

EFFECTIVE DATE

Section 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 a note under section 856 of this title.

§ 859. Adoption of annual accounting period**(a) General rule**

For purposes of this subtitle—

(1) a real estate investment trust shall not change to any accounting period other than the calendar year, and

(2) a corporation, trust, or association may not elect to be a real estate investment trust for any taxable year beginning after October 4, 1976, unless its accounting period is the calendar year.

Paragraph (2) shall not apply to a corporation, trust, or association which was considered to be a real estate investment trust for any taxable year beginning on or before October 4, 1976.

(b) Change of accounting period without approval

Notwithstanding section 442, an entity which has not engaged in any active trade or business may change its accounting period to a calendar year without the approval of the Secretary if such change is in connection with an election under section 856(c).

(Added Pub. L. 94-455, title XVI, §1604(i)(1), Oct. 4, 1976, 90 Stat. 1752, §860; renumbered §859 and amended Pub. L. 95-600, title III, §362(d)(6), title VII, §701(t)(1), Nov. 6, 1978, 92 Stat. 2852, 2911; Pub. L. 99-514, title VI, §661(c), Oct. 22, 1986, 100 Stat. 2300.)

PRIOR PROVISIONS

A prior section 859, added Pub. L. 94-455, title XVI, §1601(a)(1), Oct. 4, 1976, 90 Stat. 1742; amended Pub. L. 95-600, title VII, §701(t)(4), Nov. 6, 1978, 92 Stat. 2912, related to a deduction for deficiency dividends, prior to repeal by Pub. L. 95-600, title III, §362(d)(6), Nov. 6, 1978, 92 Stat. 2852. See section 860 of this title.

AMENDMENTS

1986—Pub. L. 99-514 designated existing provisions as subsec. (a) and added subsec. (b).

1978—Pub. L. 95-600, §701(t)(1), designated existing provisions as par. (1), substituted “change to any accounting period” for “change to or adopt any annual accounting period”, and added par. (2) and provision for nonapplicability of par. (2) to a real estate investment trust for any taxable year beginning on or before Oct. 4, 1976.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 669 of Pub. L. 99-514, set out as a note under section 856 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Repeal of prior section 859 of this title and redesignation of section 860 of this title as this section by section 362(d)(6) 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.

Pub. L. 95-600, title VII, §701(t)(5), Nov. 6, 1978, 92 Stat. 2912, provided that: “The amendments made by this subsection [amending this section and sections 275,

856, 6212, and 6501 of this title] shall take effect on October 4, 1976.”

PART III—PROVISIONS WHICH APPLY TO BOTH REGULATED INVESTMENT COMPANIES AND REAL ESTATE INVESTMENT TRUSTS

Sec.

860. Deduction for deficiency dividends.

§ 860. Deduction for deficiency dividends**(a) General rule**

If a determination with respect to any qualified investment entity results in any adjustment for any taxable year, a deduction shall be allowed to such entity for the amount of deficiency dividends for purposes of determining the deduction for dividends paid (for purposes of section 852 or 857, whichever applies) for such year.

(b) Qualified investment entity defined

For purposes of this section, the term “qualified investment entity” means—

- (1) a regulated investment company, and
- (2) a real estate investment trust.

(c) Rules for application of section**(1) Interest and additions to tax determined with respect to the amount of deficiency dividend deduction allowed**

For purposes of determining interest, additions to tax, and additional amounts—

(A) the tax imposed by this chapter (after taking into account the deduction allowed by subsection (a)) on the qualified investment entity for the taxable year with respect to which the determination is made shall be deemed to be increased by an amount equal to the deduction allowed by subsection (a) with respect to such taxable year,

(B) the last date prescribed for payment of such increase in tax shall be deemed to have been the last date prescribed for the payment of tax (determined in the manner provided by section 6601(b)) for the taxable year with respect to which the determination is made, and

(C) such increase in tax shall be deemed to be paid as of the date the claim for the deficiency dividend deduction is filed.

(2) Credit or refund

If the allowance of a deficiency dividend deduction results in an overpayment of tax for any taxable year, credit or refund with respect to such overpayment shall be made as if on the date of the determination 2 years remained before the expiration of the period of limitations on the filing of claim for refund for the taxable year to which the overpayment relates.

(d) Adjustment

For purposes of this section—

(1) Adjustment in the case of regulated investment company

In the case of any regulated investment company, the term “adjustment” means—

(A) any increase in the investment company taxable income of the regulated invest-