

1991



Department of the Treasury
Internal Revenue Service

Instructions for Form 8390

Information Return for Determination of Life Insurance Company Earnings Rate Under Section 809

(Unless otherwise noted, all section references are to the Internal Revenue Code.)

Paperwork Reduction Act Notice.—We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping 57 hr., 52 min.

Learning about the law or the form 3 hr., 35 min.

Preparing and sending the form to the IRS 4 hr., 41 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to both the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; and the **Office of Management and Budget**, Paperwork Reduction Project (1545-0927), Washington, DC 20503. **DO NOT** send the tax form to either of these offices. Instead, see **When and Where To File**, below.

General Instructions

Purpose of Form.—Form 8390 is used to gather information regarding the earnings rates of the 50 largest domestic stock life insurance companies, as determined by the Secretary, and all mutual life insurance companies. This information is used to compute the "differential earnings rate," as defined in section 809(c), which affects the tax liability of all mutual life insurance companies.

Affiliated Groups.—All life insurance members of an affiliated group must cooperate in filing a single Form 8390. One member should be designated as the "lead company" to compute a single earnings rate for all members. Attach to Form 8390:

- A separate Part I completed for each life insurance member;
- A schedule explaining all adjustments made to eliminate double counting of items, e.g., intercorporate dividends or the value of the stock of a life insurance subsidiary; and
- A reconciliation for all items if the total of those items for the group as a whole differs from the sum of the totals of the individual members.

For purposes of Form 8390, an affiliated group is defined under section 1504(a) without regard to section 1504(b)(2). In general, affiliation status is determined as of

the last day of the tax year. Proper accounting must be made for changes in affiliation during a tax year. If two or more mutual life insurance companies own at least 80% of the stock of a single life insurance company, each mutual company must include its share of each item referred to in Part I from the subsidiary. In the case of a stock life insurance company described in section 809(h)(3), make appropriate adjustments on an eliminations schedule.

When and Where To File.—Form 8390 must be filed no later than September 30, 1992. File Form 8390 with the Internal Revenue Service, P.O. Box 3100, Church St. Station, New York, NY 10008, Attention: Group 1162, 13th floor.

Period Covered.—File the 1991 Form 8390 for calendar year 1991.

Method of Reporting.—Report all amounts on Form 8390 and the accompanying schedules in U.S. dollars. If converting from a foreign currency, attach a detailed explanation of how the conversion was figured.

All items must reflect both the general and separate accounts.

Amounts included in equity under section 809 generally refer to amounts shown on the NAIC Annual Statement. However, an item should not be classified or characterized on the annual statement in an attempt to avoid the requirements of section 809.

Penalties.—Any life insurance company failing to file on time, or to provide all information requested, may be subject to penalties under section 7203, and other penalties.

Signature.—The return must be signed and dated by the president, vice president, treasurer, assistant treasurer, chief accounting officer, or any other officer (such as tax officer) authorized to sign. A receiver, trustee, or assignee must sign and date any return required to be filed on behalf of a corporation.

When an affiliated group files Form 8390, only the "lead company" must sign the return.

If a corporate officer filled in Form 8390, the Paid Preparer's space under "Signature of officer" should remain blank. If someone prepares Form 8390 and does not charge the corporation, that person should not sign the return. Certain others who prepare Form 8390 should not sign. For example, a regular full-time employee of the corporation, such as a clerk or secretary, should not sign.

Generally, anyone who is paid to prepare Form 8390 must sign it and fill in the other blanks in the Paid Preparer's Use Only area of the return.

The preparer required to sign the return MUST complete the required preparer information and:

- Sign it, by hand, in the space provided for the preparer's signature. (Signature stamps or labels are not acceptable.)
- Give a copy of Form 8390 to the taxpayer in addition to the copy filed with the IRS.

Attachments.—If you need more space, attach additional sheets. Each attachment must show the corporation's name and identifying number, as well as the required information, and must follow the format of the form.

Specific Instructions

Address.—Include the suite, room, or other unit number after the street address. If the Post Office does not deliver mail to the street address and the corporation has a P.O. box, show the box number instead of the street address.

Item E.—Stock subsidiaries of mutual life insurance companies should check "Mutual."

Part I

Line 1.—Enter the amount from the Capital and Surplus Account of the NAIC Annual Statement. **Do not** include surplus notes.

Line 2.—Nonadmitted financial assets are financial assets that are not permitted to be included as part of the corporation's financial condition for state regulatory purposes. In general, this includes the sum of lines 1 through 10, column 3, Exhibit 13, from the NAIC Annual Statement. This also includes, at their fair market value, financial assets shown on Schedule X of the Annual Statement. Attach a schedule of all nonadmitted assets (both financial and nonfinancial) other than due and accrued investment income, investments in office furnishings or fixtures, or agents' balances owed to the corporation.

Line 3.—Enter the total (as reported on the corporation's Annual Statement) of the following items: **(1)** Life insurance reserves as defined in section 816(b); **(2)** Unearned premiums and unpaid losses included in total reserves under section 816(c)(2); **(3)** Amounts (discounted at the appropriate rate of interest) necessary to satisfy the obligations under insurance and annuity contracts that do not involve life, accident, or health contingencies (section 807(c)(3)); **(4)** Dividend accumulations and other amounts held at interest in connection with insurance and annuity contracts; **(5)** Premiums received in advance and liabilities for premium deposit funds; and **(6)** Reasonable special contingency reserves under contracts of group term life insurance or group accident and health insurance that are established and maintained for the provision of insurance on either retired lives or for premium stabilization, or both.

Line 4b.—Include reserves for due and unpaid premiums, as well as reserves for deferred and uncollected premiums, if the establishment of the reserve is not permitted under section 811(c).

Line 4c.—Enter the amount of reserves relating to items entered on lines 15a through 15c with respect to: **(1)** equity allocable to life insurance business in noncontiguous Western Hemisphere countries (section 809(g)(5)); **(2)** equity allocable to a contiguous country

branch (section 814(a)); and (3) reduction in equity base for a mutual successor of a fraternal benefit society. (section 217(j) of P.L. 98-369). Also, include any other adjustments to line 3 and attach a schedule showing those adjustments.

Lines 5 and 6.—See the instructions below for *Schedule A, Reserves*.

In determining the amount of tax reserves of a subsidiary of a mutual life insurance company for contracts issued before January 1, 1985, under a plan of life insurance in existence on July 1, 1983, the provision of section 811(d) regarding guaranteed interest payments in excess of the prevailing state assumed rate beyond the current tax year will not apply.

Line 10.—Attach a schedule showing the nature and amount of: (1) each voluntary reserve; and (2) any Annual Statement reserve that is: (a) not an item listed in section 807(c); (b) not part of the policyholder dividend reserve; (c) not a deficiency reserve included on line 4a; and (d) not included on line 10. For a stock life insurance company, any reserve treated as a voluntary reserve for the base period must be treated as a voluntary reserve for subsequent years unless there is a demonstrated change in circumstances.

Line 11.—Include 50% of the total Annual Statement provision for policyholder dividends to be paid in the following year, whether accrued or unaccrued for tax purposes at the end of the tax year. Policyholder dividends include excess interest, premium adjustments, and experience-rated refunds. Any Annual Statement provision for policyholder dividends payable after the close of the following tax year is treated as a voluntary reserve.

Line 12.—Attach a schedule showing the computation, where applicable, with appropriate line references to the NAIC Annual Statement.

Line 15b.—Enter an amount on this line only if an election has been made under section 814 (or section 819A of prior law).

Line 17.—Do not complete the rest of the form if the corporation is a stock company and the amount shown on line 17 is zero or a negative amount. However, be sure to sign the form.

Line 18a.—Enter the amount from the Summary of Operations section of the NAIC Annual Statement.

Line 18b.—Include all section 808 policyholder dividends (without regard to section 808(c)(2)) paid or accrued during the tax year. Do not include any amounts that were taken into account in determining the amount from the Annual Statement entered on line 18a.

Line 19.—Include in columns (a) and (b) all statutory reserves (including deficiency reserves) taken into account in determining gain or (loss) from operations on the NAIC Annual Statement. Do not include reserves for due and unpaid premiums or for deferred and uncollected premiums if the establishment of the reserves is not permitted under section

811(c). Subtract column (a) from column (b) and enter the difference in column (c).

Line 20.—Enter the amount from line 6, Part I, in columns (a) and (b). Subtract column (a) from column (b) and enter the difference in column (c).

Line 22.—Include realized capital gains and (losses) (as determined for NAIC Annual Statement purposes) only to the extent not included in statement gain or (loss) from operations in the current year or in previous years.

Line 23.—Other adjustments include any separate account net operating gains or (losses) and any other amounts for any item that is charged directly to the Capital and Surplus Account of the NAIC Annual Statement, but which could be taken as a deduction in computing life insurance company taxable income. Attach a schedule showing all computations.

Part II

Questions 1 through 5 refer to transactions occurring during the tax year.

Questions 1 and 2.—Do not include a coinsurance treaty covering new business of the ceding company which allocates expenses and income items between the ceding company and the reinsurer in the same proportion as the allocation of the risk and which contains no adjustment based on experience under the treaty.

Part III

For lines 2, 5, and 6, enter the average of the beginning and end of tax year amounts from Part I. For lines 3, 4, and 7, carry computations to three decimal places (thousandths).

Line 4.—To determine the amount to enter on line 4, follow these steps:

1. Divide the amount on Part I, line 24, by the amount on Part I, line 17.
2. Divide the result from the first step by the amount on Part III, line 3; and
3. Enter the result on line 4.

Schedule A—Reserves

Schedule A is used to report additional information concerning statutory reserves (Part I, line 5) and tax reserves (Part I, line 6) for the current year.

Do not further subdivide the uniform product categories and subcategories in this schedule by the different valuation characteristics separately reported on Exhibits 8 and 9 of the NAIC Annual Statement. If the reserves under a group of policies fit in one of the major product categories but it is not clear to which product subcategory the reserves belong, companies should consistently report the reserves under policies in the subcategory in which the company determines that the reserve most appropriately fits (this is based on similarity of valuation characteristics or, when valuation characteristics are not known, a reasonable allocation among appropriate product subcategories). Attach a description of the policies that do not fit in any particular

subcategory and an explanation of why the categorization reported is appropriate.

Calculation of Reserves.—In general, calculations of the tax reserves reported on Form 8390 must be made with the same degree of accuracy as calculations of tax reserves reported on **Form 1120L**, U.S. Life Insurance Company Income Tax Return.

Product Categories.—Uniform assumptions concerning paid-to dates and mode of premium payment may be made for all product types included in the same category. Reserves ceded under yearly renewable term reinsurance need only be stated in total in each category.

Category A. Individual Life Insurance Policies—List separately: term policies; permanent policies; flexible premium policies; paid-up and other nonpremium paying policies; and the reserves claimed for each type of supplemental benefit (section 807(e)(3)(D)). The reserves stated under the categories of term, permanent, or flexible premium policies must not include supplemental benefit reserves described in the immediately preceding sentence.

The reserves under the categories of permanent or flexible premium policies must be separately stated for policies issued in the year to which this return relates, the immediately preceding year, the second through ninth preceding years, and years before the ninth preceding year. For each of these issue date categories, the corresponding amount of insurance in force must be stated.

Category B. Group Life Insurance Policies—List separately: the death benefit reserve or the unearned premium reserve (however denominated); the reserves for extended death benefits, disability waiver of premium benefits, and other similar benefits; premium stabilization reserves; reserves for insurance continuance accounts for retired lives; and any reserve for group permanent and paid-up life insurance contracts.

Category C. Individual Annuity Contracts—List separately: unmatured fixed premium annuities; unmatured flexible premium and single premium deferred annuities; unmatured annuities issued pursuant to structured settlements (other than single pay immediate annuities); and immediate or matured fixed, flexible, or single premium annuities.

Category E. Individual Accident and Health Insurance—List separately: health care policies; long-term disability policies; and short-term disability policies. The reserves under the above categories must be separately stated for noncancelable and guaranteed renewable policies and other policies.

Category H. Supplementary Contracts—List separately: contracts involving life, accident, or health contingencies; and contracts not involving any such contingencies.

Category I. Miscellaneous—List in this category only those reserves that do not fall in categories A through H. Attach a description of the reserves placed in this category, along with an explanation of why the categorization is appropriate.