

(b) ADJUSTMENT WHERE SURPLUS ON UNITED STATES INSURANCE BUSINESS IS LESS THAN SPECIFIED MINIMUM.—

(1) **IN GENERAL.**—In the case of any foreign corporation described in subsection (a), if the minimum figure determined under paragraph (2) exceeds the surplus on its United States insurance business, then—

(A) the amount of the policy and other contract liability requirements (determined under section 805 without regard to this subsection), and

(B) the amount of the required interest (determined under section 809(a)(2) without regard to this subsection), shall each be reduced by an amount, hereinafter referred to as the amount of the adjustment, determined by multiplying such excess by the current earnings rate (as defined in section 805(b)(2)).

(2) DEFINITIONS.—For purposes of paragraph (1)—

(A) The minimum figure is the amount determined by multiplying the taxpayer's total insurance liabilities on United States insurance business by—

(i) in the case of a taxable year beginning before January 1, 1959, 9 percent, and

(ii) in the case of a taxable year beginning after December 31, 1958, a percentage for such year to be determined and proclaimed by the Secretary or his delegate.

The percentage determined and proclaimed by the Secretary or his delegate under clause (ii) shall be based on such data with respect to domestic life insurance companies for the preceding taxable year as the Secretary or his delegate considers representative. Such percentage shall be computed on the basis of a ratio the numerator of which is the excess of the assets over the total insurance liabilities, and the denominator of which is the total insurance liabilities,

(B) The surplus on United States insurance business is the excess of the assets reported for such taxpayer's United States insurance business over the total insurance liabilities on such business.

For purposes of this paragraph and subsection (c), the term "total insurance liabilities" means the sum of the total reserves (as defined in section 801(c)) plus (to the extent not included in total reserves) the items referred to in paragraphs (3), (4), and (5) of section 810(c).

(3) REDUCTION OF SECTION 881 TAX.—In the case of any foreign corporation described in subsection (a), there shall be determined—

(A) the amount of the income, prior to exemption of tax-exempt interest, which without regard to this paragraph or to such exemption would be subject to tax under section 881, and

(B) the amount of the adjustment referred to in paragraph (1) or the amount referred to in subparagraph (A) of this paragraph, whichever is the lesser, and

(C) the excess, if any, of the amount of tax payable under this part over the amount which would be payable if such tax were computed without regard to the minimum surplus adjustment provided in paragraph (1).