REV. PROC. 98-31

SECTION 1. PURPOSE

This revenue procedure provides the domestic asset/liability percentages and domestic investment yields needed by foreign life insurance companies and foreign property and liability insurance companies to compute their minimum effectively connected net investment income under section 842(b) of the Internal Revenue Code for taxable years beginning after December 31, 1996. Instructions are provided for computing foreign insurance companies' liabilities for the estimated tax and installment payments of estimated tax for taxable years beginning after December 31, 1996. For more specific guidance regarding the computation of the amount of net investment income to be included by a foreign insurance company on its U.S. income tax return, see Notice 89-96, 1989-2 C.B. 417. For the domestic asset/liability percentage and domestic investment yield, as well as instructions for computing foreign insurance companies' liabilities for estimated tax and installment payments of estimated tax for taxable years beginning after December 31, 1995, see Rev. Proc. 97-16, 1997-5 I.R.B. 25.

SECTION 2. CHANGES

.01 DOMESTIC ASSET/LIABILITY PERCENTAGES FOR 1997. The Secretary determines the domestic asset/liability percentage separately for life insurance companies and property and liability insurance companies. For the first taxable year beginning after December 31, 1996, the relevant domestic asset/liability percentages are:

117.3 percent for foreign life insurance companies, and
174.9 percent for foreign property and liability insurance companies.

.02 DOMESTIC INVESTMENT YIELDS FOR 1997. The Secretary is required to prescribe separate domestic investment yields for foreign life insurance companies and for foreign property and liability insurance companies. For the first taxable year beginning after December 31, 1996, the relevant domestic investment yields are:

7.5 percent for foreign life insurance companies, and
5.9 percent for foreign property and liability insurance companies.

.03 SOURCE OF DATA FOR 1997. The 842(b) percentages to be used for the 1997 tax year are based on tax return data. For recent years prior to 1997, the asset/liability percentage for life insurance companies was based upon annual statement data while the domestic investment yield was based upon tax return data. Both the asset/liability percentage and the domestic investment yield for property and liability companies have been based upon tax return data for several years. The use of tax return data provides asset/liability percentages that are more consistent with the domestic investment yield that is also based on tax return data. The tax return data needed to calculate asset/liability percentages have been available for several years, however, the conversion from annual statement to tax data had been delayed until the time that the switch was favorable to taxpayers. Taxable year 1997 is the first year since the availability of tax-return based, asset/liability data that the switch would be favorable to taxpayers. All percentages for future tax years will be based on tax return data.

With regard to future updates of the section 842(b) percentages, the Service is considering the use of statistical sampling techniques to collect data from the tax returns of domestic insurance companies. The sampling technique under consideration is the same used to select insurance company tax returns in IRS Statistics Division's Publication 16. Section 3 of that publication describes the sampling procedure. The Service solicits comments addressing the use of this statistical sampling technique to calculate the section 842(b) percentages from tax data. Comments may be addressed to CC:DOM:CORP:R (Rev. Proc. 98-31), Room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. In the alternative, comments may be hand-delivered between the hours of 8 a.m. and 5 p.m. to CC:DOM:CORP:R (Rev. Proc. 98-31), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW, Washington, DC.

SECTION 3. APPLICATION--ESTIMATED TAXES

To compute estimated tax and the installment payments of estimated tax due for taxable years beginning after December 31, 1996, a foreign insurance company must compute its estimated tax payments by adding to its income other than net investment income the greater of (i) its net investment income as determined under section 842(b)(5), that is actually effectively connected with the conduct of a trade or business within the United States for the relevant period, or (ii) the minimum effectively connected net investment income under section 842(b) that would result from using the most recently available domestic asset/liability percentage and domestic investment yield. Thus, for installment payments due after the release of this revenue procedure, the domestic asset/liability percentages and the domestic investment yields provided in this revenue procedure must be used to compute the minimum effectively connected net investment income. However, if the due date of an installment is less than 20 days after the date this revenue procedure is published in the Internal Revenue Bulletin, the asset/liability percentages and domestic investment yields provided in Rev. Proc. 97-16 may be used to compute the minimum effectively connected net investment income for such installment. For further guidance in computing estimated tax, see Notice 89-96.

SECTION 4. EFFECTIVE DATE

This revenue procedure is effective for taxable years beginning after December 31, 1996.

DRAFTING INFORMATION

The principal author of this revenue procedure is Roger M. Brown of the Office of the Associate Chief Counsel (International). For further information regarding this revenue procedure, please contact Mr. Brown at (202) 622-3870 (not a toll-free call), or write to the Internal Revenue Service, Office of the Associate Chief Counsel (International), 1111 Constitution Avenue, NW, Washington, DC 20224, Attention: CC:INTL:Br5, Room 4562.