

and loan institutions and similar financial institutions and, not later than Jan. 1, 1990, report to Congress, prior to repeal by Pub. L. 101-508, title XI, §11832(5), Nov. 5, 1990, 104 Stat. 1388-559.

### § 860B. Taxation of holders of regular interests

#### (a) General rule

In determining the tax under this chapter of any holder of a regular interest in a REMIC, such interest (if not otherwise a debt instrument) shall be treated as a debt instrument.

#### (b) Holders must use accrual method

The amounts includible in gross income with respect to any regular interest in a REMIC shall be determined under the accrual method of accounting.

#### (c) Portion of gain treated as ordinary income

Gain on the disposition of a regular interest shall be treated as ordinary income to the extent such gain does not exceed the excess (if any) of—

- (1) the amount which would have been includible in the gross income of the taxpayer with respect to such interest if the yield on such interest were 110 percent of the applicable Federal rate (as defined in section 1274(d) without regard to paragraph (2) thereof) as of the beginning of the taxpayer's holding period, over
- (2) the amount actually includible in gross income with respect to such interest by the taxpayer.

#### (d) Cross reference

**For special rules in determining inclusion of original issue discount on regular interests, see section 1272(a)(6).**

(Added Pub. L. 99-514, title VI, §671(a), Oct. 22, 1986, 100 Stat. 2309.)

### § 860C. Taxation of residual interests

#### (a) Pass-thru of income or loss

##### (1) In general

In determining the tax under this chapter of any holder of a residual interest in a REMIC, such holder shall take into account his daily portion of the taxable income or net loss of such REMIC for each day during the taxable year on which such holder held such interest.

##### (2) Daily portion

The daily portion referred to in paragraph (1) shall be determined—

- (A) by allocating to each day in any calendar quarter its ratable portion of the taxable income (or net loss) for such quarter, and
- (B) by allocating the amount so allocated to any day among the holders (on such day) of residual interests in proportion to their respective holdings on such day.

#### (b) Determination of taxable income or net loss

For purposes of this section—

##### (1) Taxable income

The taxable income of a REMIC shall be determined under an accrual method of accounting and, except as provided in regulations, in the same manner as in the case of an individual, except that—

(A) regular interests in such REMIC (if not otherwise debt instruments) shall be treated as indebtedness of such REMIC,

(B) market discount on any market discount bond shall be included in gross income for the taxable years to which it is attributable as determined under the rules of section 1276(b)(2) (and sections 1276(a) and 1277 shall not apply),

(C) there shall not be taken into account any item of income, gain, loss, or deduction allocable to a prohibited transaction,

(D) the deductions referred to in section 703(a)(2) (other than any deduction under section 212) shall not be allowed, and

(E) the amount of the net income from foreclosure property (if any) shall be reduced by the amount of the tax imposed by section 860G(c).

#### (2) Net loss

The net loss of any REMIC is the excess of—

- (A) the deductions allowable in computing the taxable income of such REMIC, over
- (B) its gross income.

Such amount shall be determined with the modifications set forth in paragraph (1).

#### (c) Distributions

Any distribution by a REMIC—

(1) shall not be included in gross income to the extent it does not exceed the adjusted basis of the interest, and

(2) to the extent it exceeds the adjusted basis of the interest, shall be treated as gain from the sale or exchange of such interest.

#### (d) Basis rules

##### (1) Increase in basis

The basis of any person's residual interest in a REMIC shall be increased by the amount of the taxable income of such REMIC taken into account under subsection (a) by such person with respect to such interest.

##### (2) Decreases in basis

The basis of any person's residual interest in a REMIC shall be decreased (but not below zero) by the sum of the following amounts:

- (A) any distributions to such person with respect to such interest, and
- (B) any net loss of such REMIC taken into account under subsection (a) by such person with respect to such interest.

#### (e) Special rules

##### (1) Amounts treated as ordinary

Any amount taken into account under subsection (a) by any holder of a residual interest in a REMIC shall be treated as ordinary income or ordinary loss, as the case may be.

##### (2) Limitation on losses

###### (A) In general

The amount of the net loss of any REMIC taken into account by a holder under subsection (a) with respect to any calendar quarter shall not exceed the adjusted basis of such holder's residual interest in such REMIC as of the close of such calendar quarter (determined without regard to the adjustment under subsection (d)(2)(B) for such calendar quarter).