

Part III

Administrative, Procedural, and Miscellaneous

26 CFR 1.601-105: Examination of returns and claims for refund, credit or abatement; determination of tax liability

Rev. Proc. 2006-39

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, 2004. 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, 2004. 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, 2003, see Rev. Proc. 2005-64, 2005-36 I.R.B. 492.

SECTION 2. CHANGES

.01 DOMESTIC ASSET/LIABILITY PERCENTAGES FOR 2005. 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, 2004, the relevant domestic asset/liability percentages

are:

133.5 percent for foreign life insurance companies, and

181.6 percent for foreign property and liability insurance companies.

.02 DOMESTIC INVESTMENT YIELDS FOR 2005. 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, 2004, the relevant domestic investment yields are:

5.8 percent for foreign life insurance companies, and

3.8 percent for foreign property and liability insurance companies.

.03 SOURCE OF DATA FOR 2005. The section 842(b) percentages to be used for the 2005 tax year are based on tax return data following the same methodology used for the 2004 year.

SECTION 3. APPLICATION – ESTIMATED TAXES

To compute estimated tax and the installment payments of estimated tax due for taxable years beginning after December 31, 2004, 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 publication 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. 2005-64 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,

2004.

SECTION 5. DRAFTING INFORMATION

The principal author of this revenue procedure is Gregory A. Spring of the Office of Chief Counsel (International). For further information regarding this revenue procedure, contact Gregory A. Spring at (202) 622-3870 (not a toll-free call), or write to the Internal Revenue Service, Office of the Associate Chief Counsel (International), Attention: CC:INTL:BR5, 1111 Constitution Avenue, N.W., IR-4554, Washington, D.C. 20224.