

(h) Suspension of statute of limitations and stay of collection**(1) Suspension of running of statute**

If the qualified investment entity files a claim as provided in subsection (g), the running of the statute of limitations provided in section 6501 on the making of assessments, and the bringing of distraint or a proceeding in court for collection, in respect of the deficiency established by a determination under this section, and all interest, additions to tax, additional amounts, or assessable penalties in respect thereof, shall be suspended for a period of 2 years after the date of the determination.

(2) Stay of collection

In the case of any deficiency established by a determination under this section—

(A) the collection of the deficiency, and all interest, additions to tax, additional amounts, and assessable penalties in respect thereof, shall, except in cases of jeopardy, be stayed until the expiration of 120 days after the date of the determination, and

(B) if claim for a deficiency dividend deduction is filed under subsection (g), the collection of such part of the deficiency as is not reduced by the deduction for deficiency dividends provided in subsection (a) shall be stayed until the date the claim is disallowed (in whole or in part), and if disallowed in part collection shall be made only with respect to the part disallowed.

No distraint or proceeding in court shall be begun for the collection of an amount the collection of which is stayed under subparagraph (A) or (B) during the period for which the collection of such amount is stayed.

(i) Deduction denied in case of fraud

No deficiency dividend deduction shall be allowed under subsection (a) if the determination contains a finding that any part of any deficiency attributable to an adjustment with respect to the taxable year is due to fraud with intent to evade tax or to willful failure to file an income tax return within the time prescribed by law or prescribed by the Secretary in pursuance of law.

(Added Pub. L. 95-600, title III, §362(a), Nov. 6, 1978, 92 Stat. 2848; amended Pub. L. 96-222, title I, §103(a)(11)(B), (C), Apr. 1, 1980, 94 Stat. 213; Pub. L. 99-514, title VI, §667(b)(1), Oct. 22, 1986, 100 Stat. 2306; Pub. L. 108-357, title II, §243(f)(5), Oct. 22, 2004, 118 Stat. 1445; Pub. L. 111-325, title III, §301(a)(2), title V, §501(b), Dec. 22, 2010, 124 Stat. 3542, 3554; Pub. L. 115-141, div. U, title IV, §401(a)(149), (150), Mar. 23, 2018, 132 Stat. 1191.)

REFERENCES IN TEXT

Section 857(b)(3)(A), referred to in subsec. (d)(2)(B), relating to alternative tax in case of capital gains, was repealed by Pub. L. 115-97, title I, §13001(b)(2)(K)(i), Dec. 22, 2017, 131 Stat. 2096. Subsec. (b)(3)(B) of section 857, relating to treatment of capital gain dividends by shareholders, was redesignated subsec. (b)(3)(A) of that section.

PRIOR PROVISIONS

A prior section 860 was renumbered section 859 of this title.

AMENDMENTS

2018—Subsec. (f)(2)(A)(ii). Pub. L. 115-141, §401(a)(149), substituted “decrease” for “decreased”.

Subsec. (i). Pub. L. 115-141, §401(a)(150), substituted “willful” for “willfull”.

2010—Subsec. (f)(2)(B). Pub. L. 111-325, §301(a)(2), inserted “or reported (as the case may be)” after “designated”.

Subsec. (j). Pub. L. 111-325, §501(b), struck out subsec. (j). Text read as follows: “For assessable penalty with respect to liability for tax of a regulated investment company which is allowed a deduction under subsection (a), see section 6697.”

2004—Subsec. (e)(4). Pub. L. 108-357 added par. (4).

1986—Subsec. (j). Pub. L. 99-514 substituted “regulated investment company” for “qualified investment entity”.

1980—Subsec. (f). Pub. L. 96-222 substituted in heading “Deficiency” for “Efficiency” and in par. (2)(A)(i) “(computed without regard)” for “computed without regard”.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by section 301(a)(2) 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 V, §501(c), Dec. 22, 2010, 124 Stat. 3554, provided that: “The amendments made by this section [amending this section and repealing section 6697 of this title] shall apply to taxable years beginning after the date of the enactment of this Act [Dec. 22, 2010].”

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to statements filed after Oct. 22, 2004, see section 243(g)(4)(E) of Pub. L. 108-357, set out as a note under section 856 of this title.

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

Pub. L. 95-600, title III, §362(e), Nov. 6, 1978, 92 Stat. 2852, as amended by Pub. L. 96-222, title I, §103(a)(11)(A), Apr. 1, 1980, 94 Stat. 212; Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendments made by this section [enacting this section, amending sections 316, 381, 852, 857, 6422, 6503, 6515, and 6697 of this title, repealing section 859 of this title, and redesignating prior section 860 as 859 of this title] shall apply with respect to determinations (as defined in section 860(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) after the date of the enactment of this Act [Nov. 6, 1978].”

PART IV—REAL ESTATE MORTGAGE INVESTMENT CONDUITS

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860A.	Taxation of REMIC's.
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§ 860A. Taxation of REMIC's**(a) General rule**

Except as otherwise provided in this part, a REMIC shall not be subject to taxation under