

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 853. Foreign tax credit allowed to shareholders

(a) General rule

A regulated investment company—

(1) more than 50 percent of the value (as defined in section 851(c)(4)) of whose total assets at the close of the taxable year consists of stock or securities in foreign corporations, and

(2) which meets the requirements of section 852(a) for the taxable year,

may, for such taxable year, elect the application of this section with respect to income, war profits, and excess profits taxes described in section 901(b)(1), which are paid by the investment company during such taxable year to foreign countries and possessions of the United States.

(b) Effect of election

If the election provided in subsection (a) is effective for a taxable year—

(1) the regulated investment company—

(A) shall not, with respect to such taxable year, be allowed a deduction under section 164(a) or a credit under section 901 for taxes to which subsection (a) is applicable, and

(B) shall be allowed as an addition to the dividends paid deduction for such taxable year the amount of such taxes;

(2) each shareholder of such investment company shall—

(A) include in gross income and treat as paid by him his proportionate share of such taxes, and

(B) treat as gross income from sources within the respective foreign countries and possessions of the United States, for purposes of applying subpart A of part III of subchapter N, the sum of his proportionate share of such taxes and the portion of any dividend paid by such investment company which represents income derived from sources within foreign countries or possessions of the United States.

(c) Statements to shareholders

The amounts to be treated by the shareholder, for purposes of subsection (b)(2), as his proportionate share of—

(1) taxes paid to any foreign country or possession of the United States, and

(2) gross income derived from sources within any foreign country or possession of the United States,

shall not exceed the amounts so reported by the company in a written statement furnished to such shareholder.

(d) Manner of making election

The election provided in subsection (a) shall be made in such manner as the Secretary may prescribe by regulations.

(e) Treatment of certain taxes not allowed as a credit under section 901

This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of subsection (k) or (l) of such section.

(f) Cross references

(1) For treatment by shareholders of taxes paid to foreign countries and possessions of the United States, see section 164(a) and section 901.

(2) For definition of foreign corporation, see section 7701(a)(5).

(Aug. 16, 1954, ch. 736, 68A Stat. 272; Pub. L. 88-272, title II, § 229(a)(3), Feb. 26, 1964, 78 Stat. 99; Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99-514, title VI, § 655(a)(3), Oct. 22, 1986, 100 Stat. 2299; Pub. L. 105-34, title X, § 1053(b), Aug. 5, 1997, 111 Stat. 943; Pub. L. 105-206, title VI, § 6010(k)(1), (2), July 22, 1998, 112 Stat. 815; Pub. L. 109-135, title IV, § 403(aa)(1), Dec. 21, 2005, 119 Stat. 2630; Pub. L. 111-325, title III, § 301(c), Dec. 22, 2010, 124 Stat. 3544.)

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-325, § 301(c)(1)(B), substituted “Statements” for “Notice” in heading.

Pub. L. 111-325, § 301(c)(1)(A), which directed amendment by substituting “so reported by the company in a written statement furnished to such shareholder” for “so designated by the company in a written notice mailed to its shareholders not later than 60 days after the close of the taxable year”, was executed by making the substitution for “so designated by the company in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year” in concluding provisions to reflect the probable intent of Congress.

Subsec. (d). Pub. L. 111-325, § 301(c)(2), struck out “and notifying shareholders” after “election” in heading and “and the notice to shareholders required by subsection (c)” after “subsection (a)” in text.

2005—Subsec. (e). Pub. L. 109-135 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of section 901(k).”

1998—Subsec. (c). Pub. L. 105-206, § 6010(k)(2), struck out at end “Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k).”

Subsecs. (e), (f). Pub. L. 105-206, § 6010(k)(1), added subsec. (e) and redesignated former subsec. (e) as (f).

1997—Subsec. (c). Pub. L. 105-34 inserted at end “Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901(a) to the regulated investment company by reason of section 901(k).”

1986—Subsec. (c). Pub. L. 99-514 substituted “60 days” for “45 days”.

1976—Subsec. (d). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1964—Subsec. (c). Pub. L. 88-272 substituted “45 days” for “30 days”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-325 applicable to taxable years beginning after Dec. 22, 2010, see section 301(h) of Pub. L. 111-325, set out as a note under section 852 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of

2004, Pub. L. 108-357, to which such amendment relates, see section 403(nm) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1053(c), Aug. 5, 1997, 111 Stat. 943, provided that: “The amendments made by this section [amending this section and section 901 of this title] shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Oct. 22, 1986, see section 655(b) of Pub. L. 99-514, set out as a note under section 852 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years of regulated investment companies ending on or after Feb. 26, 1964, see section 229(c) of Pub. L. 88-272, set out as a note under section 852 of this title.

§ 853A. Credits from tax credit bonds allowed to shareholders

(a) General rule

A regulated investment company—

(1) which holds (directly or indirectly) one or more tax credit bonds on one or more applicable dates during the taxable year, and

(2) which meets the requirements of section 852(a) for the taxable year (determined after the application of this section),

may elect the application of this section with respect to some or all of the credits allowable (determined without regard to this section and sections 54(c), 54A(c)(1), 54AA(c)(1), and 1397E(c)) to the investment company during such taxable year with respect to such bonds.

(b) Effect of election

If the election provided in subsection (a) is in effect with respect to any credits for any taxable year—

(1) the regulated investment company—

(A) shall not be allowed such credits,

(B) shall include in gross income (as interest) for such taxable year the amount which would have been so included with respect to such credits had the application of this section not been elected,

(C) shall include in earnings and profits the amount so included in gross income, and

(D) shall be treated as making one or more distributions of money with respect to its stock equal to the amount of such credits on the date or dates (on or after the applicable date for any such credit) during such taxable year (or following the close of the taxable year pursuant to section 855) selected by the company, and

(2) each shareholder of such investment company shall—

(A) be treated as receiving such shareholder's proportionate share of any distribution

of money which is treated as made by such investment company under paragraph (1)(D), and

(B) be allowed credits against the tax imposed by this chapter equal to the amount of such distribution, subject to the provisions of this title applicable to the credit involved.

(c) Statements¹ to shareholders

The amount treated as a distribution of money received by a shareholder under subsection (b)(2)(A) (and as credits allowed to such shareholder under subsection (b)(2)(B)) shall not exceed the amount so reported by the regulated investment company in a written statement furnished to such shareholder.

(d) Manner of making election

The election provided in subsection (a) shall be made in such manner as the Secretary may prescribe.

(e) Definitions and special rules

(1) Definitions

For purposes of this subsection—

(A) Tax credit bond

The term “tax credit bond” means—

(i) a qualified tax credit bond (as defined in section 54A(d)),

(ii) a build America bond (as defined in section 54AA(d)) other than a qualified bond described in section 54AA(g), and

(iii) any bond for which a credit is allowable under subpart H of part IV of subchapter A of this chapter.

(B) Applicable date

The term “applicable date” means—

(i) in the case of a qualified tax credit bond or a bond described in subparagraph (A)(iii), any credit allowance date (as defined in section 54A(e)(1)), and

(ii) in the case of a build America bond (as defined in section 54AA(d)), any interest payment date (as defined in section 54AA(e)).

(2) Stripped tax credit bonds

If the ownership of a tax credit bond is separated from the credit with respect to such bond, subsection (a) shall be applied by reference to the instruments evidencing the entitlement to the credit rather than the tax credit bond.

(f) Regulations, etc.

The Secretary shall prescribe such regulations or other guidance as may be necessary or appropriate to carry out the purposes of this section, including methods for determining a shareholder's proportionate share of credits.

(Added Pub. L. 111-5, div. B, title I, §1541(a), Feb. 17, 2009, 123 Stat. 360; amended Pub. L. 111-325, title III, §301(d), Dec. 22, 2010, 124 Stat. 3544; Pub. L. 113-295, div. A, title II, §209(h), Dec. 19, 2014, 128 Stat. 4029.)

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, §209(h)(2), in concluding provisions, substituted “with respect to some

¹ See 2010 Amendment note below.