

(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(nn) 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))¹ 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—

¹ See References in Text note below.

(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) Statements² 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)),¹

(ii) a build America bond (as defined in section 54AA(d))¹ other than a qualified bond described in section 54AA(g),¹ and

(iii) any bond for which a credit is allowable under subpart H of part IV of subchapter A of this chapter.¹

(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)),¹ and

(ii) in the case of a build America bond (as defined in section 54AA(d)),¹ any interest payment date (as defined in section 54AA(e)).¹

(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.)

² See 2010 Amendment note below.

REFERENCES IN TEXT

Sections 54, 54A, and 54AA, referred to in subsections. (a) and (e)(1), were repealed by Pub. L. 115-97, title I, § 13404(a), Dec. 22, 2017, 131 Stat. 2138.

Section 1397E, referred to in subsection. (a), was repealed by Pub. L. 115-97, title I, § 13404(c)(1), Dec. 22, 2017, 131 Stat. 2138.

Subpart H of part IV of subchapter A of this chapter, referred to in subsection. (e)(1)(A)(iii), is subpart H (§54) of part IV of subchapter A of chapter 1 of this title, which was repealed by Pub. L. 115-97, title I, § 13404(a), Dec. 22, 2017, 131 Stat. 2138.

AMENDMENTS

2014—Subsec. (a). Pub. L. 113-295, § 209(h)(2), in concluding provisions, substituted “with respect to some or all of the credits” for “with respect to credits” and inserted “(determined without regard to this section and sections 54(c), 54A(c)(1), 54AA(c)(1), and 1397E(c))” after “credits allowable”.

Subsec. (a)(2). Pub. L. 113-295, § 209(h)(1), inserted “(determined after the application of this section)” before comma at end.

Subsec. (b). Pub. L. 113-295, § 209(h)(3), amended subsec. (b) generally. Prior to amendment, subsec. (b) consisted of pars. (1) to (3) relating to effects of elections under subsec. (a).

Subsec. (c). Pub. L. 113-295, § 209(h)(4), amended subsec. (c) generally. The amendment was effective as if included in the provisions of the American Recovery and Reinvestment Tax Act of 2009 (Pub. L. 111-5, div. B, title I) to which it relates. As enacted by Pub. L. 111-5, § 1541(a), subsec. (c) read as follows: “NOTICE TO SHAREHOLDERS.—For purposes of subsection (b)(3), the shareholder's proportionate share of—

“(1) credits described in subsection (a), and

“(2) gross income in respect of such credits,

shall not exceed the amounts so designated by the regulated investment company in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year.”

Subsec. (e)(1)(A)(ii). Pub. L. 113-295, § 209(h)(5), inserted “other than a qualified bond described in section 54AA(g)” after “as defined in section 54AA(d)”.

2010—Subsec. (c). Pub. L. 111-325, § 301(d)(1), which directed substitution of “Statements” for “Notice” in heading and “so reported by the regulated investment company in a written statement furnished to such shareholder” for “so designated by the regulated investment company in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year” in text, could not be executed to the text because the words “so reported by the regulated investment company in a written statement furnished to such shareholder” already appeared after the subsequent general amendment of subsec. (c) by Pub. L. 113-295 which was effective as if included in the provisions of the American Recovery and Reinvestment Tax Act of 2009 (Pub. L. 111-5, div. B, title I) to which it relates. However, the substitution was executed to the heading to reflect the probable intent of Congress. See 2014 Amendment note above and Effective Date of 2014 Amendment note below.

Subsec. (d). Pub. L. 111-325, § 301(d)(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.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective as if included in the provisions of the American Recovery and Reinvestment Tax Act of 2009, Pub. L. 111-5, div. B, title I, to which such amendment relates, see section 209(k) of Pub. L. 113-295, set out as a note under section 24 of this title.

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

Pub. L. 111-5, div. B, title I, §1541(c), Feb. 17, 2009, 123 Stat. 362, provided that: “The amendments made by this section [enacting this section and amending sections 54 and 54A of this title] shall apply to taxable years ending after the date of the enactment of this Act [Feb. 17, 2009].”

§ 854. Limitations applicable to dividends received from regulated investment company

(a) Capital gain dividend

For purposes of section 1(h)(11) (relating to maximum rate of tax on dividends) and section 243 (relating to deductions for dividends received by corporations), a capital gain dividend (as defined in section 852(b)(3)) received from a regulated investment company shall not be considered as a dividend.

(b) Other dividends

(1) Amount treated as dividend

(A) Deduction under section 243

In any case in which—

(i) a dividend is received from a regulated investment company (other than a dividend to which subsection (a) applies), and

(ii) such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend,

then, in computing any deduction under section 243, there shall be taken into account only that portion of such dividend reported by the regulated investment company as eligible for such deduction in written statements furnished to its shareholders and such dividend shall be treated as received from a corporation which is not a 20-percent owned corporation.

(B) Maximum rate under section 1(h)

(i) In general

In any case in which—

(I) a dividend is received from a regulated investment company (other than a dividend to which subsection (a) applies),

(II) such investment company meets the requirements of section 852(a) for the taxable year during which it paid such dividend, and

(III) the qualified dividend income of such investment company for such taxable year is less than 95 percent of its gross income,

then, in computing qualified dividend income, there shall be taken into account only that portion of such dividend reported by the regulated investment company as qualified dividend income in written statements furnished to its shareholders.

(ii) Gross income

For purposes of clause (i), in the case of 1 or more sales or other dispositions of stock or securities, the term “gross income” includes only the excess of—

(I) the net short-term capital gain from such sales or dispositions, over

(II) the net long-term capital loss from such sales or dispositions.

(C) Limitations

(i) Subparagraph (a)

The aggregate amount which may be reported as dividends under subparagraph (A) shall not exceed the aggregate dividends received by the company for the taxable year.

(ii) Subparagraph (b)

The aggregate amount which may be reported as qualified dividend income under subparagraph (B) shall not exceed the sum of—

(I) the qualified dividend income of the company for the taxable year, and

(II) the amount of any earnings and profits which were distributed by the company for such taxable year and accumulated in a taxable year with respect to which this part did not apply.

(2) Aggregate dividends

For purposes of this subsection—

(A) In general

In computing the amount of aggregate dividends received, there shall only be taken into account dividends received from domestic corporations.

(B) Dividends

For purposes of subparagraph (A), the term “dividend” shall not include any distribution from—

(i) a corporation which, for the taxable year of the corporation in which the distribution is made, or for the next preceding taxable year of the corporation, is a corporation exempt from tax under section 501 (relating to certain charitable, etc., organizations) or section 521 (relating to farmers' cooperative associations), or

(ii) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (section 856 and following).

(C) Limitations on dividends from regulated investment companies

In determining the amount of any dividend for purposes of this paragraph, a dividend received from a regulated investment company shall be subject to the limitations prescribed in this section.

(3) Special rule for computing deduction under section 243

For purposes of subparagraph (A) of paragraph (1), an amount shall be treated as a dividend for the purpose of paragraph (1) only if a deduction would have been allowable under section 243 to the regulated investment company determined—

(A) as if section 243 applied to dividends received by a regulated investment company,

(B) after the application of section 246 (but without regard to subsection (b) thereof), and