

New York State Department of Taxation and Finance
Taxpayer Services Division
Technical Services Bureau

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Corporation Tax
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Business Tax Reform and Rate Reduction Act of 1987
Article 33 - Franchise Taxes on Insurance Corporations

Introduction

Chapter 817 of the Laws of 1987 amended the franchise taxes on insurance corporations imposed by Article 33 of the Tax Law in order to return to taxpayers the windfall New York State would have received because of changes in the Federal taxation of insurance companies. The premiums tax on life insurance corporations imposed by Section 1510 of the Tax Law was reduced from 1 percent to .8 percent. For property and casualty insurance corporations, in computing the corporate franchise tax imposed by Section 1501 of the Tax Law, several adjustments are required to be made to entire net income to decouple from certain changes made to the Internal Revenue Code by the Federal Tax Reform Act of 1986 relating to unearned premiums and unpaid losses. Chapter 817 also made various technical and conforming amendments in response to the Federal Tax Reform Acts of 1984 and 1986.

New Deductions in Computing Entire Net Income -
Property and Casualty Insurance Corporations

Section 1503(b)(1) of the Tax Law was amended by adding six new subparagraphs (J) through (O) to decouple from certain changes made to the Internal Revenue Code by the Federal Tax Reform Act of 1986. New subparagraphs (J), (K), and (L) provide the subtraction modifications necessary to decouple from the Federal reduction in the deduction allowed for unearned premiums. New subparagraph (M) allows a deduction in computing entire net income for the amount of the recapture of "excess" unearned premiums included in federal taxable income as the result of sections 832(b)(4)(C) and 832(b)(7)(B)(ii) of the Internal Revenue Code. New subparagraph (N) provides the subtraction modification to decouple from the Federal provisions relating to the discounting of unpaid losses. New subparagraph (O) allows a deduction in computing entire net income for the amount by which the Federal deduction for losses incurred was reduced in accordance with section 832(b)(5)(B) of the Internal Revenue Code. These amendments to section 1503(b)(1) of the Tax Law are effective for taxable years beginning after December 31, 1986 and sunset January 1, 1992.

New Additions in Computing Entire Net Income -
Property and Casualty Insurance Corporations

Section 1503(b)(2) of the Tax Law was amended by adding four new subparagraphs (O) through (R) to provide the addition modifications to decouple from certain changes made to the Internal Revenue Code by the Federal Tax Reform Act of 1986. New subparagraphs (O), (P), and (Q) provide the addition modifications necessary to decouple from the Federal reduction in the deduction allowed for unearned premiums. New subparagraph (R) provides the addition modification to decouple from the Federal provisions relating to the discounting of unpaid losses. These amendments to section 1503(b)(2) of the Tax Law are effective for taxable years beginning after December 31, 1986 and sunset January 1, 1992.

Technical and Conforming Amendments

Chapter 817 of the Laws of 1987 made technical and conforming amendments with respect to life insurance corporations based on the Federal Tax Reform Act of 1984. Section 1503(a) has been amended to include in life insurance company taxable income the amount of any direct and indirect distributions to shareholders during the taxable year from an existing policyholders' surplus account. Similar amendments were made to sections 1503(b)(9)(B) and 1515(e)(1). Also with respect to life insurance corporations, section 1503(b)(1)(B) was amended to clarify that the deduction allowed for 50 percent of dividends from nonsubsidiaries is limited to the company's share of such dividends. Sections 1503(b)(2)(I), 1503(b)(4), and 1503(b)(9)(B) have been amended to reflect changes to cites in the Internal Revenue Code with respect to life insurance corporations. Section 1085(c)(2) of Article 27 of the Tax Law was added to conform with Federal provisions regarding the underpayment of estimated tax by mutual life insurance companies.

Generally, special provisions in the Internal Revenue Code concerning mutual insurance companies have been repealed. Sections 1503(a) and 1503(b)(4) have been amended to reflect the repeal of these provisions.

Chapter 817 of the Laws of 1987 also made technical and conforming changes applicable to all insurance corporations. Sections 1503(b)(1)(I), 1503(b)(2)(M) and (N), and 1503(b)(10) were amended to make changes pertaining to the treatment of property subject to section 168 of the Internal Revenue Code. Section 1503(a) was amended to state that entire net income includes any amount which the taxpayer is required to report to the United States treasury department, but not alternative minimum taxable income. Section 1515(e)(1), pertaining to returns, was amended to provide that if for federal income tax purposes, the amount of taxable income or alternative minimum taxable income is changed or corrected by the Internal Revenue Service, such change must be reported to New York State within 90 days after the final determination date.