

Pub. L. 105-34, set out as a note under section 817 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1006(n)(2)(C), Nov. 10, 1988, 102 Stat. 3415, provided that: "Subparagraph (C) of section 851(b)(3) of the 1986 Code (as amended by subparagraph (A)), and the amendment made by subparagraph (B) [amending this section], shall apply to taxable years beginning after the date of the enactment of this Act [Nov. 10, 1988]."

Amendment by section 1006(m), (n)(1), (2)(A), (4), (5), (o) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title VI, §652(c), Oct. 22, 1986, 100 Stat. 2297, provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after December 31, 1986."

Pub. L. 99-514, title VI, §653(d), Oct. 22, 1986, 100 Stat. 2298, provided that: "The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 1986]."

Pub. L. 99-514, title VI, §654(b), Oct. 22, 1986, 100 Stat. 2298, provided that:

"(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 1986].

"(2) TREATMENT OF CERTAIN EXISTING SERIES FUNDS.—In the case of a regulated investment company which has more than one fund on the date of the enactment of this act, and has before such date been treated for Federal income tax purposes as a single corporation—

"(A) the amendment made by subsection (a), and the resulting treatment of each fund as a separate corporation, shall not give rise to the realization or recognition of income or loss by such regulated investment company, its funds, or its shareholders, and

"(B) the tax attributes of such regulated investment company shall be appropriately allocated among its funds."

Amendment by section 1235(f)(3) of Pub. L. 99-514 applicable to taxable years of foreign corporations beginning after Dec. 31, 1986, see section 1235(h) of Pub. L. 99-514, set out as an Effective Date note under section 1291 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1982, with certain exceptions, see section 1071(a)(5) of Pub. L. 98-369, set out as a note under section 852 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §701(s)(3), Nov. 6, 1978, 92 Stat. 2911, provided that: "The amendments made by this section [amending this section and section 852 of this title] shall apply to taxable years beginning after December 31, 1975."

Amendment by Pub. L. 95-345 applicable with respect to amounts received after Dec. 31, 1976, as payments with respect to securities loans (as defined in section 512(a)(5) of this title), and transfers of securities, under agreements described in section 1058 of this title, occurring after such date, see section 2(e) of Pub. L. 95-345, set out as a note under section 509 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(109) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94-12 applicable to taxable years of foreign corporations beginning after Dec. 31, 1975, and to taxable years of United States shareholders (within the meaning of section 951(b) of this title) with which or with which such taxable years of such foreign corporations end, see section 602(f) of Pub. L. 94-12, set out as an Effective Date note under section 955 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, §908(b), Dec. 30, 1969, 83 Stat. 718, provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years of unit investment trusts ending after December 31, 1968, and to taxable years of holders of interests in such trusts ending with or within such taxable years of such trusts. The enactment of this section shall not be construed to result in the realization of gain or loss by any unit investment trust or by any holder of an interest in a unit investment trust."

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85-866, set out as a note under section 165 of this title.

§ 852. Taxation of regulated investment companies and their shareholders

(a) Requirements applicable to regulated investment companies

The provisions of this part (other than subsection (c) of this section) shall not be applicable to a regulated investment company for a taxable year unless—

(1) the deduction for dividends paid during the taxable year (as defined in section 561, but without regard to capital gain dividends) equals or exceeds the sum of—

(A) 90 percent of its investment company taxable income for the taxable year determined without regard to subsection (b)(2)(D); and

(B) 90 percent of the excess of (i) its interest income excludable from gross income under section 103(a) over (ii) its deductions disallowed under sections 265, 171(a)(2), and

(2) either—

(A) the provisions of this part applied to the investment company for all taxable years ending on or after November 8, 1983, or

(B) as of the close of the taxable year, the investment company has no earnings and profits accumulated in any taxable year to which the provisions of this part (or the corresponding provisions of prior law) did not apply to it.

The Secretary may waive the requirements of paragraph (1) for any taxable year if the regulated investment company establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4982.

(b) Method of taxation of companies and shareholders

(1) Imposition of tax on regulated investment companies

There is hereby imposed for each taxable year upon the investment company taxable in-

come of every regulated investment company a tax computed as provided in section 11, as though the investment company taxable income were the taxable income referred to in section 11. In the case of a regulated investment company which is a personal holding company (as defined in section 542) or which fails to comply for the taxable year with regulations prescribed by the Secretary for the purpose of ascertaining the actual ownership of its stock, such tax shall be computed at the highest rate of tax specified in section 11(b).

(2) Investment company taxable income

The investment company taxable income shall be the taxable income of the regulated investment company adjusted as follows:

(A) There shall be excluded the amount of the net capital gain, if any.

(B) The net operating loss deduction provided in section 172 shall not be allowed.

(C) The deductions for corporations provided in part VIII (except section 248) in subchapter B (section 241 and following, relating to the deduction for dividends received, etc.) shall not be allowed.

(D) the¹ deduction for dividends paid (as defined in section 561) shall be allowed, but shall be computed without regard to capital gain dividends and exempt-interest dividends.

(E) The taxable income shall be computed without regard to section 443(b) (relating to computation of tax on change of annual accounting period).

(F) The taxable income shall be computed without regard to section 454(b) (relating to short-term obligations issued on a discount basis) if the company so elects in a manner prescribed by the Secretary.

(G) There shall be deducted an amount equal to the tax imposed by subsections (d)(2) and (i) of section 851 for the taxable year.

(3) Capital gains

(A) Imposition of tax

There is hereby imposed for each taxable year in the case of every regulated investment company a tax, determined as provided in section 1201(a), on the excess, if any, of the net capital gain over the deduction for dividends paid (as defined in section 561) determined with reference to capital gain dividends only.

(B) Treatment of capital gain dividends by shareholders

A capital gain dividend shall be treated by the shareholders as a gain from the sale or exchange of a capital asset held for more than 1 year.

(C) Definition of capital gain dividend

For purposes of this part—

(i) In general

Except as provided in clause (ii), a capital gain dividend is any dividend, or part thereof, which is reported by the company

as a capital gain dividend in written statements furnished to its shareholders.

(ii) Excess reported amounts

If the aggregate reported amount with respect to the company for any taxable year exceeds the net capital gain of the company for such taxable year, a capital gain dividend is the excess of—

(I) the reported capital gain dividend amount, over

(II) the excess reported amount which is allocable to such reported capital gain dividend amount.

(iii) Allocation of excess reported amount

(I) In general

Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported capital gain dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported capital gain dividend amount bears to the aggregate reported amount.

(II) Special rule for noncalendar year taxpayers

In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting “post-December reported amount” for “aggregate reported amount” and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

(iv) Definitions

For purposes of this subparagraph—

(I) Reported capital gain dividend amount

The term “reported capital gain dividend amount” means the amount reported to its shareholders under clause (i) as a capital gain dividend.

(II) Excess reported amount

The term “excess reported amount” means the excess of the aggregate reported amount over the net capital gain of the company for the taxable year.

(III) Aggregate reported amount

The term “aggregate reported amount” means the aggregate amount of dividends reported by the company under clause (i) as capital gain dividends for the taxable year (including capital gain dividends paid after the close of the taxable year described in section 855).

(IV) Post-December reported amount

The term “post-December reported amount” means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

¹ So in original. Probably should be capitalized.

(v) Adjustment for determinations

If there is an increase in the excess described in subparagraph (A) for the taxable year which results from a determination (as defined in section 860(e)), the company may, subject to the limitations of this subparagraph, increase the amount of capital gain dividends reported under clause (i).

(vi) Special rule for losses late in the calendar year

For special rule for certain losses after October 31, see paragraph (8).

(D) Treatment by shareholders of undistributed capital gains

(i) Every shareholder of a regulated investment company at the close of the company's taxable year shall include, in computing his long-term capital gains in his return for his taxable year in which the last day of the company's taxable year falls, such amount as the company shall designate in respect of such shares in a written notice mailed to its shareholders at any time prior to the expiration of 60 days after close of its taxable year, but the amount so includible by any shareholder shall not exceed that part of the amount subjected to tax in subparagraph (A) which he would have received if all of such amount had been distributed as capital gain dividends by the company to the holders of such shares at the close of its taxable year.

(ii) For purposes of this title, every such shareholder shall be deemed to have paid, for his taxable year under clause (i), the tax imposed by subparagraph (A) on the amounts required by this subparagraph to be included in respect of such shares in computing his long-term capital gains for that year; and such shareholder shall be allowed credit or refund, as the case may be, for the tax so deemed to have been paid by him.

(iii) The adjusted basis of such shares in the hands of the shareholder shall be increased, with respect to the amounts required by this subparagraph to be included in computing his long-term capital gains, by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).

(iv) In the event of such designation the tax imposed by subparagraph (A) shall be paid by the regulated investment company within 30 days after close of its taxable year.

(v) The earnings and profits of such regulated investment company, and the earnings and profits of any such shareholder which is a corporation, shall be appropriately adjusted in accordance with regulations prescribed by the Secretary.

(E) Certain distributions

In the case of a distribution to which section 897 does not apply by reason of the second sentence of section 897(h)(1), the amount of such distribution which would be included in computing long-term capital gains for the shareholder under subparagraph (B) or (D) (without regard to this subparagraph)—

(i) shall not be included in computing such shareholder's long-term capital gains, and

(ii) shall be included in such shareholder's gross income as a dividend from the regulated investment company.

(4) Loss on sale or exchange of stock held 6 months or less**(A) Loss attributable to capital gain dividend**

If—

(i) subparagraph (B) or (D) of paragraph (3) provides that any amount with respect to any share is to be treated as long-term capital gain, and

(ii) such share is held by the taxpayer for 6 months or less,

then any loss (to the extent not disallowed under subparagraph (B)) on the sale or exchange of such share shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss.

(B) Loss attributable to exempt-interest dividend

If—

(i) a shareholder of a regulated investment company receives an exempt-interest dividend with respect to any share, and

(ii) such share is held by the taxpayer for 6 months or less,

then any loss on the sale or exchange of such share shall, to the extent of the amount of such exempt-interest dividend, be disallowed.

(C) Determination of holding periods

For purposes of this paragraph, in determining the period for which the taxpayer has held any share of stock—

(i) the rules of paragraphs (3) and (4) of section 246(c) shall apply, and

(ii) there shall not be taken into account any day which is more than 6 months after the date on which such share becomes ex-dividend.

(D) Losses incurred under a periodic liquidation plan

To the extent provided in regulations, subparagraphs (A) and (B) shall not apply to losses incurred on the sale or exchange of shares of stock in a regulated investment company pursuant to a plan which provides for the periodic liquidation of such shares.

(E) Exception to holding period requirement for certain regularly declared exempt-interest dividends**(i) Daily dividend companies**

Except as otherwise provided by regulations, subparagraph (B) shall not apply with respect to a regular dividend paid by a regulated investment company which declares exempt-interest dividends on a daily basis in an amount equal to at least 90 percent of its net tax-exempt interest and distributes such dividends on a monthly or more frequent basis.

(ii) Authority to shorten required holding period with respect to other companies

In the case of a regulated investment company (other than a company described

in clause (i)) which regularly distributes at least 90 percent of its net tax-exempt interest, the Secretary may by regulations prescribe that subparagraph (B) (and subparagraph (C) to the extent it relates to subparagraph (B)) shall be applied on the basis of a holding period requirement shorter than 6 months; except that such shorter holding period requirement shall not be shorter than the greater of 31 days or the period between regular distributions of exempt-interest dividends.

(5) Exempt-interest dividends

If, at the close of each quarter of its taxable year, at least 50 percent of the value (as defined in section 851(c)(4)) of the total assets of the regulated investment company consists of obligations described in section 103(a), such company shall be qualified to pay exempt-interest dividends, as defined herein, to its shareholders.

(A) Definition of exempt-interest dividend

(i) In general

Except as provided in clause (ii), an exempt-interest dividend is any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and reported by the company as an exempt-interest dividend in written statements furnished to its shareholders.

(ii) Excess reported amounts

If the aggregate reported amount with respect to the company for any taxable year exceeds the exempt interest of the company for such taxable year, an exempt-interest dividend is the excess of—

- (I) the reported exempt-interest dividend amount, over
- (II) the excess reported amount which is allocable to such reported exempt-interest dividend amount.

(iii) Allocation of excess reported amount

(I) In general

Except as provided in subclause (II), the excess reported amount (if any) which is allocable to the reported exempt-interest dividend amount is that portion of the excess reported amount which bears the same ratio to the excess reported amount as the reported exempt-interest dividend amount bears to the aggregate reported amount.

(II) Special rule for noncalendar year taxpayers

In the case of any taxable year which does not begin and end in the same calendar year, if the post-December reported amount equals or exceeds the excess reported amount for such taxable year, subclause (I) shall be applied by substituting “post-December reported amount” for “aggregate reported amount” and no excess reported amount shall be allocated to any dividend paid on or before December 31 of such taxable year.

(iv) Definitions

For purposes of this subparagraph—

(I) Reported exempt-interest dividend amount

The term “reported exempt-interest dividend amount” means the amount reported to its shareholders under clause (i) as an exempt-interest dividend.

(II) Excess reported amount

The term “excess reported amount” means the excess of the aggregate reported amount over the exempt interest of the company for the taxable year.

(III) Aggregate reported amount

The term “aggregate reported amount” means the aggregate amount of dividends reported by the company under clause (i) as exempt-interest dividends for the taxable year (including exempt-interest dividends paid after the close of the taxable year described in section 855).

(IV) Post-December reported amount

The term “post-December reported amount” means the aggregate reported amount determined by taking into account only dividends paid after December 31 of the taxable year.

(V) Exempt interest

The term “exempt interest” means, with respect to any regulated investment company, the excess of the amount of interest excludable from gross income under section 103(a) over the amounts disallowed as deductions under sections 265 and 171(a)(2).

(B) Treatment of exempt-interest dividends by shareholders

An exempt-interest dividend shall be treated by the shareholders for all purposes of this subtitle as an item of interest excludable from gross income under section 103(a). Such purposes include but are not limited to—

- (i) the determination of gross income and taxable income,
- (ii) the determination of distributable net income under subchapter J,
- (iii) the allowance of, or calculation of the amount of, any credit or deduction, and
- (iv) the determination of the basis in the hands of any shareholder of any share of stock of the company.

(6) Section 311(b) not to apply to certain distributions

Section 311(b) shall not apply to any distribution by a regulated investment company to which this part applies, if such distribution is in redemption of its stock upon the demand of the shareholder.

(7) Time certain dividends taken into account

For purposes of this title, any dividend declared by a regulated investment company in October, November, or December of any calendar year and payable to shareholders of record on a specified date in such a month shall be deemed—

(A) to have been received by each shareholder on December 31 of such calendar year, and

(B) to have been paid by such company on December 31 of such calendar year (or, if earlier, as provided in section 855).

The preceding sentence shall apply only if such dividend is actually paid by the company during January of the following calendar year.

(8) Elective deferral of certain late-year losses

(A) In general

Except as otherwise provided by the Secretary, a regulated investment company may elect for any taxable year to treat any portion of any qualified late-year loss for such taxable year as arising on the first day of the following taxable year for purposes of this title.

(B) Qualified late-year loss

For purposes of this paragraph, the term “qualified late-year loss” means—

- (i) any post-October capital loss, and
- (ii) any late-year ordinary loss.

(C) Post-October capital loss

For purposes of this paragraph, the term “post-October capital loss” means—

- (i) any net capital loss attributable to the portion of the taxable year after October 31, or
- (ii) if there is no such loss—
 - (I) any net long-term capital loss attributable to such portion of the taxable year, or
 - (II) any net short-term capital loss attributable to such portion of the taxable year.

(D) Late-year ordinary loss

For purposes of this paragraph, the term “late-year ordinary loss” means the sum of any post-October specified loss and any post-December ordinary loss.

(E) Post-October specified loss

For purposes of this paragraph, the term “post-October specified loss” means the excess (if any) of—

- (i) the specified losses (as defined in section 4982(e)(5)(B)(ii)) attributable to the portion of the taxable year after October 31, over
- (ii) the specified gains (as defined in section 4982(e)(5)(B)(i)) attributable to such portion of the taxable year.

(F) Post-December ordinary loss

For purposes of this paragraph, the term “post-December ordinary loss” means the excess (if any) of—

- (i) the ordinary losses not described in subparagraph (E)(i) and attributable to the portion of the taxable year after December 31, over
- (ii) the ordinary income not described in subparagraph (E)(ii) and attributable to such portion of the taxable year.

(G) Special rule for companies determining required capital gain distributions on taxable year basis

In the case of a company to which an election under section 4982(e)(4) applies—

(i) if such company’s taxable year ends with the month of November, the amount of qualified late-year losses (if any) shall be computed without regard to any income, gain, or loss described in subparagraphs (C) and (E), and

(ii) if such company’s taxable year ends with the month of December, subparagraph (A) shall not apply.

(9) Dividends treated as received by company on ex-dividend date

For purposes of this title, if a regulated investment company is the holder of record of any share of stock on the record date for any dividend payable with respect to such stock, such dividend shall be included in gross income by such company as of the later of—

- (A) the date such share became ex-dividend with respect to such dividend, or
- (B) the date such company acquired such share.

(c) Earnings and profits

(1) Treatment of nondeductible items

(A) Net capital loss

If a regulated investment company has a net capital loss for any taxable year—

- (i) such net capital loss shall not be taken into account for purposes of determining the company’s earnings and profits, and
- (ii) any capital loss arising on the first day of the next taxable year by reason of clause (i) or (iii) of section 1212(a)(3)(A) shall be treated as so arising for purposes of determining earnings and profits.

(B) Other nondeductible items

(i) In general

The earnings and profits of a regulated investment company for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction (other than by reason of section 265 or 171(a)(2)) in computing its taxable income for such taxable year.

(ii) Coordination with treatment of net capital losses

Clause (i) shall not apply to a net capital loss to which subparagraph (A) applies.

(2) Coordination with tax on undistributed income

For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss attributable to the portion of the taxable year after October 31, without regard to any late-year ordinary loss (as defined in subsection (b)(8)(D)), without regard to any capital loss arising on the first day of the taxable year by reason of clauses (ii) and (iii) of section 1212(a)(3)(A), and with such other adjustments as the Secretary may prescribe. The preceding sentence shall apply—

- (A) only to the extent that the amount distributed by the company with respect to the

calendar year does not exceed the required distribution for such calendar year (as determined under section 4982 by substituting “100 percent” for each percentage set forth in section 4982(b)(1)), and

(B) except as provided in regulations, only if an election under section 4982(e)(4) is not in effect with respect to such company.

(3) Distributions to meet requirements of subsection (a)(2)(B)

Any distribution which is made in order to comply with the requirements of subsection (a)(2)(B)—

(A) shall be treated for purposes of this subsection and subsection (a)(2)(B) as made from earnings and profits which, but for the distribution, would result in a failure to meet such requirements (and allocated to such earnings on a first-in, first-out basis), and

(B) to the extent treated under subparagraph (A) as made from accumulated earnings and profits, shall not be treated as a distribution for purposes of subsection (b)(2)(D) and section 855.

(4) Regulated investment company

For purposes of this subsection, the term “regulated investment company” includes a domestic corporation which is a regulated investment company determined without regard to the requirements of subsection (a).

(d) Distributions in redemption of interests in unit investment trusts

In the case of a unit investment trust—

(1) which is registered under the Investment Company Act of 1940 (15 U.S.C. 80a-1 and following) and issues periodic payment plan certificates (as defined in such Act), and

(2) substantially all of the assets of which consist of securities issued by a management company (as defined in such Act),

section 562(c) (relating to preferential dividends) shall not apply to a distribution by such trust to a holder of an interest in such trust in redemption of part or all of such interest, with respect to the capital gain net income of such trust attributable to such redemption.

(e) Procedures similar to deficiency dividend procedures made applicable

(1) In general

If—

(A) there is a determination that the provisions of this part do not apply to an investment company for any taxable year (hereinafter in this subsection referred to as the “non-RIC year”), and

(B) such investment company meets the distribution requirements of paragraph (2) with respect to the non-RIC year,

for purposes of applying subsection (a)(2) to subsequent taxable years, the provisions of this part shall be treated as applying to such investment company for the non-RIC year. If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of ap-

plying subsection (a)(2) to the non-RIC year and the amount referred to in paragraph (2)(A)(i) shall be the portion of the accumulated earnings and profits which resulted in such failure.

(2) Distribution requirements

(A) In general

The distribution requirements of this paragraph are met with respect to any non-RIC year if, within the 90-day period beginning on the date of the determination (or within such longer period as the Secretary may permit), the investment company makes 1 or more qualified designated distributions and the amount of such distributions is not less than the excess of—

(i) the portion of the accumulated earnings and profits of the investment company (as of the date of the determination) which are attributable to the non-RIC year, over

(ii) any interest payable under paragraph (3).

(B) Qualified designated distribution

For purposes of this paragraph, the term “qualified designated distribution” means any distribution made by the investment company if—

(i) section 301 applies to such distribution, and

(ii) such distribution is designated (at such time and in such manner as the Secretary shall by regulations prescribe) as being taken into account under this paragraph with respect to the non-RIC year.

(C) Effect on dividends paid deduction

Any qualified designated distribution shall not be included in the amount of dividends paid for purposes of computing the dividends paid deduction for any taxable year.

(3) Interest charge

(A) In general

If paragraph (1) applies to any non-RIC year of an investment company, such investment company shall pay interest at the underpayment rate established under section 6621—

(i) on an amount equal to 50 percent of the amount referred to in paragraph (2)(A)(i),

(ii) for the period—

(I) which begins on the last day prescribed for payment of the tax imposed for the non-RIC year (determined without regard to extensions), and

(II) which ends on the date the determination is made.

(B) Coordination with subtitle F

Any interest payable under subparagraph (A) may be assessed and collected at any time during the period during which any tax imposed for the taxable year in which the determination is made may be assessed and collected.

(4) Provision not to apply in the case of fraud

The provisions of this subsection shall not apply if the determination contains a finding

that the failure to meet any requirement of this part was due to fraud with intent to evade tax.

(5) Determination

For purposes of this subsection, the term “determination” has the meaning given to such term by section 860(e). Such term also includes a determination by the investment company filed with the Secretary that the provisions of this part do not apply to the investment company for a taxable year.

(f) Treatment of certain load charges

(1) In general

If—

(A) the taxpayer incurs a load charge in acquiring stock in a regulated investment company and, by reason of incurring such charge or making such acquisition, the taxpayer acquires a reinvestment right,

(B) such stock is disposed of before the 91st day after the date on which such stock was acquired, and

(C) the taxpayer acquires, during the period beginning on the date of the disposition referred to in subparagraph (B) and ending on January 31 of the calendar year following the calendar year that includes the date of such disposition, stock in such regulated investment company or in another regulated investment company and the otherwise applicable load charge is reduced by reason of the reinvestment right,

the load charge referred to in subparagraph (A) (to the extent it does not exceed the reduction referred to in subparagraph (C)) shall not be taken into account for purposes of determining the amount of gain or loss on the disposition referred to in subparagraph (B). To the extent such charge is not taken into account in determining the amount of such gain or loss, such charge shall be treated as incurred in connection with the acquisition referred to in subparagraph (C) (including for purposes of reapplying this paragraph).

(2) Definitions and special rules

For purposes of this subsection—

(A) Load charge

The term “load charge” means any sales or similar charge incurred by a person in acquiring stock of a regulated investment company. Such term does not include any charge incurred by reason of the reinvestment of a dividend.

(B) Reinvestment right

The term “reinvestment right” means any right to acquire stock of 1 or more regulated investment companies without the payment of a load charge or with the payment of a reduced charge.

(C) Nonrecognition transactions

If the taxpayer acquires stock in a regulated investment company from another person in a transaction in which gain or loss is not recognized, the taxpayer shall succeed to the treatment of such other person under this subsection.

(g) Special rules for fund of funds

(1) In general

In the case of a qualified fund of funds—

(A) such fund shall be qualified to pay exempt-interest dividends to its shareholders without regard to whether such fund satisfies the requirements of the first sentence of subsection (b)(5), and

(B) such fund may elect the application of section 853 (relating to foreign tax credit allowed to shareholders) without regard to the requirement of subsection (a)(1) thereof.

(2) Qualified fund of funds

For purposes of this subsection, the term “qualified fund of funds” means a regulated investment company if (at the close of each quarter of the taxable year) at least 50 percent of the value of its total assets is represented by interests in other regulated investment companies.

(Aug. 16, 1954, ch. 736, 68A Stat. 271; July 11, 1956, ch. 573, § 2(a), 70 Stat. 530; Pub. L. 85-866, title I, § 39(a), 101(a), (b), Sept. 2, 1958, 72 Stat. 1638, 1674; Pub. L. 86-779, § 10(b)(2), (3), Sept. 14, 1960, 74 Stat. 1009; Pub. L. 88-272, title II, § 229(a)(1), (2), (b), Feb. 26, 1964, 78 Stat. 99; Pub. L. 91-172, title V, § 511(c)(2), Dec. 30, 1969, 83 Stat. 637; Pub. L. 94-455, title XIV, § 1402(b)(1)(N), (2), title XIX, § 1901(a)(110)(A), (B)(i), (C), (b)(1)(V), (6)(B), (33)(I), (J), (N), 1906(b)(13)(A), title XXI, § 2137(a)-(c), Oct. 4, 1976, 90 Stat. 1732, 1783, 1792, 1794, 1801, 1802, 1834, 1930, 1931; Pub. L. 95-600, title III, § 301(b)(11), 362(c), title VII, § 701(s)(2), Nov. 6, 1978, 92 Stat. 2822, 2851, 2911; Pub. L. 96-222, title I, § 104(a)(3)(B), Apr. 1, 1980, 94 Stat. 215; Pub. L. 97-424, title V, § 547(b)(2), Jan. 6, 1983, 96 Stat. 2199; Pub. L. 98-369, div. A, title I, § 55(a), title X, §§ 1001(b)(11), (e), 1071(a)(2)-(4), (b)(1), July 18, 1984, 98 Stat. 571, 1011, 1012, 1049, 1050, 1052; Pub. L. 99-514, title III, § 311(b)(1), title VI, § 631(e)(11), 651(b)(1)(A), (2), (3), 655(a)(1), (2), title XI, § 1173(b)(1)(B), title XV, § 1511(c)(6), title XVIII, §§ 1804(c)(1)-(5), 1878(j), Oct. 22, 1986, 100 Stat. 2219, 2274, 2296, 2298, 2299, 2515, 2745, 2799, 2800, 2905; Pub. L. 100-647, title I, §§ 1006(l)(1)(A), (3), (4), (7)-(10), 1011B(h)(4), 1018(p), Nov. 10, 1988, 102 Stat. 3413-3415, 3491, 3585; Pub. L. 101-239, title VII, § 7204(b)(1), (c)(1), Dec. 19, 1989, 103 Stat. 2334, 2335; Pub. L. 103-66, title XIII, § 13221(c)(1), Aug. 10, 1993, 107 Stat. 477; Pub. L. 104-188, title I, § 1602(b)(3), Aug. 20, 1996, 110 Stat. 1833; Pub. L. 105-34, title XI, § 1122(c)(2), (3), title XII, § 1254(b)(2), Aug. 5, 1997, 111 Stat. 977, 1033; Pub. L. 106-170, title V, § 566(a)(1), (c), Dec. 17, 1999, 113 Stat. 1950; Pub. L. 109-222, title V, § 505(c)(1), May 17, 2006, 120 Stat. 356; Pub. L. 110-172, § 11(a)(17)(A), Dec. 29, 2007, 121 Stat. 2486; Pub. L. 111-325, title II, § 201(c), title III, §§ 301(a)(1), (b), 302(a), (b)(1), 303(a), 308(a)-(b)(2), 309(a), (b), title V, § 502(a), Dec. 22, 2010, 124 Stat. 3541, 3542, 3547, 3548, 3550-3552, 3554; Pub. L. 113-295, div. A, title II, § 205(a)(2), (c), Dec. 19, 2014, 128 Stat. 4025, 4026.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (d), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, as amended, which is classified generally to subchapter I (§ 80a-1 et seq.) of chapter 2D of Title 15, Commerce and Trade. For complete classification of this

Act to the Code, see section 80a-51 of Title 15 and Tables.

AMENDMENTS

2014—Subsec. (b)(8)(C) to (G). Pub. L. 113-295, §205(c)(1), added subpars. (C) to (F), redesignated former subpar. (E) as (G), and struck out former subpars. (C) and (D) which related to post-October capital loss and late-year ordinary loss, respectively.

Subsec. (b)(8)(G)(i). Pub. L. 113-295, §205(c)(2), substituted “and (E)” for “, (D)(i)(I), and (D)(ii)(I)”.

Subsec. (c)(2). Pub. L. 113-295, §205(c)(3), in introductory provisions, substituted “, without regard to any capital loss” for “, and without regard to any capital loss” and inserted “, and with such other adjustments as the Secretary may prescribe” after “section 1212(a)(3)(A)”.

Pub. L. 113-295, §205(a)(2), in introductory provisions, substituted “October 31, without regard to” for “October 31 and without regard to” and inserted “, and without regard to any capital loss arising on the first day of the taxable year by reason of clauses (ii) and (iii) of section 1212(a)(3)(A)” after “subsection (b)(8)(D)”.

2010—Subsec. (b)(2)(G). Pub. L. 111-325, §201(c), added subpar. (G).

Subsec. (b)(3)(C). Pub. L. 111-325, §301(a)(1), amended subpar. (C) generally. Prior to amendment, subpar. (C) related to definition of capital gain dividend.

Subsec. (b)(4)(E). Pub. L. 111-325, §309(a), (b), substituted “Exception to holding period requirement for certain regularly declared exempt-interest dividends” for “Authority to shorten required holding period” in heading, added cl. (i), inserted cl. (ii) designation and heading before “In the case of”, and inserted “(other than a company described in clause (i))” after “regulated investment company”.

Subsec. (b)(5)(A). Pub. L. 111-325, §301(b), amended subpar. (A) generally. Prior to amendment, text read as follows: “An exempt-interest dividend means any dividend or part thereof (other than a capital gain dividend) paid by a regulated investment company and designated by it as an exempt-interest dividend in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the company (including exempt-interest dividends paid after the close of the taxable year as described in section 855) is greater than the excess of—

“(i) the amount of interest excludable from gross income under section 103(a), over

“(ii) the amounts disallowed as deductions under sections 265 and 171(a)(2),

the portion of such distribution which shall constitute an exempt-interest dividend shall be only that proportion of the amount so designated as the amount of such excess for such taxable year bears to the amount so designated.”

Subsec. (b)(8). Pub. L. 111-325, §308(a), amended par. (8) generally. Prior to amendment, text read as follows: “To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net foreign currency loss attributable to transactions after October 31 of such year, and any such net foreign currency loss shall be treated as arising on the 1st day of the following taxable year.”

Subsec. (b)(10). Pub. L. 111-325, §308(b)(1), struck out par. (10). Text read as follows: “To the extent provided in regulations, the taxable income of a regulated investment company (other than a company to which an election under section 4982(e)(4) applies) shall be computed without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of the taxable year, and any such reduction shall be treated as occurring on the first day of the following taxable year.”

Subsec. (c)(1). Pub. L. 111-325, §302(a), amended par. (1) generally. Prior to amendment, text read as follows:

“The earnings and profits of a regulated investment company for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income for such taxable year. For purposes of this subsection, the term ‘regulated investment company’ includes a domestic corporation which is a regulated investment company determined without regard to the requirements of subsection (a).”

Subsec. (c)(2). Pub. L. 111-325, §308(b)(2), in introductory provisions, substituted “For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss attributable to the portion of the taxable year after October 31 and without regard to any late-year ordinary loss (as defined in subsection (b)(8)(D)).” for “For purposes of applying this chapter to distributions made by a regulated investment company with respect to any calendar year, the earnings and profits of such company shall be determined without regard to any net capital loss (or net foreign currency loss) attributable to transactions after October 31 of such year, without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of such year, and with such other adjustments as the Secretary may by regulations prescribe.”

Subsec. (c)(4). Pub. L. 111-325, §302(b)(1), added par. (4).

Subsec. (f)(1)(C). Pub. L. 111-325, §502(a), substituted “acquires, during the period beginning on the date of the disposition referred to in subparagraph (B) and ending on January 31 of the calendar year following the calendar year that includes the date of such disposition,” for “subsequently acquires”.

Subsec. (g). Pub. L. 111-325, §303(a), added subsec. (g).

2007—Subsec. (b)(4)(C). Pub. L. 110-172 reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer has held any share of stock; except that ‘6 months’ shall be substituted for each number of days specified in subparagraph (B) of section 246(c)(3).”

2006—Subsec. (b)(3)(E). Pub. L. 109-222 added subpar. (E).

1999—Subsec. (c)(3). Pub. L. 106-170, §566(a)(1), added par. (3).

Subsec. (e)(1). Pub. L. 106-170, §566(c), inserted at end “If the determination under subparagraph (A) is solely as a result of the failure to meet the requirements of subsection (a)(2), the preceding sentence shall also apply for purposes of applying subsection (a)(2) to the non-RIC year and the amount referred to in paragraph (2)(A)(i) shall be the portion of the accumulated earnings and profits which resulted in such failure.”

1997—Subsec. (b)(3)(D)(iii). Pub. L. 105-34, §1254(b)(2), substituted “by the difference between the amount of such includible gains and the tax deemed paid by such shareholder in respect of such shares under clause (ii).” for “by 65 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a).”

Subsec. (b)(10). Pub. L. 105-34, §1122(c)(2), added par. (10).

Subsec. (c)(2). Pub. L. 105-34, §1122(c)(3), inserted “, without regard to any net reduction in the value of any stock of a passive foreign investment company with respect to which an election under section 1296(k) is in effect occurring after October 31 of such year,” after “October 31 of such year”.

1996—Subsec. (b)(5)(C). Pub. L. 104-188 struck out subpar. (C). Prior to amendment, subpar. (C) read as follows:

“(C) INTEREST ON CERTAIN LOANS USED TO ACQUIRE EMPLOYER SECURITIES.—For purposes of this section—

“(i) 50 percent of the amount of any loan of the regulated investment company which qualifies as a secu-

rities acquisition loan (as defined in section 133) shall be treated as an obligation described in section 103(a), and

“(ii) 50 percent of the interest received on such loan shall be treated as interest excludable from gross income under section 103.”

1993—Subsec. (b)(3)(D)(iii). Pub. L. 103-66 substituted “65 percent” for “66 percent”.

1989—Subsec. (b)(9). Pub. L. 101-239, §7204(c)(1), added par. (9).

Subsec. (f). Pub. L. 101-239, §7204(b)(1), added subsec. (f).

1988—Subsec. (a). Pub. L. 100-647, §1006(l)(8), inserted at end “The Secretary may waive the requirements of paragraph (1) for any taxable year if the regulated investment company establishes to the satisfaction of the Secretary that it was unable to meet such requirements by reason of distributions previously made to meet the requirements of section 4982.”

Subsec. (b)(3)(C). Pub. L. 100-647, §1006(l)(4), substituted “net capital loss or net long-term capital loss” for “net capital loss” in two places in third sentence, and “computing the taxable income of the regulated investment company” for “computing regulated investment company taxable income” in fourth sentence.

Subsec. (b)(5)(C). Pub. L. 100-647, §1011B(h)(4), substituted “section” for “paragraph”.

Subsec. (b)(6). Pub. L. 100-647, §1006(l)(1)(A), redesignated par. (6), relating to time certain dividends are taken into account, as (7).

Subsec. (b)(7). Pub. L. 100-647, §1006(l)(9), substituted “in October, November, or December” for “in December” and “in such a month” for “in such month”, in introductory text, “on December 31 of such calendar year” for “on such date” in subpars. (A) and (B), and “during January” for “before February 1” in last sentence.

Pub. L. 100-647, §1006(l)(1)(A), redesignated par. (6), relating to time certain dividends are taken into account, as (7).

Subsec. (b)(8). Pub. L. 100-647, §1006(l)(7), added par. (8).

Subsec. (c)(2). Pub. L. 100-647, §1006(l)(3), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “A regulated investment company shall be treated as having sufficient earnings and profits to treat as a dividend any distribution (other than in a redemption to which section 302(a) applies) which is treated as a dividend by such company. The preceding sentence shall not apply to the extent that the amount distributed during any calendar year by the company exceeds the required distribution for such calendar year (as determined under section 4982).”

Subsec. (e)(1). Pub. L. 100-647, §§1006(l)(10), 1018(p), amended par. (1) identically, substituting “subsection (a)(2)” for “subsection (a)(3)” in last sentence.

1986—Subsec. (a)(2), (3). Pub. L. 99-514, §1878(j)(1), redesignated par. (3) as (2) and struck out former par. (2) which read as follows: “the investment company complies for such year with regulations prescribed by the Secretary for the purpose of ascertaining the actual ownership of its outstanding stock, and”.

Subsec. (b)(1). Pub. L. 99-514, §1878(j)(2), substituted last sentence for former last sentence which read as follows: “In the case of a regulated investment company which is a personal holding company (as defined in section 542), that tax shall be computed at the highest rate of tax specified in section 11(b).”

Subsec. (b)(3)(C). Pub. L. 99-514, §655(a)(1), substituted “60 days” for “45 days”.

Pub. L. 99-514, §651(b)(3), inserted provision for determination of the amount of the net capital gain for a taxable year (to which an election under section 4982(e)(4) does not apply) and made such provision applicable also for purposes of computing regulated investment company taxable income.

Subsec. (b)(3)(D)(i). Pub. L. 99-514, §655(a)(1), substituted “60 days” for “45 days”.

Subsec. (b)(3)(D)(iii). Pub. L. 99-514, §311(b)(1), substituted “66 percent” for “72 percent”.

Subsec. (b)(4). Pub. L. 99-514, §1804(c)(5), substituted “6 months or less” for “less than 31 days” in heading.

Subsec. (b)(4)(B)(ii). Pub. L. 99-514, §1804(c)(1), substituted “6 months or less” for “less than 31 days”.

Subsec. (b)(4)(C). Pub. L. 99-514, §1804(c)(2), amended subpar. (C) generally. Prior to amendment, subpar. (C) read as follows: “For purposes of this paragraph, the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer held any share of stock; except that for the number of days specified in subparagraph (B) of section 246(c)(3) there shall be substituted—

“(i) ‘6 months’ for purposes of subparagraph (A), and

“(ii) ‘30 days’ for purposes of subparagraph (B).”

Subsec. (b)(4)(D). Pub. L. 99-514, §1804(c)(3), substituted “subparagraphs (A) and (B)” for “subparagraph (A)”.

Subsec. (b)(4)(E). Pub. L. 99-514, §1804(c)(4), added subpar. (E).

Subsec. (b)(5)(A). Pub. L. 99-514, §655(a)(2), substituted “60 days” for “45 days”.

Subsec. (b)(5)(C). Pub. L. 99-514, §1173(b)(1)(B), added subpar. (C).

Subsec. (b)(6). Pub. L. 99-514, §651(b)(1)(A), added par. (6) relating to time certain dividends are taken into account.

Pub. L. 99-514, §631(e)(11), added par. (6) relating to inapplicability of section 311(b) to certain distributions.

Subsec. (c). Pub. L. 99-514, §651(b)(2), amended subsec. (c) generally, designating existing provisions as par. (1), inserting heading, and adding par. (2).

Subsec. (e)(3)(A). Pub. L. 99-514, §1511(c)(6), substituted “the underpayment rate established under section 6621” for “the annual rate established under section 6621”.

1984—Subsec. (a)(3). Pub. L. 98-369, §1071(a)(3), added par. (3).

Subsec. (b)(1). Pub. L. 98-369, §1071(a)(2), inserted provision that in the case of a regulated investment company which is a personal holding company (as defined in section 542), that tax shall be computed at the highest rate of tax specified in section 11.

Subsec. (b)(2)(F). Pub. L. 98-369, §1071(b)(1), added subpar. (F).

Subsec. (b)(3)(B). Pub. L. 98-369, §1001(b)(11), (e), substituted “6 months” for “1 year”, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

Subsec. (b)(4)(A)(i). Pub. L. 98-369, §55(a)(1), substituted “subparagraph (B) or (D) of paragraph (3) provides that any amount with respect to any share is to be treated as long-term capital gain” for “under subparagraph (B) or (D) of paragraph (3) a shareholder of a regulated investment company is required, with respect to any share, to treat any amount as a long-term capital gain”.

Subsec. (b)(4)(A)(ii). Pub. L. 98-369, §55(a)(1), substituted “6 months or less” for “less than 31 days”.

Subsec. (b)(4)(C). Pub. L. 98-369, §55(a)(2), substituted “the rules of paragraphs (3) and (4) of section 246(c) shall apply in determining the period for which the taxpayer held any share of stock;” for “the rules of section 246(c)(3) shall apply in determining whether any share of stock has been held for less than 31 days;” and substituted provisions dealing with the applicable number of days for former provisions which set forth different applicable days.

Subsec. (b)(4)(D). Pub. L. 98-369, §55(a)(3), added subpar. (D).

Subsec. (e). Pub. L. 98-369, §1071(a)(4), added subsec. (e).

1983—Subsec. (b)(5). Pub. L. 97-424 substituted “section 103(a)” for “section 103(a)(1)” wherever appearing.

1980—Subsec. (b)(3)(D)(iii). Pub. L. 96-222 substituted “72 percent” for “70 percent”.

1978—Subsec. (b)(1). Pub. L. 95-600, §301(b)(11), substituted “a tax” for “a normal tax and surtax”.

Subsec. (b)(3)(C). Pub. L. 95-600, §362(c), inserted “, except that, if there is an increase in the excess de-

scribed in subparagraph (A) of this paragraph for such year which results from a determination (as defined in section 860(e)), such designation may be made with respect to such increase at any time before the expiration of 120 days after the date of such determination” after “amount so designated”.

Subsec. (b)(4). Pub. L. 95-600, § 701(s)(2), designated first sentence, including subpars. (A) and (B), as subpar. (A), cls. (i) and (ii); added subpar. (A) heading and substituted “shall, to the extent of the amount described in clause (i), be treated as a long-term capital loss” for “shall, to the extent of the amount described in subparagraph (A) of this paragraph, be treated as loss from the sale or exchange of a capital asset held for more than 1 year”; added subpar. (B); and designated second sentence as subpar. (C).

1976—Subsec. (a)(1). Pub. L. 94-455, §§ 1901(b)(6)(B), 2137(a), designated existing provisions as introductory material and subpar. (A) and added subpar. (B).

Subsec. (a)(2). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b)(1). Pub. L. 94-455, § 1901(b)(1)(V), struck out provision relating to the computation of the normal tax under section 11 of this title.

Subsec. (b)(2)(A). Pub. L. 94-455, § 1901(b)(33)(I), substituted “the amount of the net capital gain, if any” for “the excess, if any, of the net long-term capital gain over the short-term capital loss”.

Subsec. (b)(2)(D). Pub. L. 94-455, § 2137(b), inserted reference to exempt-interest dividends.

Subsec. (b)(3)(A). Pub. L. 94-455, § 1901(b)(33)(J)(i), among other changes, struck out reference to the sum of the net short-term capital loss.

Subsec. (b)(3)(B). Pub. L. 94-455, § 1402(b)(2), provided that “9 months” would be changed to “1 year”.

Pub. L. 94-455, § 1402(b)(1)(N), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977.

Subsec. (b)(3)(C). Pub. L. 94-455, § 1901(a)(110)(A), (b)(33)(J)(ii), substituted “net capital gain” for “excess of the net long-term capital gain over the net short-term capital loss” in two places and struck out provision requiring for purpose of the deduction for capital gains dividends paid, the deductions shall in the case of a taxable year beginning before Jan. 1, 1975, first be made from the amount subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount subject to tax in accordance with section 1201(a)(1)(A).

Subsec. (b)(3)(D)(iii). Pub. L. 94-455, § 1901(a)(110)(B)(i), struck out “by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and” after “his long term capital gains,” and “(72 percent in the case of a taxable year beginning after December 31, 1969, and before January 1, 1971)” after “by 70 percent” and substituted “section 1201(a)” for “section 1201(a)(1)(B) or (2)”.

Subsec. (b)(3)(D)(v). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (b)(4). Pub. L. 94-455, § 1402(b)(2), provided that “9 months” would be changed to “1 year”.

Pub. L. 94-455, § 1402(b)(1)(N), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977.

Subsec. (b)(5). Pub. L. 94-455, § 2137(c), added par. (5).

Subsec. (d). Pub. L. 94-455, § 1901(a)(110)(C), (b)(33)(N), inserted in par. (1) “(15 U.S.C. 80a-1 and following)” after “Investment company Act of 1940” and substituted in provision following par. (2) “capital gain net income” for “net capital gain”.

1969—Subsec. (b)(3)(A). Pub. L. 91-172, § 511(c)(2)(A), substituted “determined as provided in section 1201(a), on” for “of 25 percent of”.

Subsec. (b)(3)(C). Pub. L. 91-172, § 511(c)(2)(B), inserted provision requiring for the purposes of the deduction for capital gains dividends paid the deduction shall, in the case of a taxable year beginning before Jan. 1, 1975, first be made from the amount subject to tax in accordance with section 1201(a)(1)(B), to the extent thereof, and then from the amount subject to tax in accordance with section 1201(a)(1)(A).

Subsec. (b)(3)(D). Pub. L. 91-172, § 511(c)(2)(C), (D), struck out “of 25 percent” in cl. (ii), substituted reference in cl. (iii) to the increase of the adjusted basis of shares in the hands of the shareholder, with respect to the amounts required by this subpar., by 75 percent of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(A) and by 70 percent (72 percent in the case of a taxable year beginning after Dec. 31, 1969, and before Jan. 1, 1971) of so much of such amounts as equals the amount subject to tax in accordance with section 1201(a)(1)(B) or (2), for reference to the increase of the adjusted basis of shares in the hand of the shareholder by 75 percent of the amounts required by this subpar. to be included in computing his long-term capital gains.

1964—Subsec. (b)(3)(C), (D)(i). Pub. L. 88-272, § 229(a)(1), (2), substituted “45 days” for “30 days”.

Subsec. (d). Pub. L. 88-272, § 229(b), added subsec. (d). 1960—Subsec. (a). Pub. L. 86-779, § 10(b)(2), substituted “this part” for “this subchapter”.

Subsec. (b)(3)(C). Pub. L. 86-779, § 10(b)(3), substituted “For purposes of this part, a capital gain dividend is” for “A capital gain dividend means”.

1958—Subsec. (a). Pub. L. 85-866, § 101(a), inserted “(other than subsection (c) of this section)”.

Subsec. (b)(4). Pub. L. 85-866, § 39(a), added par. (4).

Subsec. (c). Pub. L. 85-866, § 101(b), inserted sentence defining regulated investment company.

1956—Subsec. (b)(3)(D). Act July 11, 1956, added subpar. (D).

EFFECTIVE DATE OF 2014 AMENDMENT

Pub. L. 113-295, div. A, title II, § 205(f), Dec. 19, 2014, 128 Stat. 4027, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section, sections 851, 855, and 4982 of this title, and provisions set out as a note under section 1212 of this title] shall take effect as if included in the provision of the Regulated Investment Company Modernization Act of 2010 [Pub. L. 111-325] to which they relate.

“(2) SAVINGS PROVISION.—In the case of an election by a regulated investment company under section 852(b)(8) of the Internal Revenue Code of 1986 with respect to any taxable year beginning before the date of the enactment of this Act [Dec. 19, 2014], such company may treat the amendments made by paragraphs (1) and (2) of subsection (c) [amending this section] as not applying with respect to any such election.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 201(c) of Pub. L. 111-325 applicable to taxable years with respect to which the due date (determined with regard to any extensions) of the return of tax for such taxable year is after Dec. 22, 2010, see section 201(d) of Pub. L. 111-325, set out as a note under section 851 of this title.

Pub. L. 111-325, title III, § 301(h), Dec. 22, 2010, 124 Stat. 3547, provided that: “The amendments made by this section [amending this section and sections 853, 853A, 854, 855, 860, and 871 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

Pub. L. 111-325, title III, § 302(c), Dec. 22, 2010, 124 Stat. 3548, provided that: “The amendments made by this section [amending this section and section 871 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

Pub. L. 111-325, title III, § 303(b), Dec. 22, 2010, 124 Stat. 3548, provided that: “The amendment made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

Pub. L. 111-325, title III, § 308(c), Dec. 22, 2010, 124 Stat. 3551, provided that: “The amendments made by this section [amending this section and section 871 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

Pub. L. 111-325, title III, § 309(c), Dec. 22, 2010, 124 Stat. 3552, provided that: “The amendments made by

this section [amending this section] shall apply to losses incurred on shares of stock for which the taxpayer's holding period begins after the date of the enactment of this Act [Dec. 22, 2010]."

Pub. L. 111-325, title V, §502(b), Dec. 22, 2010, 124 Stat. 3555, provided that: "The amendment made by this section [amending this section] shall apply to charges incurred in taxable years beginning after the date of the enactment of this Act [Dec. 22, 2010]."

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-222, title V, §505(d), May 17, 2006, 120 Stat. 357, provided that: "The amendments made by this section [amending this section and sections 871, 897, and 1445 of this title] shall apply to taxable years of qualified investment entities beginning after December 31, 2005, except that no amount shall be required to be withheld under section 1441, 1442, or 1445 of the Internal Revenue Code of 1986 with respect to any distribution before the date of the enactment of this Act [May 17, 2006] if such amount was not otherwise required to be withheld under any such section as in effect before such amendments."

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106-170, title V, §566(d), Dec. 17, 1999, 113 Stat. 1950, provided that: "The amendments made by this section [amending this section and section 857 of this title] shall apply to distributions after December 31, 2000."

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1122(c)(2), (3) of Pub. L. 105-34 applicable to taxable years of United States persons beginning after Dec. 31, 1997, and to taxable years of foreign corporations ending with or within such taxable years of United States persons, see section 1124 of Pub. L. 105-34, set out as a note under section 532 of this title.

Pub. L. 105-34, title XII, §1263, Aug. 5, 1997, 111 Stat. 1036, provided that: "The amendments made by this part [probably means subtitle D (§§1251-1263) of title XII of Pub. L. 105-34, amending this section and sections 856 and 857 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 5, 1997]."

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1602(b)(1) of Pub. L. 104-188 applicable to loans made after Aug. 20, 1996, with exception and provisions relating to certain refinancings, see section 1602(c) of Pub. L. 104-188, set out as an Effective Date of Repeal note under former section 133 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to taxable years beginning on or after Jan. 1, 1993, see section 13221(d) of Pub. L. 103-66 set out as a note under section 11 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Pub. L. 101-239, title VII, §7204(b)(2), Dec. 19, 1989, 103 Stat. 2335, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to charges incurred after October 3, 1989, in taxable years ending after such date."

Pub. L. 101-239, title VII, §7204(c)(2), Dec. 19, 1989, 103 Stat. 2335, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to dividends in cases where the stock becomes ex-dividend after the date of the enactment of this Act [Dec. 19, 1989]."

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1006(l)(9), Nov. 10, 1988, 102 Stat. 3414, provided that the amendment made by that section is effective with respect to dividends declared in 1988 and subsequent calendar years.

Amendment by sections 1006(l)(1)(A), (3), (4), (7), (8), (10), 1011B(h)(4), and 1018(p) of Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 311(b)(1) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 311(c) of Pub. L. 99-514, set out as a note under section 1201 of this title.

Amendment by section 631(e)(11) of Pub. L. 99-514 applicable to any distribution in complete liquidation, and any sale or exchange, made by a corporation after July 31, 1986, unless such corporation is completely liquidated before Jan. 1, 1987, any transaction described in section 338 of this title for which the acquisition date occurs after Dec. 31, 1986, and any distribution, not in complete liquidation, made after Dec. 31, 1986, with exceptions and special and transitional rules, see section 633 of Pub. L. 99-514, set out as an Effective Date note under section 336 of this title.

Amendment by section 651(b)(1)(A), (2), (3) of Pub. L. 99-514 applicable to calendar years beginning after Dec. 31, 1986, see section 651(d) of Pub. L. 99-514, set out as an Effective Date note under section 4982 of this title.

Pub. L. 99-514, title VI, §655(b), Oct. 22, 1986, 100 Stat. 2299, provided that: "The amendments made by subsection (a) [amending this section and sections 853 to 855 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 1986]."

Pub. L. 99-514, title XI, §1173(c)(2)(A), Oct. 22, 1986, 100 Stat. 2516, provided that: "The amendments made by subsection (b)(1) [amending this section and former section 133 of this title] shall apply to loans used to acquire employer securities after the date of the enactment of this Act [Oct. 22, 1986], including loans used to refinance loans used to acquire employer securities before such date if such loans were used to acquire employer securities after May 23, 1984."

Amendment by section 1511(c)(6) of Pub. L. 99-514 applicable for purposes of determining interest for periods after Dec. 31, 1986, see section 1511(d) of Pub. L. 99-514, set out as a note under section 47 of this title.

Pub. L. 99-514, title XVIII, §1804(c)(6), Oct. 22, 1986, 100 Stat. 2800, provided that: "The amendments made by this subsection [amending this section] shall apply to stock with respect to which the taxpayer's holding period begins after March 28, 1985."

Amendment by section 1878(j) of Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §55(c), July 18, 1984, 98 Stat. 572, provided that: "The amendments made by this section [amending this section and section 857 of this title] shall apply to losses incurred with respect to shares of stock and beneficial interests with respect to which the taxpayer's holding period begins after the date of the enactment of this Act [July 18, 1984]."

Amendment by section 1001(b)(11) of Pub. L. 98-369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98-369, set out as a note under section 166 of this title.

Pub. L. 98-369, div. A, title X, §1071(a)(5), July 18, 1984, 98 Stat. 1051, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(A) IN GENERAL.—Except as otherwise provided in this paragraph, the amendments made by this subsection [amending this section and section 851 of this title] shall apply to taxable years beginning after December 31, 1982.

“(B) INVESTMENT COMPANIES WHICH WERE REGULATED INVESTMENT COMPANIES FOR YEARS ENDING BEFORE NOVEMBER 8, 1983.—In the case of any investment company to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] applied for any taxable year ending before November 8, 1983, for purposes of section 852(a)(3)(B) of the Internal Revenue Code of 1986 (as amended by this subsection), no earnings and profits accumulated in any taxable year ending before January 1, 1984, shall be taken into account.

“(C) INVESTMENT COMPANIES BEGINNING BUSINESS IN 1983.—In the case of an investment company which began business in 1983 (and was not a successor corporation), earnings and profits accumulated during its first taxable year shall not be taken into account for purposes of section 852(a)(3)(B) of such Code (as so amended).

“(D) INVESTMENT COMPANIES REGISTERING BEFORE NOVEMBER 8, 1983.—In the case of any investment company—

“(i) which, during the period after December 31, 1981, and before November 8, 1983—

“(I) was engaged in the active conduct of a trade or business,

“(II) sold substantially all of its operating assets, and

“(III) registered under the Investment Company Act of 1940 [15 U.S.C. §80a-1 et seq.] as either a management company or a unit investment trust, and

“(ii) to which the provisions of part I of subchapter M of chapter 1 of the Internal Revenue Code of 1986 applied for its first taxable year beginning after November 8, 1983,

for purposes of section 852(a)(3)(A) of such Code (as amended by paragraph (3)), the provisions of part I of subchapter M of chapter 1 of such Code shall be treated as applying to such investment company for its first taxable year ending after November 8, 1983. For purposes of the preceding sentence, all members of an affiliated group (as defined in section 1504(a) of such Code) filing a consolidated return shall be treated as 1 taxpayer.”

Pub. L. 98-369, div. A, title X, §1071(b)(2), July 18, 1984, 98 Stat. 1052 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to taxable years beginning after December 31, 1978.”

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 301(b)(11) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1978, see section 301(c) of Pub. L. 95-600, set out as a note under section 11 of this title.

Amendment by section 362(c) of Pub. L. 95-600 applicable with respect to determinations (as defined in section 860(e) of this title) after Nov. 6, 1978, see section 362(e) of Pub. L. 95-600, set out as an Effective Date note under section 860 of this title.

Amendment by section 701(s)(2) of Pub. L. 95-600 applicable to taxable years beginning after Dec. 31, 1975, see section 701(s)(3) of Pub. L. 95-600, set out as a note under section 851 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIV, §1402(b)(1), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by that section is effective with respect to taxable years beginning in 1977.

Pub. L. 94-455, title XIV, §1402(b)(2), Oct. 4, 1976, 90 Stat. 1732, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

Amendment by section 1901(a)(110)(A), (C), (b)(1)(V), (6)(B), (33)(I), (J), (N) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

Pub. L. 94-455, title XIX, §1901(a)(110)(B)(ii), Oct. 4, 1976, 90 Stat. 1783, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendment made by clause (i) [amending this section] shall not be considered to affect the amount of any increase in the basis of stock under the provisions of section 852(b)(3)(D)(iii) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] which is based upon amounts subject to tax under section 1201 of such Code [section 1201 of this title] in taxable years beginning before January 1, 1975.”

Pub. L. 94-455, title XXI, §2137(e), Oct. 4, 1976, 90 Stat. 1931, provided that: “The amendments made by this section [amending this section and sections 103 and 265 of this title] shall apply to taxable years beginning after December 31, 1975.”

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to taxable years beginning after Dec. 31, 1969, see section 511(d) of Pub. L. 91-172, set out as an Effective Date note under section 1201 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Pub. L. 88-272, title II, §229(c), Feb. 26, 1964, 78 Stat. 99, provided that: “The amendments made by subsection (a) [amending this section and sections 853, 854, and 855 of this title] shall apply to taxable years of regulated investment companies ending on or after the date of the enactment of this Act [Feb. 26, 1964]. The amendment made by subsection (b) [amending this section] shall apply to taxable years of regulated investment companies ending after December 31, 1963.”

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment of section by Pub. L. 86-779 applicable with respect to taxable years of real estate investment trusts beginning after Dec. 31, 1960, see section 10(k) of Pub. L. 86-779, set out as an Effective Date note under section 856 of this title.

EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, §39(b), Sept. 2, 1958, 72 Stat. 1638, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years ending after December 31, 1957, but only with respect to shares of stock acquired after December 31, 1957.”

Pub. L. 85-866, title I, §101(c), Sept. 2, 1958, 72 Stat. 1674, provided that: “The amendments made by this section [amending this section] shall apply with respect to taxable years of regulated investment companies beginning on or after March 1, 1958.”

EFFECTIVE DATE OF 1956 AMENDMENT

Act July 11, 1956, ch. 573, §2(b), 70 Stat. 530, provided that: “The amendment made by this section [amending this section] shall apply only with respect to taxable years of regulated investment companies beginning after December 31, 1956.”

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—