

Instructions for Form 8390

(Rev. April 2004)



Department of the Treasury
Internal Revenue Service

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

Section references are to the Internal Revenue Code unless otherwise noted.

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 (stock companies), as determined by the IRS, and all domestic mutual life insurance companies (mutual companies).

Note. Mutual life insurance companies are not required to file Form 8390 for 2001 or 2003. Stock life insurance companies are not required to file Form 8390 for 2004.

This information is used to compute the "differential earnings rate," as defined in section 809(c), which affects the tax liability of all mutual 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 for each 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 Form 8390, an affiliated group is defined under section 1504(a) without regard to section 1504(b)(2). In general, affiliation status is figured 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 companies own at least 80% of the stock of a single life insurance company, each mutual company must include its share of each item from the subsidiary (referred to in Part I). In the case of a stock company described in section 809(h)(3), make appropriate adjustments on an eliminations schedule.

When To File

Form 8390 must be filed no later than the due dates in the table below.

Year	Type of Company	Due Date
2001	Stock Companies	July 1, 2004
2002	Stock and Mutual Companies	July 1, 2004
2003	Stock Companies	October 1, 2004
2004	Mutual Companies	October 1, 2005

Where To File

File Form 8390 with the:
Internal Revenue Service
P.O. Box 5137, Grand Central Station
Attention: Group 1169, 6th Floor
New York, NY 10163

Period Covered

File Form 8390 for calendar year 2001, 2002, 2003, or 2004. Complete a separate Form 8390 for each applicable year. Check the appropriate box in Item F to indicate the year for which the Form 8390 is being filed.

Method of Reporting

Report all amounts on the form and schedules in U.S. dollars. Attach a detailed explanation if converting from a foreign currency.

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 (the 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 provide all information requested may be subject to penalties under section 7203 as well as other penalties.

Who Must Sign

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.

Where a return is made for a corporation by a receiver, trustee or assignee, the fiduciary must sign the return, instead of the corporate officer. Returns and forms signed by a receiver or trustee in bankruptcy on behalf of a corporation must be accompanied by a copy of the order or instructions of the court authorizing signing of the return or form.

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

If a corporate officer completes Form 8390, the paid preparer's space should remain blank. Anyone who prepares Form 8390 but does not charge the corporation should not sign the return. Generally, anyone who is paid to prepare the return must sign it and fill in the "Paid Preparer's Use Only" area.

The paid preparer must complete the required preparer information and:

- Sign the return in the space provided for the preparer's signature.
- Give a copy of the return to the taxpayer.

Attachments

If more space is needed, 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.

Item E

Stock subsidiaries of mutual life insurance companies should not check "Mutual."

Part I Earnings Rate

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

Line 2. Nonadmitted financial assets are financial assets not permitted to be included as part of the corporation's financial condition for state regulatory purposes.

Generally, for 2001 and 2002, the amount entered on line 2 includes the sum of lines 1 through 10, column 2, of the "Assets" section of the Annual Statement. For 2003 and 2004, the amount entered on line 2, generally, includes the sum of lines 1 through 9, column 2, of the "Assets" section of the Annual Statement. This also includes, at their fair market value, financial assets shown on 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 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 not involving life, accident, or health contingencies;
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 related to items entered on lines 14a through 14c. Also, include any other adjustments to line 3 and attach a schedule showing those adjustments.

Lines 5 and 6. See the instructions for Schedule A Reserves on page 3.

Line 10. Attach a schedule showing the nature and amount of:

1. Each voluntary reserve, and
2. Any Annual Statement reserve that is not:
 - a. An item listed in section 807(c),
 - b. Part of the policyholder dividend reserve,
 - c. A deficiency reserve included on line 4a, and
 - d. Included on line 10.

For a stock 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. 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. For purposes of section 809, the equity base of any foreign mutual company as of the close of any tax year must be increased by the excess of:

1. The required U.S. assets of the company (determined under section 842(b)(2)), over
2. The mean of the assets held in the United States during the tax year.

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

Line 14a. The equity base of any mutual company must be reduced by an amount equal to the portion of the equity base attributable to the life insurance business multiplied by a fraction:

1. The numerator of which is the portion of the tax reserves that is allocable to life insurance contracts issued on the life of residents of countries in the Western Hemisphere that are not contiguous to the United States, and
2. The denominator of which is the amount of the tax reserves allocable to life insurance contracts.

The equity base reduction does not have to be made unless the fraction determined above exceeds 1/20.

Line 14b. Enter an amount on this line only if an election has been made under section 814 (or section 819A of prior law).

Line 17a. Enter the amount from page 4, line 29 of the Summary of Operations section of the Annual Statement.

Line 17b. 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 taken into account in determining the amount from the Annual Statement entered on line 17a.

Line 17e. Enter the amount of the amortization of the interest maintenance reserve (IMR) from line 4, column 1, of the Summary of Operations section of the Annual Statement.

Line 18. Include in columns (a) and (b) all statutory reserves (including deficiency reserves) taken into account in determining gain or (loss) from operations on the 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).

Line 21. Include realized capital gains and (losses) (generally as determined for Annual Statement purposes) only to the extent not included in Annual Statement gain or (loss) from operations in the current year or in previous years.

Line 22. Other adjustments include any separate account net operating gains or (losses) and any other amounts for any item charged directly to the Capital and Surplus Account of the Annual Statement, but which could be taken as a deduction in computing life insurance company taxable income. Attach a schedule showing all computations.

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.

Statutory reserves means the total amount included in the Annual Statement for items described in section 807(c). Such term must not include any reserve attributable to a deferred and uncollected premium if the establishment of such reserve is not permitted under section 811(c).

Tax reserves means the total of the items described in section 807(c) as determined for purposes of section 807.

In determining the amount of tax reserves of a subsidiary of a mutual 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.

Do not subdivide the uniform product categories and subcategories in this schedule by the different valuation

characteristics separately reported on Exhibits 8 and 9 of the 2001 Annual Statement, or Exhibits 5 and 6 of the 2002, 2003, and 2004, Annual Statement. If the reserves under a group of policies clearly fit in a major product category but not in a product subcategory under that category, report the reserves in the most appropriate subcategory. When determining the most appropriate category, choose a subcategory that has similar valuation characteristics. If the valuation characteristics are unknown, use a reasonable allocation method to allocate among the appropriate product subcategories. Attach a description of the policies allocated with an explanation of why the allocation is appropriate.

Calculation of Reserves. The tax reserves reported in the subcategories under categories A through I of Schedule A, must be calculated as accurately as those on Form 1120-L, 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. The reserves under the subcategories of term, permanent, or flexible premium policies must not include supplemental benefit reserves described in section 807(e)(3)(D).

The reserves under the subcategories of permanent or flexible premium policies (lines 2 and 3) must be separately stated for policies issued in the year to which this return relates, the immediately preceding year, the 2nd through 9th preceding years, and years before the 9th preceding year. On lines 2a through 2d and lines 3a through 3d, state the corresponding amount of insurance in force.

Category I. Miscellaneous. List 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 category is appropriate.

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.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

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

Recordkeeping	58 hr., 35 min.
Learning about the law or the form	2 hr., 28 min.
Preparing and sending the form to the IRS	3 hr., 33 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can write to the Tax Products Coordinating Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. Do not send the tax form to this address. Instead, see Where To File on page 1.
