

Pub. L. 108-173, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-191 applicable to taxable years beginning after Dec. 31, 1996, see section 301(j) of Pub. L. 104-191, set out as a note under section 62 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable, except as otherwise provided, with respect to property acquired after Aug. 10, 1993, see section 13261(g) of Pub. L. 103-66, set out as an Effective Date note under section 197 of this title.

EFFECTIVE DATE

Pub. L. 101-508, title XI, §11301(d)(1), Nov. 5, 1990, 104 Stat. 1388-449, provided that: "The amendments made by subsections (a) and (c) [enacting this section] shall apply to taxable years ending on or after September 30, 1990. Any capitalization required by reason of such amendments shall not be treated as a change in method of accounting for purposes of the Internal Revenue Code of 1986."

Subchapter M—Regulated Investment Companies and Real Estate Investment Trusts

- Part I. Regulated investment companies.
- II. Real estate investment trusts.
- III. Provisions which apply to both regulated investment companies and real estate investment trusts.
- IV. Real estate mortgage investment conduits.
- [V. Repealed.]

AMENDMENTS

- 2004—Pub. L. 108-357, title VIII, §835(b)(12), Oct. 22, 2004, 118 Stat. 1594, struck out item for part V "Financial asset securitization investment trusts".
- 1996—Pub. L. 104-188, title I, §1621(c), Aug. 20, 1996, 110 Stat. 1867, added item for part V.
- 1988—Pub. L. 100-647, title I, §1018(u)(30), Nov. 10, 1988, 102 Stat. 3591, added item for part IV.
- 1978—Pub. L. 95-600, title III, §362(d)(8), Nov. 6, 1978, 92 Stat. 2852, added item for part III.

PART I—REGULATED INVESTMENT COMPANIES

- Sec. 851. Definition of regulated investment company.
- 852. Taxation of regulated investment companies and their shareholders.
- 853. Foreign tax credit allowed to shareholders.
- 853A. Credits from tax credit bonds allowed to shareholders.
- 854. Limitations applicable to dividends received from regulated investment company.
- 855. Dividends paid by regulated investment company after close of taxable year.

AMENDMENTS

- 2009—Pub. L. 111-5, div. B, title I, §1541(b)(3), Feb. 17, 2009, 123 Stat. 362, added item 853A.
- 1980—Pub. L. 96-223, title IV, §404(b)(7), Apr. 2, 1980, 94 Stat. 307, inserted "and taxable interest" after "dividends" in item 854 for taxable years after Dec. 31, 1980, and before Jan. 1, 1982.
- 1960—Pub. L. 86-779, §10(b)(1), Sept. 14, 1960, 74 Stat. 1008, inserted "and Real Estate Investment Trusts" in subchapter M heading, part I and part II designations thereunder and part I designation preceding table of sections numbered 851 to 855.

§ 851. Definition of regulated investment company

(a) General rule

For purposes of this subtitle, the term "regulated investment company" means any domestic corporation—

(1) which, at all times during the taxable year—

(A) is registered under the Investment Company Act of 1940, as amended (15 U.S.C. 80a-1 to 80b-2) as a management company or unit investment trust, or

(B) has in effect an election under such Act to be treated as a business development company, or

(2) which is a common trust fund or similar fund excluded by section 3(c)(3) of such Act (15 U.S.C. 80a-3(c)) from the definition of "investment company" and is not included in the definition of "common trust fund" by section 584(a).

(b) Limitations

A corporation shall not be considered a regulated investment company for any taxable year unless—

(1) it files with its return for the taxable year an election to be a regulated investment company or has made such election for a previous taxable year;

(2) at least 90 percent of its gross income is derived from—

(A) dividends, interest, payments with respect to securities loans (as defined in section 512(a)(5)), and gains from the sale or other disposition of stock or securities (as defined in section 2(a)(36) of the Investment Company Act of 1940, as amended) or foreign currencies, or other income (including but not limited to gains from options, futures or forward contracts) derived with respect to its business of investing in such stock, securities, or currencies, and

(B) net income derived from an interest in a qualified publicly traded partnership (as defined in subsection (h)); and

(3) at the close of each quarter of the taxable year—

(A) at least 50 percent of the value of its total assets is represented by—

(i) cash and cash items (including receivables), Government securities and securities of other regulated investment companies, and

(ii) other securities for purposes of this calculation limited, except and to the extent provided in subsection (e), in respect of any one issuer to an amount not greater in value than 5 percent of the value of the total assets of the taxpayer and to not more than 10 percent of the outstanding voting securities of such issuer, and

(B) not more than 25 percent of the value of its total assets is invested in—

(i) the securities (other than Government securities or the securities of other regulated investment companies) of any one issuer,

(ii) the securities (other than the securities of other regulated investment compa-