

ing 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

- Sec.
- 860A. Taxation of REMIC's.
- 860B. Taxation of holders of regular interests.
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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 this subtitle (and shall not be treated as a corporation, partnership, or trust for purposes of this subtitle).

(b) Income taxable to holders

The income of any REMIC shall be taxable to the holders of interests in such REMIC as provided in this part.

(Added Pub. L. 99-514, title VI, §671(a), Oct. 22, 1986, 100 Stat. 2309; amended Pub. L. 100-647, title I, § 1006(t)(20), Nov. 10, 1988, 102 Stat. 3426.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647 substituted “this subtitle” for “this chapter” in two places.

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

Pub. L. 99-514, title VI, §675(a)-(c), Oct. 22, 1986, 100 Stat. 2320, as amended by Pub. L. 100-647, title I, § 1006(w)(1), Nov. 10, 1988, 102 Stat. 3427, provided that:

“(a) **GENERAL RULE.**—Except as otherwise provided in this section, the amendments made by this subtitle [subtitle H (§§671-675) of title VI of Pub. L. 99-514, enacting this part and amending sections 582, 593, 856, 1272, 6049, and 7701 of this title] shall take effect on January 1, 1987.

“(b) **RULES FOR ACCRUING ORIGINAL ISSUE DISCOUNT.**—The amendment made by section 672 [amending section 1272 of this title] shall apply to debt instruments issued after December 31, 1986, in taxable years ending after such date.

“(c) **TREATMENT OF TAXABLE MORTGAGE POOLS.**—

“(1) **IN GENERAL.**—The amendment made by section 673 [amending section 7701 of this title] shall take effect on January 1, 1992.

“(2) **TREATMENT OF EXISTING ENTITIES.**—The amendment made by section 673 shall not apply to any entity in existence on December 31, 1991. The preceding sentence shall cease to apply with respect to any entity as of the 1st day after December 31, 1991, on which there is a substantial transfer of cash or other property to such entity.

“(3) **SPECIAL RULE FOR COORDINATION WITH WASH-SALE RULES.**—Notwithstanding paragraphs (1) and (2), for purposes of applying section 860F(d) of the Internal Revenue Code of 1986 (as added by this part [this

subtitle]), the amendment made by section 673 shall apply to taxable years beginning after December 31, 1986.”

STUDY OF AMENDMENTS BY PUB. L. 99-514

Pub. L. 99-514, title VI, §675(d), as added by Pub. L. 100-647, title I, §1006(w)(2), Nov. 10, 1988, 102 Stat. 3427, directed Secretary of the Treasury to conduct a study of the operation of the amendments made by this part [this subtitle] and their competitive impact on savings and loan institutions and similar financial institutions and, not later than Jan. 1, 1990, report to Congress, prior to repeal by Pub. L. 101-508, title XI, §11832(5), Nov. 5, 1990, 104 Stat. 1388-559.

§ 860B. Taxation of holders of regular interests

(a) General rule

In determining the tax under this chapter of any holder of a regular interest in a REMIC, such interest (if not otherwise a debt instrument) shall be treated as a debt instrument.

(b) Holders must use accrual method

The amounts includible in gross income with respect to any regular interest in a REMIC shall be determined under the accrual method of accounting.

(c) Portion of gain treated as ordinary income

Gain on the disposition of a regular interest shall be treated as ordinary income to the extent such gain does not exceed the excess (if any) of—

(1) the amount which would have been includible in the gross income of the taxpayer with respect to such interest if the yield on such interest were 110 percent of the applicable Federal rate (as defined in section 1274(d) without regard to paragraph (2) thereof) as of the beginning of the taxpayer's holding period, over

(2) the amount actually includible in gross income with respect to such interest by the taxpayer.

(d) Cross reference

For special rules in determining inclusion of original issue discount on regular interests, see section 1272(a)(6).

(Added Pub. L. 99-514, title VI, §671(a), Oct. 22, 1986, 100 Stat. 2309.)

§ 860C. Taxation of residual interests

(a) Pass-thru of income or loss

(1) In general

In determining the tax under this chapter of any holder of a residual interest in a REMIC, such holder shall take into account his daily portion of the taxable income or net loss of such REMIC for each day during the taxable year on which such holder held such interest.

(2) Daily portion

The daily portion referred to in paragraph (1) shall be determined—

(A) by allocating to each day in any calendar quarter its ratable portion of the taxable income (or net loss) for such quarter, and

(B) by allocating the amount so allocated to any day among the holders (on such day) of residual interests in proportion to their respective holdings on such day.