86TH CONGRESS } HOUSE OF REPRESENTATIVES { REPORT
1st Session } { No. 520

LIFE INSURANCE COMPANY INCOME TAX ACT OF 1959

JUNE 9, 1959.—Ordered to be printed

Mr. MILLS, from the committee of conference, submitted the following

CONFERENCE REPORT

[To accompany H.R. 4245]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4245) relating to the taxation of the income of life insurance companies, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the Senate recede from its amendment numbered 10.

That the House recede from its disagreement to the amendments of the Senate numbered 1, 2, 3, 4, 7, 8, 9, 15, 16, 17, 18, 19, 21, 24, 25, 28, 29, 30, 31, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 48, 49, 50½, 51, 52, 53, 55, 56, 57, 58, and 59 and agree to the same.

Amendment numbered 5:

That the House recede from its disagreement to the amendment of the Senate numbered 5, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(g) *VARIABLE ANNUITIES.*—

"(1) *IN GENERAL.*—*For purposes of this part, an annuity contract includes a contract which provides for the payment of a variable annuity computed on the basis of recognized mortality tables and the investment experience of the company issuing the contract.*

"(2) *ADJUSTED RESERVES RATE; ASSUMED RATE.*—*For purposes of this part*—

"(A) *the adjusted reserves rate for any taxable year with respect to annuity contracts described in paragraph (1), and*

"(B) *the rate of interest assumed by the taxpayer for any taxable year in calculating the reserve on any such contract,*

shall be a rate equal to the current earnings rate determined under paragraph (3).

★

50013°—59 H. Rept., 86-1, vol. 3——52

"(3) *CURRENT EARNINGS RATE.—For purposes of this part, the current earnings rate for any taxable year with respect to annuity contracts described in paragraph (1) is the current earnings rate determined under section 805(b)(2) with respect to such contracts, reduced by the percentage obtained by dividing—*

"*(A) the amount of the actuarial margin charge on all annuity contracts described in paragraph (1) issued by the taxpayer, by*

"*(B) the mean of the reserves for such contracts.*

"(4) *INCREASES AND DECREASES IN RESERVES.—For purposes of subsections (a) and (b) of section 810, the sum of the items described in section 810(c) taken into account as of the close of the taxable year shall, under regulations prescribed by the Secretary or his delegate, be adjusted—*

"*(A) by subtracting therefrom an amount equal to the sum of the amounts added from time to time (for the taxable year) to the reserves for annuity contracts described in paragraph (1) by reason of appreciation in value of assets (whether or not the assets have been disposed of), and*

"*(B) by adding thereto an amount equal to the sum of the amounts subtracted from time to time (for the taxable year) from such reserves by reason of depreciation in value of assets (whether or not the assets have been disposed of).*

"(5) *COMPANIES ISSUING VARIABLE ANNUITIES AND OTHER CONTRACTS.—In the case of a life insurance company which issues both annuity contracts described in paragraph (1) and other contracts, under regulations prescribed by the Secretary or his delegate—*

"*(A) the policy and other contract liability requirements shall be considered to be the sum of—*

"*(i) the policy and other contract liability requirements computed by reference to the items which relate to annuity contracts described in paragraph (1), and*

"*(ii) the policy and other contract liability requirements computed by excluding the items taken into account under clause (i); and*

"*(B) such additional separate computations, with respect to such annuity contracts and such other contracts, shall be made as may be necessary to carry out the purposes of this subsection and this part.*

"(6) *TERMINATION.—Paragraphs (1), (2), (3), (4), and (5) shall not apply with respect to any taxable year beginning after December 31, 1962.*

And the Senate agree to the same.

Amendment numbered 6:

That the House recede from its disagreement to the amendment of the Senate numbered 6, and agree to the same with an amendment as follows:

On page 3 of the Senate engrossed amendments, line 22, strike out "policyholders' " and insert *policyholders*; and the Senate agree to the same.

Amendment numbered 11:

That the House recede from its disagreement to the amendment of the Senate numbered 11, and agree to the same with the following amendments:

On page 5 of the Senate engrossed amendments, in the fifth line from the bottom of the page, strike out "investment yield." and insert the following:

investment yield; except that if the policy and other contract liability requirements exceed the investment yield, then the policyholders' share of any item shall be 100 percent.

On page 6 of the Senate engrossed amendments, line 14, after "245" insert the following: (*as modified by paragraph* (*5*))

On page 7 of the Senate engrossed amendments, after line 10, insert the following:

"(*5*) *APPLICATION OF SECTION 246*(*b*).—*In applying section 246*(*b*) (*relating to limitation on aggregate amount of deductions for dividends received*) *for purposes of this subsection, the limit on the aggregate amount of the deductions allowed by sections 243*(*a*), *244, and 245 shall be 85 percent of the taxable investment income computed without regard to the deductions allowed by such sections.*

On page 7 of the Senate engrossed amendments, line 11, strike out "(5)" and insert (*6*)

On page 7 of the Senate engrossed amendments, line 21, after "245" insert (*as modified by paragraph* (*5*))

On page 9 of the Senate engrossed amendments, line 13, strike out "805(b)(3)" and insert *805*(*b*)(*4*)

On page 9 of the Senate engrossed amendments, line 22, strike out "805(b)(3)" and insert *805*(*b*)(*4*)

On page 12 of the Senate engrossed amendments, line 9, strike out "average earnings rate" and insert *adjusted reserves rate*

On page 12 of the Senate engrossed amendments, strike out line 14 and insert the following:

"(*b*) *ADJUSTED RESERVES RATE AND EARNINGS RATES.*—

"(*1*) *ADJUSTED RESERVES RATE.*—*For purposes of this part, the adjusted reserves rate for any taxable year is the average earnings rate or, if lower, the current earnings rate.*

On page 12 of the Senate engrossed amendments, line 15, strike out "(1)" and insert (*2*)

On page 12 of the Senate engrossed amendments, line 22, strike out "(2)" and insert (*3*)

On page 13 of the Senate engrossed amendments, line 10, after "1958)" insert *and section 381*(*c*)(*22*)

On page 13 of the Senate engrossed amendments, line 16, strike out "(3)" and insert (*4*)

On page 14 of the Senate engrossed amendments, line 18, strike out "average earnings rate" and insert *adjusted reserves rate*

And the Senate agree to the same.

Amendment numbered 12:

That the House recede from its disagreement to the amendment of the Senate numbered 12, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"SEC. 809. IN GENERAL.

"(a) EXCLUSION OF SHARE OF INVESTMENT YIELD SET ASIDE FOR POLICYHOLDERS.—

"(1) AMOUNT.—The share of each and every item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received) of any life insurance company set aside for policyholders shall not be included in gain or loss from operations. For purposes of the preceding sentence, the share of any item set aside for policyholders shall be that percentage obtained by dividing the required interest by the investment yield; except that if the required interest exceeds the investment yield, then the share of any item set aside for policyholders shall be 100 percent.

"(2) REQUIRED INTEREST.—For purposes of this part, the required interest for any taxable year is the sum of the products obtained by multiplying—

"(A) each rate of interest required, or assumed by the taxpayer, in calculating the reserves described in section 810(c), by

"(B) the means of the amount of such reserves computed at that rate at the beginning and end of the taxable year.

"(b) GAIN AND LOSS FROM OPERATIONS.—

"(1) GAIN FROM OPERATIONS DEFINED.—For purposes of this part, the term 'gain from operations' means the amount by which the sum of the following exceeds the deductions provided by subsection (d):

"(A) 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); and

"(B) the sum of the items referred to in subsection (c).

"(2) LOSS FROM OPERATIONS DEFINED.—For purposes of this part, the term 'loss from operations' means the amount by which the sum of the deductions provided by subsection (d) exceeds the sum of—

"(A) 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); and

"(B) the sum of the items referred to in subsection (c).

"(3) LIFE INSURANCE COMPANY'S SHARE.—For purposes of this subpart, the life insurance company's share of any item shall be that percentage which, when added to the percentage obtained under the second sentence of subsection (a) (1), equals 100 percent.

"(4) EXCEPTION.—If it is established in any case that the application of the definition of gain from operations contained in paragraph (1) results in the imposition of tax on—

"(A) any interest which under section 103 is excluded from gross income,

"(B) any amount of interest which under section 242 (as modified by section 804(a)(3)) is allowable as a deduction, or

"(C) any amount of dividends received which under sections 243, 244, and 245 (as modified by subsection (d)(8)(B)) is allowable as a deduction,

adjustment shall be made to the extent necessary to prevent such imposition.

"(c) GROSS AMOUNT.—For purposes of subsections (b) (1) and (2), the following items shall be taken into account:

"(1) PREMIUMS.—The gross amount of premiums and other consideration (including advance premiums, deposits, fees, assessments, and consideration in respect of assuming liabilities under contracts not issued by the taxpayer) on insurance and annuity contracts (including contracts supplementary thereto); less return premiums, and premiums and other consideration arising out of reinsurance ceded. Except in the case of amounts of premiums or other consideration returned to another life insurance company in respect of reinsurance ceded, amounts returned where the amount is not fixed in the contract but depends on the experience of the company or the discretion of the management shall not be included in return premiums.

"(2) DECREASES IN CERTAIN RESERVES.—Each net decrease in reserves which is required by section 810 or 811(b)(2) to be taken into account for purposes of this paragraph.

"(3) OTHER AMOUNTS.—All amounts, not included in computing investment yield and not includible under paragraph (1) or (2), which under this subtitle are includible in gross income.

Except as included in computing investment yield, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset.

"(d) DEDUCTIONS.—For purposes of subsections (b) (1) and (2), there shall be allowed the following deductions:

"(1) DEATH BENEFITS, ETC.—All claims and benefits accrued, and all losses incurred (whether or not ascertained), during the taxable year on insurance and annuity contracts (including contracts supplementary thereto).

"(2) INCREASES IN CERTAIN RESERVES.—The net increase in reserves which is required by section 810 to be taken into account for purposes of this paragraph.

"(3) DIVIDENDS TO POLICYHOLDERS.—The deduction for dividends to policyholders (determined under section 811(b)).

"(4) OPERATIONS LOSS DEDUCTION.—The operations loss deduction (determined under section 812).

"(5) CERTAIN NONPARTICIPATING CONTRACTS.—An amount equal to 10 percent of the increase for the taxable year in the reserves for nonparticipating contracts or (if greater) an amount equal to 3 percent of the premiums for the taxable year (excluding that portion of the premiums which is allocable to annuity features) attributable to nonparticipating contracts (other than group contracts) which are issued or renewed for periods of 5 years or more. For purposes of this paragraph, the term 'reserves for nonparticipating contracts' means such part of the life insurance reserves (excluding that portion of the reserves which is allocable to annuity features) as relates to nonparticipating contracts (other than group contracts). For purposes of this paragraph and paragraph (6), the term 'premiums'

means the net amount of the premiums and other consideration taken into account under subsection (c)(1).

"(6) GROUP LIFE, ACCIDENT, AND HEALTH INSURANCE.—An amount equal to 2 percent of the premiums for the taxable year attributable to group life insurance contracts and group accident and health insurance contracts. The deduction under this paragraph for the taxable year and all preceding taxable years shall not exceed an amount equal to 50 percent of the premiums for the taxable year attributable to such contracts.

"(7) ASSUMPTION BY ANOTHER PERSON OF LIABILITIES UNDER INSURANCE, ETC., CONTRACTS.—The consideration (other than consideration arising out of reinsurance ceded) in respect of the assumption by another person of liabilities under insurance and annuity contracts (including contracts supplementary thereto).

"(8) TAX-EXEMPT INTEREST, DIVIDENDS, ETC.—

"(A) LIFE INSURANCE COMPANY'S SHARE.—Each of the following items:

"(i) the life insurance company's share of interest which under section 103 is excluded from gross income,

"(ii) the deduction for partially tax-exempt interest provided by section 242 (as modified by section 804(a)(3)) computed with respect to the life insurance company's share of such interest, and

"(iii) the deductions for dividends received provided by sections 243, 244, and 245 (as modified by subparagraph (B)) computed with respect to the life insurance company's share of the dividends received.

"(B) APPLICATION OF SECTION 246(b).—In applying section 246(b) (relating to limitation on aggregate amount of deductions for dividends received) for purposes of subparagraph (A)(iii), the limit on the aggregate amount of the deductions allowed by sections 243(a), 244, and 245 shall be 85 percent of the gain from operations computed without regard to—

"(i) the deductions provided by paragraphs (3), (5), and (6) of this subsection,

"(ii) the operations loss deduction provided by section 812, and

"(iii) the deductions allowed by sections 243(a), 244, and 245,

but such limit shall not apply for any taxable year for which there is a loss from operations.

"(9) INVESTMENT EXPENSES, ETC.—Investment expenses to the extent not allowed as a deduction under section 804(c)(1) in computing investment yield, and the amount (if any) by which the sum of the deductions allowable under section 804(c) exceeds the gross investment income.

"(10) SMALL BUSINESS DEDUCTION.—A small business deduction in an amount equal to the amount determined under section 804(a)(4).

"(11) CERTAIN MUTUALIZATION DISTRIBUTIONS.—The amount of distributions to shareholders made in 1958 and 1959 in acquisition of stock pursuant to a plan of mutualization adopted before January 1, 1958.

"(12) *OTHER DEDUCTIONS.—Subject to the modifications provided by subsection (e), all other deductions allowed under this subtitle for purposes of computing taxable income to the extent not allowed as deductions in computing investment yield.*

Except as provided in paragraph (3), no amount shall be allowed as a deduction under this subsection in respect of dividends to policyholders.

"(e) *MODIFICATIONS.—The modifications referred to in subsection (d)(12) are as follows:*

"(1) *INTEREST.—In applying section 163 (relating to deduction for interest), no deduction shall be allowed for interest in respect of items described in section 810(c).*

"(2) *BAD DEBTS.—Section 166(c) (relating to reserve for bad debts) shall not apply.*

"(3) *CHARITABLE, ETC., CONTRIBUTIONS AND GIFTS.—In applying section 170—*

"(A) *the limit on the total deductions under such section provided by the first sentence of section 170(b)(2) shall be 5 percent of the gain from operations computed without regard to—*

"(i) *the deduction provided by section 170,*

"(ii) *the deductions provided by paragraphs (3), (5), (6), and (8) of subsection (d), and*

"(iii) *any operations loss carryback to the taxable year under section 812; and*

"(B) *under regulations prescribed by the Secretary or his delegate, a rule similar to the rule contained in section 170(b)(3) shall be applied.*

"(4) *AMORTIZABLE BOND PREMIUM.—Section 171 shall not apply.*

"(5) *NET OPERATING LOSS DEDUCTION.—The deduction for net operating losses provided in section 172 shall not be allowed.*

"(6) *PARTIALLY TAX-EXEMPT INTEREST.—The deduction for partially tax-exempt interest provided by section 242 shall not be allowed.*

"(7) *DIVIDENDS RECEIVED.—The deductions for dividends received provided by sections 243, 244, and 245 shall not be allowed.*

"(f) *LIMITATION ON CERTAIN DEDUCTIONS.—*

"(1) *IN GENERAL.—The amount of the deductions under paragraphs (3), (5), and (6) of subsection (d) shall not exceed $250,000 plus the amount (if any) by which—*

"(A) *the gain from operations for the taxable year, computed without regard to such deductions, exceeds*

"(B) *the taxable investment income for the taxable year.*

"(2) *APPLICATION OF LIMITATION.—The limitation provided by paragraph (1) shall apply first to the amount of the deduction under subsection (d)(6), then to the amount of the deduction under subsection (d)(5), and finally to the amount of the deduction under subsection (d)(3).*

"(g) *LIMITATIONS ON DEDUCTION FOR CERTAIN MUTUALIZATION DISTRIBUTIONS.—*

"(1) *DEDUCTION NOT TO REDUCE TAXABLE INVESTMENT INCOME.—The amount of the deduction under subsection (d)(11) shall not exceed the amount (if any) by which—*

"(A) *the gain from operations for the taxable year, computed without regard to such deduction (but after the application of subsection (f)), exceeds*

"*(B) the taxable investment income for the taxable year.*

"*(2) DEDUCTION NOT TO REDUCE TAX BELOW 1957 LAW.—The deduction under subsection (d)(11) for the taxable year shall be allowed only to the extent that such deduction (after the application of all other deductions provided by subsection (d)) does not reduce the amount of the tax imposed by section 802(a)(1) for such taxable year below the amount of tax which would have been imposed by section 802(a) as in effect for 1957, if this part, as in effect for 1957, applied for such taxable year.*

"*(3) APPLICATION OF SECTION 815.—That portion of any distribution with respect to which a deduction is allowed under subsection (d)(11) shall not be treated as a distribution to shareholders for purposes of section 815; except that in the case of any distribution made in 1959, such portion shall be treated as a distribution with respect to which a reduction is required under section 815(e)(2)(B).*

And the Senate agree to the same.

Amendment numbered 13:

That the House recede from its disagreement to the amendment of the Senate numbered 13, and agree to the same with the following amendments:

On page 29 of the Senate engrossed amendments, lines 21 and 22, strike out "(reduced by the amount of the required interest for the taxable year)" and insert the following: *(reduced by the amount of investment yield not included in gain or loss from operations for the taxable year by reason of section 809(a)(1))*

On page 30 of the Senate engrossed amendments, lines 3 and 4, strike out "(reduced by the amount of the required interest for the taxable year)" and insert the following: *(reduced by the amount of investment yield not included in gain or loss from operations for the taxable year by reason of section 809(a)(1))*

And the Senate agree to the same.

Amendment numbered 14:

That the House recede from its disagreement to the amendment of the Senate numbered 14, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"*(e) CERTAIN DECREASES IN RESERVES OF VOLUNTARY EMPLOYEES' BENEFICIARY ASSOCIATIONS.—*

"*(1) DECREASES DUE TO VOLUNTARY LAPSES OF POLICIES ISSUED BEFORE JANUARY 1, 1958.—For purposes of subsections (a) and (b), in the case of a life insurance company which meets the requirements of section 501(c)(9) other than the requirement of subparagraph (B) thereof, there shall be taken into account only 11¼ percent of any decrease in the life insurance reserve on any policy issued before January 1, 1958, which is attributable solely to the voluntary lapse of such policy on or after January 1, 1958. In applying the preceding sentence, the decrease in the reserve for any policy shall be determined by reference to the amount of such reserve as of the beginning of the taxable year, reduced by any amount allowable as a deduction under section 809(d)(1) in respect of such*

policy by reason of such lapse. This paragraph shall apply for any taxable year only if the taxpayer has made an election under paragraph (3) which is effective for such taxable year.

"(2) DISALLOWANCE OF CARRYOVERS FROM PRE-1958 LOSSES FROM OPERATIONS.—In the case of a life insurance company to which paragraph (1) applies for the taxable year, section 812(b)(1) shall not apply with respect to any loss from operations for any taxable year beginning before January 1, 1958.

"(3) ELECTION.—Paragraph (1) shall apply to any taxpayer for any taxable year only if the taxpayer elects, not later than the time prescribed by law (including extensions thereof) for filing the return for such taxable year, to have such paragraph apply. Such election shall be made in such manner as the Secretary or his delegate shall prescribe by regulations. Such election shall be effective for the taxable year for which made and for all succeeding taxable years, and shall not be revoked except with the consent of the Secretary or his delegate.

And the Senate agree to the same.

Amendment numbered 20:

That the House recede from its disagreement to the amendment of the Senate numbered 20, and agree to the same with the following amendments:

On page 32 of the Senate engrossed amendments, strike out lines 16 to 20, inclusive, and insert the following:

> *"(iii) subject to subsection (e), if the life insurance company is a new company for the loss year, an operations loss carryover to each of the 3 taxable years following the 5 taxable years described in clause (ii).*

On page 33 of the Senate engrossed amendments, line 8, after "1958)" insert the following: *and section 381(c)(22)*

And the Senate agree to the same.

Amendment numbered 22:

That the House recede from its disagreement to the amendment of the Senate numbered 22, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *(d)(8)(B)*; and the Senate agree to the same.

Amendment numbered 23:

That the House recede from its disagreement to the amendment of the Senate numbered 23, and agree to the same with the following amendments:

On page 33 of the Senate engrossed amendments, lines 20 and 21, strike out "(or, if section 381(c)(22) applies, any predecessor)" and insert the following: *(or any predecessor, if section 381(c)(22) applies or would have applied if in effect)*

On page 33 of the Senate engrossed amendments, line 23, strike out "10-YEAR CARRYOVER" and insert *8-YEAR CARRYOVER*

And the Senate agree to the same.

Amendment numbered 26:

That the House recede from its disagreement to the amendment of the Senate numbered 26, and agree to the same with an amendment as follows:

Omit the matter proposed to be inserted by the Senate amendment, and on page 37, line 10, of the House engrossed bill, strike out "subsection," and insert *section,*; and the Senate agree to the same.

Amendment numbered 27:

That the House recede from its disagreement to the amendment of the Senate numbered 27, and agree to the same with an amendment as follows:

On page 35 of the Senate engrossed amendments, line 6, after "does not" insert *(except for purposes of paragraph (3) and subsection (e)(2)(B))*; and the Senate agree to the same.

Amendment numbered 32:

That the House recede from its disagreement to the amendment of the Senate numbered 32, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *(d)(8)(B)*; and the Senate agree to the same.

Amendment numbered 33:

That the House recede from its disagreement to the amendment of the Senate numbered 33, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *809(d)(10)*; and the Senate agree to the same.

Amendment numbered 47:

That the House recede from its disagreement to the amendment of the Senate numbered 47, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following: *1958, and adjusted to the beginning of the year of the distribution as provided in subparagraph (B)*; and the Senate agree to the same.

Amendment numbered 50:

That the House recede from its disagreement to the amendment of the Senate numbered 50, and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

"(d) GAIN ON TRANSACTIONS OCCURRING PRIOR TO JANUARY 1, 1959.—For purposes of this part, there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset, resulting from sales or other dispositions of property prior to January 1, 1959. Any gain after December 31, 1958, resulting from the sale or other disposition of property prior to January 1, 1959, which, but for this sentence, would be taken into account under section 1231, shall not be taken into account under section 1231 for purposes of this part.

And the Senate agree to the same.

Amendment numbered 54:

That the House recede from its disagreement to the amendment of the Senate numbered 54, and agree to the same with an amendment as follows:

On page 43 of the Senate engrossed amendments, line 17, strike out "805(b)(1)" and insert *805(b)(2)*; and the Senate agree to the same.

Amendment numbered 60:

That the House recede from its disagreement to the amendment of the Senate numbered 60, and agree to the same with the following amendments:

On page 51 of the Senate engrossed amendments, line 14, after "subchapter L" insert *of chapter 1*

On page 51 of the Senate engrossed amendments, lines 20 and 21, after "subchapter L" insert *of chapter 1*

And the Senate agree to the same.

W. D. MILLS,
AIME J. FORAND,
CECIL R. KING,
RICHARD M. SIMPSON,
N. M. MASON,
Managers on the Part of the House.

HARRY F. BYRD,
ROBT. S. KERR,
J. ALLEN FREAR, Jr.,
JOHN J. WILLIAMS,
FRANK CARLSON,
Managers on the Part of the Senate.

STATEMENT OF THE MANAGERS ON THE PART OF THE HOUSE

The managers on the part of the House at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 4245) relating to the taxation of the income of life insurance companies, submit the following statement in explanation of the effect of the action agreed upon by the conferees and recommended in the accompanying conference report:

Except as otherwise indicated, references to section numbers in this statement are to the sections of the Internal Revenue Code of 1954 as amended under the House bill, the Senate amendments, or the conference agreement, as may be appropriate.

Amendments Nos. 2, 7, 8, 9, 15, 16, 18, 19, 21, 22, 24, 26, 30, 31, 32, 33, 36, 37, 38, 40, 41, 43, 45, 47, 48, 49, 52, 54, 57, and 59: These amendments are either technical, clarifying, or clerical amendments, or amendments conforming the House bill to the substantive amendments discussed below. With respect to these amendments the House either recedes or recedes with amendments which are technical, clerical, clarifying, or conforming in nature.

Amendment No. 1: Section 801(b), as amended under both the House bill and the Senate amendments, defines the term "life insurance reserves." Except as provided in paragraphs (2) and (3) of such section, life insurance reserves must be required by law. Senate amendment No. 1 adds a new provision which exempts from this requirement reserves held under policies issued by certain voluntary employees' beneficiary associations which would qualify for tax exemption under section 501(c)(9) of the 1954 Code except for the fact that less than 85 percent of their income consists of amounts collected from members and amounts contributed to such associations by the employers of the members for the sole purpose of meeting expenses and making payments of life, sick, accident, or other benefits to members or their dependents.

The House recedes.

Amendment No. 3: This amendment adds a new sentence at the end of section 801(b)(3) to provide that for purposes of part 1 of subchapter L of chapter 1 of the 1954 Code the rate of interest assumed in calculating the reserves described in 801(b)(3) (relating to reserves of assessment companies and associations) is deemed to be 3 percent.

The House recedes.

Amendment No. 4: Under both the House bill and the Senate amendments, certain reserves, defined as "deficiency reserves," are excluded from "life insurance reserves" and "total reserves" as defined in the bill. Under the House bill only deficiency reserves on life insurance and annuity contracts were included within the definition of deficiency reserves. Under Senate amendment No. 4, deficiency reserves on all insurance contracts are included within the definition. The Senate amendment provides that the computation of the amount of deficiency reserves is made with respect to individual contracts. The amendment makes it clear that if a reserve, a portion

of which meets the definition of deficiency reserves, also includes other amounts (such as an expense loading factor), only that portion of the reserve which meets the definition (that is, the excess of net premiums over actual premiums) is included as a deficiency reserve.

The House recedes.

Amendment No. 5: This amendment adds a new subsection (g), relating to variable annuities, to section 801. The new subsection (g), for which there is no corresponding provision in the House bill, contains the general rule that an annuity contract includes a contract which provides for the payment of a variable annuity that is computed on the basis of recognized mortality tables and the investment experience of the company issuing the contract. Accordingly, under the Senate amendment, the reserves held under such contracts constitute "life insurance reserves" for the purposes of section 801(b), and a company issuing such contracts will qualify as a life insurance company if it fulfills the requirements of section 801(a). The new subsection (g) as contained in the Senate amendment also contained special rules for computing the current earnings rate, the rate of interest assumed by the taxpayer in calculating the reserve on a variable annuity contract, and increases and decreases in reserves. Under the Senate amendment, the general rule and the special rules referred to above shall not apply with respect to any taxable year beginning after December 31, 1962.

Under the conference agreement, the House recedes with an amendment which (in effect) retains the general rule referred to above and clarifies the special rules which are to apply with respect to variable annuity contracts. Under the conference agreement, the new subsection (g)(2) provides that the adjusted reserves rate for any taxable year with respect to variable annuity contracts described in paragraph (1) of the new subsection (g), and the rate assumed by the taxpayer in calculating the reserves on any such contract, shall be the same percentage as is prescribed under the amendment for the current earnings rate.

Under the conference agreement, a specific rule is added to clarify the application of the new subsection (g) in the case of life insurance companies which issue both variable annuity contracts described in the amendment and other contracts. This rule (par. (5) of the new subsec. (g)) provides that, under regulations prescribed by the Secretary or his delegate—

(1) the policy and other contract liability requirements of such a company for any taxable year are to be considered to be the sum of—

(A) such requirements computed by reference to the items which relate to the variable annuity contracts described in the new subsection (g)(1), and

(B) such requirements computed by excluding the items which relate to such variable annuity contracts, and

(2) such additional separate computations (with respect to such annuity contracts and such other contracts) are to be made as may be necessary to carry out the purposes of the new subsection (g) and the new part I.

Amendment No. 6: Under both the House bill and the Senate amendments, one of the components of life insurance company taxable income (specified in sec. 802(b)(3), as contained in the House bill) is

the amount subtracted from the policyholders surplus account for the taxable year (as determined under the new sec. 815). (No such component is included in life insurance company taxable income for 1958 under either the House bill or the Senate amendments.) Senate amendment No. 6 reduces the amount of tax imposed for 1959 and 1960 with respect to this component, insofar as it relates to actual distributions made in 1959 or 1960, by the following percentages:

(1) 66⅔ percent in the case of a taxable year beginning in 1959, and

(2) 33⅓ percent in the case of a taxable year beginning in 1960.

The House recedes with a clerical amendment.

Amendment No. 10: Under section 802(b)(2) as contained in the House bill, if the gain from operations for any taxable year exceeds the taxable investment income, the life insurance company taxable income includes an amount equal to 50 percent of such excess. Under the Senate amendments, this rule is retained; except that under Senate amendment No. 10 if for 1958 the amount determined under section 802(b)(2) (without regard to this amendment) exceeded the taxable investment income, the amount taken into account under section 802(b)(2) was to be reduced by 10 percent of such excess.

The Senate recedes.

Amendment No. 11: This amendment strikes out of the House bill subpart B (relating to investment income—the so-called phase 1 tax base) of the new part I of subchapter L of chapter 1 of the 1954 Code relating to the taxation of the income of life insurance companies, and inserts in lieu thereof a substitute subpart B. Except as explained below, and except for clerical, technical, and conforming changes, the provisions of subpart B under the House bill and of subpart B under the Senate amendment are substantially the same.

(*1*) *Treatment of tax-exempt interest, etc.*—Under the House bill the taxable investment income was an amount equal to the net investment income minus the policy and other contract liability deduction. Net investment income was the whole of the gross investment income minus (in general terms) the investment expenses, tax-exempt interest, the deduction for partially tax-exempt interest, the deduction for dividends received, and a small-business deduction. From the net investment income a deduction was allowed for policy and other contract liabilities. This deduction was adjusted so as to prevent including in this deduction any amount for tax-exempt interest, partially tax-exempt interest, and dividends received, which (as explained above) had already been allowed as a deduction.

Under Senate amendment No. 11, the policyholders' share of the investment yield (gross investment income minus investment expenses) is not included in the life insurance company's taxable investment income. The taxable investment income is then computed by determining the life insurance company's share of investment yield and by subtracting from this share the life insurance company's share of tax-exempt interest, of the amount of partially tax-exempt interest which is allowed as a deduction, and of the amount of dividends received which is allowed as a deduction. There is also subtracted a small-business deduction (discussed below in par. (2)). The policyholders' share of any item is that percentage obtained by dividing the policy and other contract liability requirements by the investment

yield. The life insurance company's share of any item is 100 percent minus the policyholders' share of such item.

In addition, Senate amendment No. 11 contains a provision that if it is established in any case that the application of the definition of taxable investment income results in the imposition of tax on any tax-exempt interest, on any amount of partially tax-exempt interest which is allowable as a deduction, or on any amount of dividends received which is allowable as a deduction, adjustment shall be made to prevent such imposition.

Except for technical, clarifying, and conforming changes, the conference agreement follows that portion of Senate amendment No. 11, relating to the treatment of tax-exempt interest, etc., discussed above.

(2) *Small-business deduction.*—Under the House bill, the small-business deduction was an amount equal to 5 percent of the net investment income for the taxable year (computed without regard to the small-business deduction), with a ceiling of $25,000. Under Senate amendment No. 11, the deduction is an amount equal to 10 percent of the investment yield for the taxable year, with a ceiling of $25,000. Under the conference agreement, the small-business deduction as contained in Senate amendment No. 11 is retained.

(3) *Life insurance reserve requirements.*—Under the House bill, a "deduction for the investment yield on adjusted life insurance reserves" was allowed in determining the policy and other contract liability deduction. In determining adjusted life insurance reserves and the deduction for the yield on such reserves, the House bill (sec. 805(b)(2)) provided a "deduction rate." In general, this rate was to be ascertained by dividing by 2 the sum of—

(1) the average rate of interest assumed by the taxpayer in calculating life insurance reserves (or, if higher, the industry assumed rate for the prior year), and

(2) the investment yield rate (referred to in the Senate amendment as the "current earnings rate").

However, if the investment yield rate is less than the rate determined under paragraph (1), the deduction rate was to be the investment yield rate.

Under Senate amendment No. 11, in determining the policy and other contract liability requirements, an amount ascertained by multiplying the adjusted life insurance reserves by the "average earnings rate" is taken into account. Also, the adjusted life insurance reserves are ascertained by reference to the average earnings rate. The average earnings rate for any taxable year is the average of the current earnings rates for the taxable year and each of the 4 taxable years immediately preceding such taxable year.

Under the conference agreement, the policy and other contract liability requirements, and the adjusted life insurance reserves, will be determined in the manner provided in Senate amendment No. 11 unless for the taxable year the current earnings rate of the taxpayer is lower than its average earnings rate. For that taxpayer for that taxable year, the current earnings rate will be substituted for the average earnings rate in making the determinations described above.

(4) *Definition of pension plan reserves.*—Under both the House bill and Senate amendment No. 11, the reserve requirements for pension plan reserves are, in effect, treated as being the amount of the earnings on such reserves. Under the House bill the term "pension plan

reserves" means, in effect, the reserves allocable to qualified pension plans. Under the Senate amendment such term includes the same reserves as under the House bill and, in addition, the reserves under contracts purchased to provide retirement annuities for their employees by educational, charitable, religious, and other organizations which are described in section 501(c)(3) of the 1954 Code and are exempt from income tax. Under the conference agreement, the new provision added by Senate amendment No. 11 is retained.

(*5*) *Interest paid.*—Under both the House bill and Senate amendment No. 11, interest paid is an item taken into account in determining reserve requirements. The Senate amendment is substantially the same as the House bill, except that the Senate amendment includes interest on special contingency reserves established pursuant to section 8(d) of the Federal Employees' Group Life Insurance Act of 1954. Under the conference agreement, this new provision is retained.

Amendment No. 12: This amendment strikes out section 809 of the new subpart C (relating to gain and loss from operations—the so-called phase 2 tax base), and substitutes a new text therefor. Except for clerical, technical, and conforming changes, and except as explained below, the provisions of section 809 as contained in the Senate amendment are (in general) the same as under the House bill.

(*1*) *Treatment of tax-exempt interest, etc.*—Senate amendment No. 12 makes changes in section 809 to conform the section to the action of the Senate under Senate amendment No. 11 in allocating a portion of each item of investment yield (including tax-exempt interest, partially tax-exempt interest, and dividends received) to policyholders and the remainder to the life insurance company. For purposes of determining gain or loss from operations, the share of each item set aside for policyholders is determined under Senate amendment No. 12 by dividing the required interest by the investment yield. The life insurance company's share of any item is 100 percent minus the percentage set aside for policyholders.

Under the conference agreement the substance of Senate amendment No. 12 with respect to tax-exempt interest, etc., is retained, but with technical changes necessary to clarify the application of this provision in certain cases, such as the case of a life insurance company having investment expenses in excess of gross investment income. The clarification also applies with respect to a life insurance company having an investment yield less than the sum of (A) its share of tax-exempt interest, (B) the deduction for partially tax-exempt interest computed with respect to its share of such interest, (C) the deduction for dividends received computed with respect to its share of such dividends, and (D) the small-business deduction.

(*2*) *Deduction for certain nonparticipating contracts.*—Under the House bill, in determining the gain or loss from operations a deduction was allowed in an amount equal to 10 percent of the increase for the taxable year in the reserves for certain nonparticipating contracts. Under Senate amendment No. 12, a deduction is allowed in an amount computed in the manner provided under the House bill or (if greater) an amount equal to 3 percent of the premiums for the taxable year (excluding that portion of the premiums which is allocable to annuity features) attributable to nonparticipating contracts (other than group contracts) which are issued or renewed for periods of 5 years or more.

Under the conference agreement the deduction is allowed as provided in the Senate amendment.

(3) *Certain mutualization distributions.*—Under Senate amendment No. 12, in computing gain or loss from operations a deduction is allowed equal to the amount of distributions to shareholders made in 1958 and 1959 in acquisition of stock pursuant to a plan of mutualization adopted before January 1, 1958 (sec. 809(d)(9) as contained in the amendment). Under section 809(g), as contained in the amendment, the deduction for these distributions may not exceed the amount (if any) by which—

(A) the gain from operations for the taxable year (computed without regard to the deduction, but after the application of section 809(f), as contained in the amendment), exceeds

(B) the taxable investment income.

Also, the deduction is to be allowed only to the extent that it (after the application of all other deductions) does not reduce the tax imposed by section 802(a)(1) for the taxable year below the amount of tax which would have been imposed for such taxable year if the 1957 law applied for such taxable year. Under the amendment, it was provided that section 815(e) (relating to special rule for certain mutualizations) was to apply to any distribution described above only with respect to so much of the amount of such distribution as was not to be allowable as a deduction by reason of the limitations described above.

Under the conference agreement (sec. 809(d)(11)) the deduction contained in the Senate amendment is retained. Also, under the conference agreement, the limitations on the deduction are retained. Under the conference agreement it is provided that that portion of any distribution with respect to which the deduction is allowed under the new section 809(d)(11) shall not be treated as a distribution to shareholders for purposes of section 815 (relating to distributions to shareholders); except that, in the case of any distribution made in 1959, such portion is to be treated as a distribution with respect to which a reduction is required under section 815(c)(2)(B) (relating to adjustment in allocation ratio for certain distributions after December 31, 1958).

(4) *Limit on deductions for dividends to policyholders, nonparticipating contracts, and group life, accident, and health insurance.*—Under the House bill, the deductions for dividends to policyholders (sec. 809(d)(3)), for increase in reserves for nonparticipating contracts (sec. 809(d)(6)), and for group life, accident, and health insurance (sec. 809(d)(7)) could not exceed the amount (if any) by which gain from operations (computed without regard to the deductions) exceeds taxable investment income. Under the Senate amendment, the corresponding deductions (sec. 809(d)(3), (5), and (6)) may be taken to the extent of $250,000 in addition to the amount allowable under the House bill.

The conference agreement retains this provision of the Senate amendment.

Amendment No. 13: This amendment is a conforming amendment made necessary by that portion of Senate amendment No. 12 which dealt with the separation of each and every item of investment yield into the policyholders' share and life insurance company's share.

The House recedes with amendments clarifying the application of this provision in the case of a life insurance company having required interest which exceeds investment yield.

Amendment No. 14: This amendment adds a new provision (sec. 810(e)), relating to decreases in reserves in the case of a life insurance company which meets all requirements of section 501(c)(9) of the code other than those specified in subparagraph (B) thereof. Under this amendment, in determining whether there is a decrease in the reserves of such a company under section 810(a), only 11½ percent of any decrease in life insurance reserves that is attributable to the voluntary lapse on or after January 1, 1958, of any policy issued before that date, shall be taken into account. The amendment further provides that its provisions are elective and, if elected, the provisions of the last sentence of section 802(b) (relating to the reduction, in certain cases, of life insurance company taxable income for 1958) as added by Senate amendment No. 10, and those provisions of section 812(b)(1) which relate to the carryover of certain pre-1958 losses are not to apply (see Senate amendment No. 20). The election provided by Senate amendment No. 14 shall be effective for the taxable year for which made and for all succeeding taxable years unless its revocation is consented to by the Secretary or his delegate.

The House recedes with an amendment which (in effect) follows the Senate amendment, with technical and clarifying changes, and a change to conform to the conference action on Senate amendment No. 10.

Amendment No. 17: Section 811(b), as contained in the House bill, relates to the deduction for dividends to policyholders for any taxable year. The deduction is adjusted for amounts held at the end of the taxable year as reserves for dividends payable during the following year, and for this purpose amounts set aside before the 16th day of the third month of the following year are taken into account. Under the Senate amendments these rules are retained except that, under Senate amendment No. 17, in the case of a mutual savings bank having a life insurance department, amounts set aside before the 16th day of the 4th month of the following year are taken into account.

The House recedes.

Amendments Nos. 20 and 23: The House bill provided for an operations loss deduction (sec. 812) for purposes of computing the gain from operations. This deduction was similar to the net operating loss deduction provided by section 172 of the 1954 Code and was to be computed on the basis of allowing a 3-year carryback and a 5-year carryforward of losses. Under the House bill losses for a taxable year ending before 1958 were not to be taken into account and no loss was to be carried to any taxable year beginning before 1958.

Senate amendments Nos. 20 and 23 retain (in effect) the provisions of the House bill, with 2 modifications. Under the Senate amendments—

(1) a loss sustained for any of the first 5 years of a new company may be carried forward (subject to the limitations provided by Senate amendment No. 23) for 10 years, and

(2) a loss sustained for any taxable year during the period 1955, 1956, and 1957 may (subject to reduction for the life insurance company taxable income for each of the other taxable years in the same period computed as if the new part I, as in effect for 1958, applied to such years) be carried forward for 5 years (or 10 years in the case of a new company) from the loss year.

Under Senate amendment No. 23, 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, if section 381(c)(22) applies, any predecessor) was authorized to do business as an insurance company. Under the amendment, a company does not qualify for the 10-year carryover of a loss if (for the loss year) it is a nonqualified corporation (as defined in sec. 812(e)(2)(B), as contained in the amendment). Also, if at any time during a taxable year after the loss year the company is a nonqualified corporation, then the 10-year carryover provision will cease to apply, with respect to that loss, for that taxable year and all subsequent taxable years. For example, if a company which qualifies as a new company for a loss year becomes a nonqualified corporation during the seventh taxable year following the loss year, the loss for such loss year may not be carried to the seventh or any subsequent taxable year.

Under the conference agreement, the House recedes on Senate amendment No. 20 with an amendment which provides that a loss sustained for any of the first 5 years of a new company may be carried forward for 8 years from the loss year. With respect to Senate amendment No. 23, the House recedes with a technical amendment and an amendment conforming to the conference action on Senate amendment No. 20.

Amendments Nos. 25, 28, 29, 34, and 46: Section 815, as added by the House bill, provided that each stock life insurance company shall establish and maintain a shareholders surplus account and a policyholders surplus account effective as of January 1, 1959. These accounts are a part of the procedure established by the House bill for determining the so-called phase 3 tax base. Subtractions from these accounts are made, as provided by the House bill, in respect of distributions to shareholders. After the shareholders surplus account has been reduced to zero for any taxable year by reason of distributions to shareholders, amounts subtracted from the policyholders surplus account, as provided in the new section, by reason of such distributions are added to life insurance company taxable income under section 802(b)(3).

Under Senate amendments Nos. 28 and 29, the shareholders surplus account is to be established as of January 1, 1958. Senate amendments Nos. 25 and 46 provide that the rules contained in the House bill for determining the amounts subtracted from the shareholders and policyholders surplus accounts in respect of distributions shall apply only in the case of distributions made after December 31, 1958. However, Senate amendment No. 34 provides that the amount of distributions to shareholders made in 1958 shall be subtracted from the shareholders surplus account (to the extent thereof).

The House recedes.

Amendment No. 27: This amendment provides an additional exception to the definition of the term "distribution" for purposes of determining the portion of the tax base attributable to distributions to shareholders. The amendment provides that the term "distribution" does not include any distribution in redemption of stock issued before 1958, where such stock, at all times on and after the date of its issue and on and before the date of its redemption, is limited as to the the amount of dividends payable and is callable (at the option of the issuer) at a price not in excess of 105 percent of the sum of its issue price plus the amount of contribution to surplus (if any) made by the original purchaser at the time of his purchase.

The House recedes with a technical amendment.

Amendment No. 35: Under both the House bill and Senate amendment No. 35, an addition is made to the policyholders surplus account for any taxable year beginning after December 31, 1958, of an amount equal to 50 percent of the amount by which the gain from operations exceeds the taxable investment income. Senate amendment No. 35 further provides for the addition of the following two amounts to the policyholders surplus account for any taxable year beginning after December 31, 1958:

(1) The 10 percent or 3 percent deduction for certain nonparticipating contracts provided by section 809(d)(5), as limited by section 809(f), and

(2) The 2 percent deduction for group life and group accident and health insurance contracts provided by section 809(d)(6), as limited by section 809(f).

The House recedes.

Amendment No. 39: Section 815(d)(2), as contained in the House bill, provided special rules pertaining to a taxpayer which ceases to be a life insurance company. Under the House bill, if for any taxable year the taxpayer was not a life insurance company the amount taken into account under section 802(b)(3) for the preceding taxable year was to be increased by the entire balance remaining in the policyholders account as of the close of the preceding taxable year. This rule was subject to the exception for certain successor life insurance companies provided in section 381(c)(22).

Senate amendment No. 39 provides instead that if for any taxable year the taxpayer is not an insurance company, or if for any 2 successive taxable years the taxpayer is not a life insurance company, the amount taken into account under section 802(b)(3) for the last preceding taxable year for which it was a life insurance company is to be increased (after the application of sec. 815(d)(2)(B), which is explained in the paragraph which follows) by the entire balance in the policyholders surplus account at the close of such last preceding taxable year. As in the case of the House bill, these rules are subject to the exception contained in section 381(c)(22).

Under section 815(d)(2)(B), as contained in Senate amendment No. 39, distributions to shareholders during a taxable year when the taxpayer is an insurance company but not a life insurance company are to be treated as having been made on the last day of the last preceding taxable year for which the taxpayer was a life insurance company.

The House recedes.

Amendments Nos. 42 and 44: Under the House bill (see sec. 815(d)(4)) a limitation was placed on the amount in the policyholders surplus account. If the amount in such account at the end of any taxable year exceeded whichever of the following is the larger:

(1) 25 percent of life insurance reserves, or

(2) 60 percent of the net amount of the premiums and other consideration taken into account for the taxable year under section 809(c)(1),

then such excess was to be treated as subtracted from the policyholders surplus account for such taxable year. Under Senate amendments Nos. 42 and 44, the 25 percent figure in paragraph (1) above is reduced to 15 percent, the 60 percent figure in paragraph (2) above is reduced

to 50 percent, and an alternative limit is added. Under this alternative limit an amount which would be treated as subtracted from the policyholders surplus account under the revised percentage figures explained above will be so treated only to the extent that the amount in the policyholders surplus account at the end of the taxable year exceeds 25 percent of the amount by which the life insurance reserves at the end of the taxable year exceed the life insurance reserves at the end of 1958.

The House recedes.

Amendment No. 50: This amendment adds a new subsection (d) to section 817. The new subsection (d) (for which there is no corresponding provision in the House bill) provides, for purposes of the income tax on life insurance companies, that there shall be excluded any gain from the sale or exchange of a capital asset, and any gain considered as gain from the sale or exchange of a capital asset, resulting from sales or other dispositions of property prior to January 1, 1959. Thus, in computing the capital gains tax under section 802(a)(2), as contained in the House bill, any gain from the sale of a capital asset consummated before 1959 would not be taken into account (e.g., where installments are received after 1958). Also, such gains would not be taken into account in determining the excess of the short-term capital gain over the net long-term capital loss for purposes of computing investment yield.

The House recedes with a technical amendment making it clear that in applying section 1231 of the 1954 Code (relating to property used in the trade or business and involuntary conversions) such gains are not to be taken into account.

Amendment No. 50½: This amendment adds a new subsection (e), relating to certain reinsurance transactions in 1958, to section 817. Under the new subsection (e), for which there is no corresponding provision in the House bill, the reinsurance in a single transaction, or in a series of related transactions, occurring in 1958, by a life insurance company of all of its insurance contracts of a particular type (through the assumption by another company or companies of all liabilities under such contracts) is to be treated as the sale of a capital asset.

The House recedes. For any taxable year beginning after December 31, 1958, the determination as to whether the reinsurance or sale of a group of contracts where the reinsurer assumes all liabilities under such contracts shall be treated as a sale of a capital asset shall be made as if the new subsection (e) had not been enacted.

Amendment No. 51: Section 818(c) as contained in the House bill provided an election with respect to the amount taken into account as life insurance reserves in the case of contracts for which such reserves are computed on a preliminary term basis. Under the House bill, the taxpayer could adopt the exact revaluation basis or an approximate revaluation basis, but the basis so adopted had to be adhered to for all subsequent taxable years, unless a change in the basis of computing such reserves was approved by the Secretary or his delegate. Senate amendment No. 51 provides that if, pursuant to an election made for a taxable year beginning in 1958, the basis adopted is the approximate revaluation basis, then the taxpayer may change, without the consent of the Secretary or his delegate, to the exact revaluation basis for its first taxable year beginning after 1958.

The House recedes.

Amendment No. 53: Under both the House bill and Senate amendments, a transitional rule is provided where the method of accounting required to be used in computing the taxpayer's taxes for 1958 is different from the method used in computing its taxes for 1957. Senate amendment No. 53 adds the following two provisions to the transitional rule:

(1) section 804(b) of the 1954 code, as in effect for 1957, and relating to the special ceiling on the reserve and other policy liability deduction, shall not apply with respect to any amount required to be taken into account by reason of the transitional rule, and

(2) the amount of the deduction allowed by section 805 of the 1954 code, as in effect for 1957, and relating to the special interest deduction, shall not be reduced by reason of any amount required to be taken into account by reason of the transitional rule.

The House recedes.

Amendment No. 55: Subsection (c) of section 819, as contained in the House bill, provided a rule for determining, in the case of a foreign life insurance company, the amount of distributions to shareholders for purposes of sections 815 and 802(b)(3). This rule takes into account the minimum figure ascertained for the taxpayer for the taxable year under section 819(b)(2).

Senate amendment No. 55 provides an alternative rule (based on the relationship of insurance liabilities on U.S. business to the total insurance liabilities of the company) for determining the amount of distributions to shareholders. Under the amendment, the taxpayer may elect for each taxable year which of the two rules will apply.

The House recedes.

Amendment No. 56: This amendment, for which there is no corresponding provision in the House bill, adds a new section 820 which provides an optional treatment for policies reinsured under modified coinsurance contracts. Subsection (a) of the new section 820 contains a general rule providing that insurance and annuity policies reinsured under a modified coinsurance contract (as defined in subsec. (b) of the new sec. 820) will, in general, be treated as if they were reinsured under a conventional coinsurance contract.

This optional treatment applies with respect to any policy reinsured under a modified coinsurance contract only if the reinsured company and the reinsurer company consent to such treatment for all policies reinsured under the modified coinsurance contract and consent to the application of the special rules set forth in subsection (c) of the new section 820 and the special rules prescribed by the Secretary of the Treasury or his delegate under the authority contained in such subsection.

Subsection (c) of the new section 820 sets forth special rules for the application of the general rule contained in subsection (a)(1) of the new section. In general, these rules provide that the income (including capital gains), reserves and assets, expenses, and policyholders dividends attributable to the portion of a policy reinsured under a modified coinsurance contract will be treated as the income, etc., of the reinsurer company, rather than of the reinsured company. The Secretary of the Treasury or his delegate is authorized to prescribe additional special rules.

The House recedes.

Amendment No. 58: This amendment, for which there is no corresponding provision in the House bill, amends section 6501(c) of the 1954 Code to extend the period during which the tax resulting from certain distributions, or from the termination as a life insurance company or as an insurance company, may be assessed. Under the amendment such period is not to expire before the expiration of the applicable 3-year period provided in the amendment.

The House recedes.

Amendment No. 60: This amendment adds a new subsection (i) to section 3 of the House bill. The new subsection (i) provides for the filing of income tax returns by life insurance companies, with respect to their 1958 income tax liabilities, on or before September 15, 1959 (in lieu of on or before March 15, 1959, as required by sec. 6072(b) of the 1954 Code). The returns made pursuant to the new subsection (i) are to constitute the returns for 1958 for all purposes of the 1954 Code. Under this amendment, all payments of tax made by life insurance companies prior to September 15, 1959, with respect to their 1958 income tax liabilities shall (to the extent such payments have not been credited or refunded) be deemed to be payments made on that date. Accordingly, no interest shall be payable on any underpayment or overpayment of 1958 income tax liabilities prior to that date. This amendment further provides that the full amount of any remaining 1958 income tax shall become due and payable on September 15, 1959.

The House recedes with clerical amendments.

W. D. MILLS,
AIME J. FORAND,
CECIL R. KING,
RICHARD M. SIMPSON,
N. M. MASON,
Managers on the Part of the House.