

The amount of tax determined without regard to this paragraph under section 881 (after giving effect to allowable exclusions and exemptions and to any treaty obligation of the United States) shall be reduced by an amount which is the same proportion of such tax as the amount referred to in subparagraph (B) is of the amount referred to in subparagraph (A), but the amount of such reduction shall not be greater than the amount of the excess referred to in subparagraph (C).

(c) DISTRIBUTION TO SHAREHOLDERS.—

(1) IN GENERAL.—In applying sections 802(b)(3) and 815, with respect to a foreign corporation described in subsection (a), the amount of the distributions to shareholders shall be determined by multiplying the total amount of the distributions to shareholders (within the meaning of section 815) of the foreign corporation by whichever of the following percentages is selected by the taxpayer for the taxable year:

(A) the percentage which the minimum figure for the taxable year (determined under subsection (b)(2)(A)) is of the excess of the assets of the company over the total insurance liabilities; or

(B) the percentage which the total insurance liabilities on United States insurance business for the taxable year is of the company's total insurance liabilities.

(2) DISTRIBUTIONS PURSUANT TO CERTAIN MUTUALIZATIONS.—In applying section 815(e) with respect to a foreign corporation described in subsection (a)—

(A) the paid-in capital and paid-in surplus referred to in section 815(e)(1)(A) of such foreign corporation is the portion of such capital and surplus determined by multiplying such capital and surplus by the percentage selected for the taxable year under paragraph (1); and

(B) the excess referred to in section 815(e)(2)(A)(i) (without the adjustment provided by section 815(e)(2)(B)) is whichever of the following is the greater:

(i) the minimum figure for 1958 determined under subsection (b)(2)(A), or

(ii) the surplus described in subsection (b)(2)(B) (determined as of December 31, 1958).

SUGGESTED REVISION OF SECTION 842

SEC. 842. FOREIGN CORPORATIONS CARRYING ON INSURANCE BUSINESS.

If a foreign corporation carrying on an insurance business within the United States would qualify with respect to its trade or business conducted within the United States under part I, II or III of this subchapter for the taxable year if it were a domestic corporation, it shall be taxable under such part (and not under section 882) on its income effectively connected with its conduct of any trade or business within the United States. With respect to the remainder of its income which is from sources within the United States, such a foreign corporation shall be taxable as provided in section 881.

(Explanation: H.R. 11297, as introduced, includes a wording in section 842 that seems to assume that the qualification test can