

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

(C) after the application of section 246A.

(4) Qualified dividend income

For purposes of this subsection, the term “qualified dividend income” has the meaning given such term by section 1(h)(11)(B).

(Aug. 16, 1954, ch. 736, 68A Stat. 273; Pub. L. 88-272, title II, §§201(d)(8)–(10), 229(a)(4), Feb. 26, 1964, 78 Stat. 32, 99; Pub. L. 96-223, title IV, §404(b)(6), Apr. 2, 1980, 94 Stat. 307; Pub. L. 97-34, title III, §302(c)(4), (d)(1), Aug. 13, 1981, 95 Stat. 272, 274; Pub. L. 98-369, div. A, title I, §§16(a), 52(a)–(c), July 18, 1984, 98 Stat. 505, 564, 565; Pub. L. 99-514, title VI, §§612(b)(6), 655(a)(4), Oct. 22, 1986, 100 Stat. 2250, 2299; Pub. L. 100-203, title X, §10221(d)(3), Dec. 22, 1987, 101 Stat. 1330-409; Pub. L. 100-647, title I, §1006(b)(2), Nov. 10, 1988, 102 Stat. 3393; Pub. L. 108-27, title III, §302(c), May 28, 2003, 117 Stat. 762; Pub. L. 108-311, title IV, §402(a)(5)(A)–(D), Oct. 4, 2004, 118 Stat. 1184; Pub. L. 111-325, title III, §301(e), Dec. 22, 2010, 124 Stat. 3544.)

AMENDMENTS

2010—Subsec. (b)(1)(A). Pub. L. 111-325, §301(e)(1)(A), in concluding provisions, substituted “reported by the regulated investment company as eligible for such deduction in written statements furnished to its shareholders” for “designated under this subparagraph by the regulated investment company”.

Subsec. (b)(1)(B)(i). Pub. L. 111-325, §301(e)(1)(B), in concluding provisions, substituted “reported by the regulated investment company as qualified dividend income in written statements furnished to its shareholders” for “designated by the regulated investment company”.

Subsec. (b)(1)(C)(i). Pub. L. 111-325, §301(e)(1)(C), substituted “reported” for “designated”.

Subsec. (b)(1)(C)(ii). Pub. L. 111-325, §301(e)(1)(D), substituted “reported” for “designated” in introductory provisions.

Subsec. (b)(2) to (5). Pub. L. 111-325, §301(e)(2), redesignated pars. (3) to (5) as (2) to (4), respectively, and struck out former par. (2). Prior to amendment, text read as follows: “The amount of any distribution by a regulated investment company which may be taken into account as qualified dividend income for purposes of section 1(h)(11) and as dividends for purposes of the deduction under section 243 shall not exceed the amount so designated by the company in a written notice to its shareholders mailed not later than 60 days after the close of its taxable year.”

2004—Subsec. (b)(1)(B)(i). Pub. L. 108-311, §402(a)(5)(A)(ii), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “If the aggregate dividends received by a regulated investment company during any taxable year are less than 95 percent of its gross income, then, in computing the maximum rate under section 1(h)(11), rules similar to the rules of subparagraph (A) shall apply.”

Subsec. (b)(1)(B)(iii), (iv). Pub. L. 108-311, §402(a)(5)(A)(i), struck out cls. (iii) and (iv) which related to dividends from real estate investment trusts and dividends from qualified foreign corporations, respectively.

Subsec. (b)(1)(C). Pub. L. 108-311, §402(a)(5)(B), amended heading and text of subpar. (C) generally. Prior to amendment, text read as follows: “The aggregate amount which may be designated as dividends under subparagraph (A) or (B) shall not exceed the aggregate dividends received by the company for the taxable year.”

Subsec. (b)(2). Pub. L. 108-311, §402(a)(5)(C), substituted “as qualified dividend income for purposes of section 1(h)(11) and as dividends for purposes of” for “as a dividend for purposes of the maximum rate under section 1(h)(11) and”.

Subsec. (b)(5). Pub. L. 108-311, §402(a)(5)(D), amended heading and text of par. (5) generally. Prior to amendment, text read as follows: “For purposes of paragraph (1)(B), an amount shall be treated as a dividend only if the amount is qualified dividend income (within the meaning of section 1(h)(11)(B)).”

2003—Subsec. (a). Pub. L. 108-27, §302(c)(1), inserted “section 1(h)(11) (relating to maximum rate of tax on dividends) and” after “For purposes of”.

Subsec. (b)(1)(B). Pub. L. 108-27, §302(c)(2), added subpar. (B). Former subpar. (B) redesignated (C).

Subsec. (b)(1)(C). Pub. L. 108-27, §302(c)(2), (3), redesignated subpar. (B) as (C) and substituted “subparagraph (A) or (B)” for “subparagraph (A)”.

Subsec. (b)(2). Pub. L. 108-27, §302(c)(4), inserted “the maximum rate under section 1(h)(11) and” after “for purposes of”.

Subsec. (b)(5). Pub. L. 108-27, §302(c)(5), added par. (5).

1988—Subsec. (b)(3). Pub. L. 100-647 substituted “Aggregate dividends” for “Definitions” in heading and amended text generally, substituting subpars. (A) to (C) for former subpars. (A) and (B).

1987—Subsec. (b)(1)(A). Pub. L. 100-203 inserted “and such dividend shall be treated as received from a corporation which is not a 20-percent owned corporation” before period at end.

1986—Subsec. (a). Pub. L. 99-514, §612(b)(6)(A), which directed that “section 116 (relating to an exclusion for dividends received by individuals), and” be struck out, was executed by striking out “section 116 (relating to an exclusion for dividends received by individuals) and” before “section 243” as the probable intent of Congress.

Subsec. (b)(1)(B), (C). Pub. L. 99-514, §612(b)(6)(B)(i), (ii), redesignated subpar. (C) as (B), struck out “or (B)” before “shall not exceed”, and struck out former subpar. (B), exclusion under section 116, which read as follows: “If the aggregate dividends received by a regulated investment company during any taxable year are less than 95 percent of its gross income, then, in computing the exclusion under section 116, rules similar to the rules of subparagraph (A) shall apply.”

Subsec. (b)(2). Pub. L. 99-514, §655(a)(4), substituted “60 days” for “45 days”.

Pub. L. 99-514, §612(b)(6)(B)(iii), struck out “the exclusion under section 116 and” before “the deduction under section 243”.

Subsec. (b)(3)(B). Pub. L. 99-514, §612(b)(6)(B)(iv), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: “The term ‘aggregate dividends received’ includes only dividends received from domestic corporations other than dividends described in section 116(b) (relating to dividends excluded from gross income). In determining the amount of any dividend for purposes of this subparagraph, the rules provided in section 116(c) (relating to certain distributions) shall apply.”

1984—Subsec. (b). Pub. L. 98-369, §16(a), repealed amendments made by Pub. L. 97-34, §302(c). See 1981 Amendment note below.

Subsec. (b)(1). Pub. L. 98-369, §52(a), increased the required amount of dividends by substituting provisions directing that 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 thus designated by the regulated investment company, that if the aggregate dividends received by a regulated investment company during any taxable year are less than 95 percent of its gross income, then, in computing the exclusion under section 116, similar rules applied, and that the aggregate amount which may be designated thus dividends shall not exceed the aggregate dividends received by the company for the taxable year for provisions which had directed that in the case of a dividend received from a regulated investment company (other than a dividend to which subsection (a) applied) (A) if

such investment company met the requirements of section 852(a) for the taxable year during which it paid such dividend; and (B) the aggregate dividends received by such company during such taxable year were less than 75 percent of its gross income, then, in computing the exclusion under section 116 and the deduction under section 243, there was taken into account only that portion of the dividend which bore the same ratio to the amount of such dividend as the aggregate dividends received by such company during such taxable year to its gross income for such taxable year.

Subsec. (b)(3)(A). Pub. L. 98-369, §52(c), substituted provisions directing that in the case of 1 or more sales or other dispositions of stock and securities, the term “gross income” include 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 for provisions which had directed that the term “gross income” not include gain from the sale or other disposition of stock or securities.

Subsec. (b)(4). Pub. L. 98-369, §52(b), added par. (4).

1981—Subsec. (b). Pub. L. 97-34, §302(c)(4), (d)(1), provided for general amendment of subsec. (b) so as to include provisions relating to taxable interest described in section 128 of this title, applicable to taxable years beginning after Dec. 31, 1984. Section 16(a) of Pub. L. 98-369, repealed section 302(c) of Pub. L. 97-34, and provided that this title shall be applied and administered as if section 302(c), and the amendments made by section 302(c), had not been enacted.

1980—Subsec. (b). Pub. L. 96-223, §404(b)(6), temporarily substituted “Other dividends and taxable interest” for “Other dividends” in heading, substituted “Deduction under section 243” for “General rule” in heading for par. (1), struck out “the exclusion under section 116 and” after “in computing” in text of par. (1) following subpar. (B), added par. (2), redesignated former pars. (2) and (3) as (3) and (4), respectively, and, in par. (4) as so redesignated, substituted “116(b)(2)” for “116(b)” and “116(c)(2)” for “116(c)” in subpar. (B) and added subpar. (C).

1964—Subsec. (a). Pub. L. 88-272, §201(d)(8), struck out “section 34(a) (relating to credit for dividends received by individuals),” before “section 116” and the comma before “and”.

Subsec. (b). Pub. L. 88-272, §§201(d)(9), (10), 229(a)(4), substituted “45 days” for “30 days” in par. (2), and struck out “the credit under section 34(a),” before “the exclusion” in par. (1), and “the credit under section 34,” before “the exclusion” in par. (2).

EFFECTIVE AND TERMINATION DATES 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 an Effective Date of 2010 Amendment note under section 852 of this title.

Pub. L. 111-325, title III, §301(i), Dec. 22, 2010, 124 Stat. 3547, provided that: “Section 303 of the Jobs and Growth Tax Relief Reconciliation Act of 2003 [Pub. L. 108-27, which was repealed by Pub. L. 112-240, title I, §102(a), Jan. 2, 2013, 126 Stat. 2318, was formerly set out as an Effective and Termination Dates of 2003 Amendment note under section 1 of this title] shall apply to the amendments made by subparagraphs (B) and (D) of subsection (e)(1) [amending this section] to the same extent and in the same manner as section 303 of such Act applies to the amendments made by section 302 of such Act [amending this section and sections 1, 163, 301, 306, 338, 467, 531, 541, 584, 702, 857, 1255, and 1257 of this title and repealing section 341 of this title].”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-311 effective as if included in section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. 108-27, see section 402(b) of Pub. L. 108-311, set out a note under section 1 of this title.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-27 applicable, except as otherwise provided, to taxable years beginning after Dec. 31, 2002, see section 302(f) of Pub. L. 108-27, set out as an Effective and Termination Dates of 2003 Amendment note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dividends received or accrued after Dec. 31, 1987, in taxable years ending after such date, see section 10221(e)(1) of Pub. L. 100-203, set out as a note under section 243 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 612(b)(6) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 612(c) of Pub. L. 99-514, set out as a note under section 301 of this title.

Amendment by section 655(a)(4) of 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 1984 AMENDMENT

Amendment by section 16(a) of Pub. L. 98-369 applicable to taxable years ending after Dec. 31, 1983, see section 18(a) of Pub. L. 98-369, set out as a note under section 48 of this title.

Pub. L. 98-369, div. A, title I, §52(d), July 18, 1984, 98 Stat. 565, provided that: “The amendments made by this section [amending this section] shall apply to taxable years of regulated investment companies beginning after the date of the enactment of this Act [July 18, 1984].”

EFFECTIVE AND TERMINATION DATES OF 1980 AMENDMENT

Amendment by Pub. L. 96-223 applicable with respect to taxable years beginning after Dec. 31, 1980, and before Jan. 1, 1982, see section 404(c) of Pub. L. 96-223, set out as a note under section 265 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by section 201(d)(8)–(10) of Pub. L. 88-272 applicable to dividends received after Dec. 31, 1964, in taxable years ending after such date, see section 201(e) of Pub. L. 88-272, set out as a note under section 22 of this title.

Amendment by section 229(a)(4) of 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.

QUALIFIED DIVIDEND NOTICE PERIOD

Pub. L. 108-311, title IV, §402(a)(5)(F), Oct. 4, 2004, 118 Stat. 1185, provided that: “With respect to any taxable year of a regulated investment company or real estate investment trust ending on or before November 30, 2003, the period for providing notice of the qualified dividend amount to shareholders under [former, as to 854(b)(2)] sections 854(b)(2) and 857(c)(2)(C) of the Internal Revenue Code of 1986, as amended by this section, shall not expire before the date on which the statement under section 6042(c) of such Code is required to be furnished with respect to the last calendar year beginning in such taxable year.”

§ 855. Dividends paid by regulated investment company after close of taxable year

(a) General rule

For purposes of this chapter, if a regulated investment company—

(1) declares a dividend on or before the later of—

(A) the 15th day of the 9th month following the close of the taxable year, or

(B) in the case of an extension of time for filing the company's return for the taxable year, the due date for filing such return taking into account such extension, and

(2) distributes the amount of such dividend to shareholders in the 12-month period following the close of such taxable year and not later than the date of the first dividend payment of the same type of dividend made after such declaration,

the amount so declared and distributed shall, to the extent the company elects in such return in accordance with regulations prescribed by the Secretary, be considered as having been paid during such taxable year, except as provided in subsections (b) and (c). For purposes of paragraph (2), a dividend attributable to any short-term capital gain with respect to which a notice is required under the Investment Company Act of 1940 shall be treated as the same type of dividend as a capital gain dividend.

(b) Receipt by shareholder

Except as provided in section 852(b)(7), amounts to which subsection (a) is applicable shall be treated as received by the shareholder in the taxable year in which the distribution is made.

(c) Foreign tax election

If an investment company to which section 853 is applicable for the taxable year makes a distribution as provided in subsection (a) of this section, the shareholders shall consider the amounts described in section 853(b)(2) allocable to such distribution as paid or received, as the case may be, in the taxable year in which the distribution is made.

(Aug. 16, 1954, ch. 736, 68A Stat. 274; Pub. L. 86-779, §10(b)(2), Sept. 14, 1960, 74 Stat. 1009; Pub. L. 88-272, title II, §229(a)(5), 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, §§651(b)(1)(B), 655(a)(5), Oct. 22, 1986, 100 Stat. 2296, 2299; Pub. L. 100-647, title I, §1006(l)(1)(B), Nov. 10, 1988, 102 Stat. 3413; Pub. L. 111-325, title III, §§301(g), 304(a)-(c), Dec. 22, 2010, 124 Stat. 3547-3549; Pub. L. 113-295, div. A, title II, §205(b), Dec. 19, 2014, 128 Stat. 4026.)

REFERENCES IN TEXT

The Investment Company Act of 1940, referred to in subsec. (a), is title I of act Aug. 22, 1940, ch. 686, 54 Stat. 789, 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. (a)(1). Pub. L. 113-295 inserted “on or” before “before” in introductory provisions.

2010—Subsec. (a). Pub. L. 111-325, §304(c), in concluding provisions, inserted at end “For purposes of paragraph (2), a dividend attributable to any short-term capital gain with respect to which a notice is required under the Investment Company Act of 1940 shall be treated as the same type of dividend as a capital gain dividend.”

Pub. L. 111-325, §301(g)(2), substituted “and (c)” for “, (c) and (d)” in concluding provisions.

Subsec. (a)(1). Pub. L. 111-325, §304(a), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “declares a dividend prior to the time prescribed by law for the filing of its return for a taxable year (including the period of any extension of time granted for filing such return), and”.

Subsec. (a)(2). Pub. L. 111-325, §304(b), substituted “the first dividend payment of the same type of dividend” for “the first regular dividend payment”.

Subsecs. (c), (d). Pub. L. 111-325, §301(g)(1), redesignated subsec. (d) as (c) and struck out former subsec. (c). Text of former subsec. (c) read as follows: “In the case of amounts to which subsection (a) is applicable, any notice to shareholders required under this part with respect to such amounts shall be made not later than 60 days after the close of the taxable year in which the distribution is made.”

1988—Subsec. (b). Pub. L. 100-647 substituted “section 852(b)(7)” for “section 852(b)(6)”.

1986—Subsec. (b). Pub. L. 99-514, §651(b)(1)(B), substituted “Except as provided in section 852(b)(6), amounts” for “Amounts”.

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

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

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

1960—Subsec. (c). Pub. L. 86-779 substituted “this part” for “this subchapter”.

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective as if included in the provision of the Regulated Investment Company Modernization Act of 2010, Pub. L. 111-325, to which such amendment relates, with savings provision in certain cases of an election by a regulated investment company under section 852(b)(8) of this title, see section 205(f) of Pub. L. 113-295, set out as a note under section 852 of this title.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 301(g) of 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.

Pub. L. 111-325, title III, §304(d), Dec. 22, 2010, 124 Stat. 3549, provided that: “The amendments made by this section [amending this section] shall apply to distributions in taxable years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by 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 651(b)(1)(B) 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.

Amendment by section 655(a)(5) of 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