) is less than the amount claimed in 1963 by F's reciprocal as a credit, F's reciprocal would be required, under section 826(g), to add the difference—\$2,063 (\$21,863 minus \$19,800), to its tax liability for 1966. Thus, F's reciprocal would first compute its tax liability for 1966 without regard to section 826(g) and then would increase such liability by \$2,063.

[T.D. 6681, 28 FR 11126, Oct. 17, 1963]

OTHER INSURANCE COMPANIES

§ 1.831-1 Tax on insurance companies (other than life or mutual), mutual marine insurance companies, and mutual fire insurance companies issuing perpetual policies.

(a) All insurance companies, other than life or mutual or foreign insurance companies not carrying on an insurance business within the United States, and all mutual marine insur-

ance companies and mutual fire insurance companies exclusively issuing either perpetual policies, or policies for which the sole premium charged is a single deposit which, except for such deduction of underwriting costs as may be provided, is refundable upon cancellation or expiration of the policy, are subject to the tax imposed by section 831. As used in this section and §§ 1.832-1 and 1.832-2, the term "insurance companies" means only those companies which qualify as insurance companies under the definition provided by paragraph (b) of § 1.801-1 and which are subject to the tax imposed by section 831.

(b) All provisions of the Code and of the regulations in this part not inconsistent with the specific provisions of section 831 are applicable to the assessment and collection of the tax imposed by section 831(a), and insurance companies are subject to the same penalties as are provided in the case of returns and payment of income tax by other corporations.

(c) Since section 832 provides that the underwriting and investment exhibit of the annual statement approved by the National Convention of Insurance Commissioners shall be the basis for computing gross income and since the annual statement is rendered on the calendar year basis, the returns under section 831 shall be made on the basis of the calendar year and shall be on Form 1120. Insurance companies are entitled, in computing insurance company taxable income, to the deductions provided in part VIII (section 241 and following), subchapter B, chapter 1 of the Code.

(d) Foreign insurance companies not carrying on an insurance business within the United States are not taxable under section 831 but are taxable as other foreign corporations. See section 881.

(e) Insurance companies are subject to both normal tax and surtax. The normal tax shall be computed as provided in section 11(b) and the surtax shall be computed as provided in section 11(c). For the circumstances under which the \$25,000 exemption from surtax for certain taxable years may be disallowed in whole or in part, see section 1551. For alternative tax where the