

2015—Subsec. (c)(2)(F). Pub. L. 114-41 added subpar. (F).

2011—Subsec. (b)(3). Pub. L. 112-10 struck out par. (3). Text read as follows: “No assessable payment shall be imposed under paragraph (1) for any month with respect to any employee to whom the employer provides a free choice voucher under section 10108 of the Patient Protection and Affordable Care Act for such month.”

2010—Subsec. (b). Pub. L. 111-152, §1003(d), redesignated subsec. (c) as (b) and struck out former subsec. (b) which related to large employers with enrollment waiting periods exceeding 60 days.

Pub. L. 111-148, §10106(e), amended subsec. (b) generally. Prior to amendment, subsec. (b) related to large employers with enrollment waiting periods exceeding 30 days.

Subsec. (c). Pub. L. 111-152, §1003(d), redesignated subsec. (d) as (c). Former subsec. (c) redesignated (b).

Subsec. (c)(1). Pub. L. 111-152, §1003(b)(1), substituted “an amount equal to ½ of \$3,000” for “400 percent of the applicable payment amount” in concluding provisions.

Subsec. (c)(3). Pub. L. 111-148, §10108(i)(1)(A), added par. (3).

Subsec. (d). Pub. L. 111-152, §1003(d), redesignated subsec. (e) as (d). Former subsec. (d) redesignated (c).

Subsec. (d)(1). Pub. L. 111-152, §1003(b)(2), substituted “\$2,000” for “\$750”.

Subsec. (d)(2)(D). Pub. L. 111-152, §1003(a), amended subpar. (D) generally. Prior to amendment, text read as follows: “In the case of any employer the substantial annual gross receipts of which are attributable to the construction industry—

“(i) subparagraph (A) shall be applied by substituting ‘who employed an average of at least 5 full-time employees on business days during the preceding calendar year and whose annual payroll expenses exceed \$250,000 for such preceding calendar year’ for ‘who employed an average of at least 50 full-time employees on business days during the preceding calendar year’, and

“(ii) subparagraph (B) shall be applied by substituting ‘5’ for ‘50.’”

Pub. L. 111-148, §10106(f)(2), added subpar. (D).

Subsec. (d)(2)(E). Pub. L. 111-152, §1003(c), added subpar. (E).

Subsec. (d)(4)(A). Pub. L. 111-148, §10106(f)(1), inserted “, with respect to any month,” after “means”.

Subsec. (d)(5)(A). Pub. L. 111-152, §1003(b)(3), substituted “subsection (b) and paragraph (1)” for “subsection (b)(2) and (d)(1)” in introductory provisions.

Subsec. (e). Pub. L. 111-152, §1003(d), redesignated subsec. (e) as (d).

#### EFFECTIVE DATE OF 2015 AMENDMENT

Pub. L. 114-41, title IV, §4007(a)(2), July 31, 2015, 129 Stat. 466, provided that: “The amendment made by this subsection [amending this section] shall apply to months beginning after December 31, 2013.”

#### EFFECTIVE DATE OF 2011 AMENDMENT

Amendment by Pub. L. 112-10 effective as if included in the provisions of, and the amendments made by, the provisions of Pub. L. 111-148 to which it relates, see section 1858(d) of Pub. L. 112-10, set out as a note under section 36B of this title.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-148, title X, §10106(f)(3), Mar. 23, 2010, 124 Stat. 911, provided that: “The amendment made by paragraph (2) [amending this section] shall apply to months beginning after December 31, 2013.”

Pub. L. 111-148, title X, §10108(i)(1)(B), Mar. 23, 2010, 124 Stat. 914, provided that: “The amendment made by this paragraph [amending this section] shall apply to months beginning after December 31, 2013.”

#### EFFECTIVE DATE

Pub. L. 111-148, title I, §1513(d), Mar. 23, 2010, 124 Stat. 256, provided that: “The amendments made by this sec-

tion [enacting this section] shall apply to months beginning after December 31, 2013.”

### [§ 4980I. Repealed. Pub. L. 116-94, div. N, title I, § 503(a), Dec. 20, 2019, 133 Stat. 3119]

Section, added and amended Pub. L. 111-148, title IX, §9001(a), title X, §10901(a), (b), Mar. 23, 2010, 124 Stat. 847, 1015, 1016; Pub. L. 111-152, title I, §1401(a), Mar. 30, 2010, 124 Stat. 1059; Pub. L. 114-113, div. P, title I, §§101(b), 102, Dec. 18, 2015, 129 Stat. 3037; Pub. L. 114-255, div. C, title XVIII, §18001(a)(4), Dec. 13, 2016, 130 Stat. 1342; Pub. L. 115-97, title I, §11002(d)(12), Dec. 22, 2017, 131 Stat. 2062; Pub. L. 115-141, div. U, title IV, §401(a)(237), (238), Mar. 23, 2018, 132 Stat. 1195, related to excise tax on high cost employer-sponsored health coverage.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 2019, see section 503(c) of Pub. L. 116-94, set out as an Effective Date of 2019 Amendment note under section 6051 of this title.

## CHAPTER 44—QUALIFIED INVESTMENT ENTITIES

Sec.

4981. Excise tax on undistributed income of real estate investment trusts.
4982. Excise tax on undistributed income of regulated investment companies.

#### AMENDMENTS

1986—Pub. L. 99-514, title VI, §651(c), Oct. 22, 1986, 100 Stat. 2297, substituted: “QUALIFIED INVESTMENT ENTITIES” for “REAL ESTATE INVESTMENT TRUSTS” as chapter heading, substituted “Excise tax on undistributed income of real estate investment trusts” for “Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year” in item 4981, and added item 4982.

1976—Pub. L. 94-455, title XVI, §1605(a), Oct. 4, 1976, 90 Stat. 1754, added chapter heading and section analysis.

### § 4981. Excise tax on undistributed income of real estate investment trusts

#### (a) Imposition of tax

There is hereby imposed a tax on every real estate investment trust for each calendar year equal to 4 percent of the excess (if any) of—

- (1) the required distribution for such calendar year, over
- (2) the distributed amount for such calendar year.

#### (b) Required distribution

For purposes of this section—

##### (1) In general

The term “required distribution” means, with respect to any calendar year, the sum of—

- (A) 85 percent of the real estate investment trust’s ordinary income for such calendar year, plus
- (B) 95 percent of the real estate investment trust’s capital gain net income for such calendar year.

##### (2) Increase by prior year shortfall

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the grossed up required distribution for the preceding calendar year, over

(B) the distributed amount for such preceding calendar year.

**(3) Grossed up required distribution**

The grossed up required distribution for any calendar year is the required distribution for such year determined—

(A) with the application of paragraph (2) to such taxable year, and

(B) by substituting “100 percent” for each percentage set forth in paragraph (1).

**(c) Distributed amount**

For purposes of this section—

**(1) In general**

The term “distributed amount” means, with respect to any calendar year, the sum of—

(A) the deduction for dividends paid (as defined in section 561) during such calendar year (but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D)), and

(B) any amount on which tax is imposed under subsection (b)(1) or (b)(3)(A)<sup>1</sup> of section 857 for any taxable year ending in such calendar year.

**(2) Increase by prior year overdistribution**

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

(A) the distributed amount for the preceding calendar year (determined with the application of this paragraph to such preceding calendar year), over

(B) the grossed up required distribution for such preceding calendar year.

**(3) Determination of dividends paid**

The amount of the dividends paid during any calendar year shall be determined without regard to the provisions of section 858.

**(d) Time for payment of tax**

The tax imposed by this section for any calendar year shall be paid on or before March 15 of the following calendar year.

**(e) Definitions and special rules**

For purposes of this section—

**(1) Ordinary income**

The term “ordinary income” means the real estate investment trust taxable income (as defined in section 857(b)(2)) determined—

(A) without regard to subparagraph (B) of section 857(b)(2),

(B) by not taking into account any gain or loss from the sale or exchange of a capital asset, and

(C) by treating the calendar year as the trust’s taxable year.

**(2) Capital gain net income**

**(A) In general**

The term “capital gain net income” has the meaning given such term by section 1222(9) (determined by treating the calendar year as the trust’s taxable year).

**(B) Reduction for net ordinary loss**

The amount determined under subparagraph (A) shall be reduced by the amount of

the trust’s net ordinary loss for the taxable year.

**(C) Net ordinary loss**

For purposes of this paragraph, the net ordinary loss for the calendar year is the amount which would be net operating loss of the trust for the calendar year if the amount of such loss were determined in the same manner as ordinary income is determined under paragraph (1).

**(3) Treatment of deficiency distributions**

In the case of any deficiency dividend (as defined in section 860(f))—

(A) such dividend shall be taken into account when paid without regard to section 860, and

(B) any income giving rise to the adjustment shall be treated as arising when the dividend is paid.

(Added Pub. L. 94-455, title XVI, §1605(a), Oct. 4, 1976, 90 Stat. 1754; amended Pub. L. 99-514, title VI, §668(a), Oct. 22, 1986, 100 Stat. 2306; Pub. L. 100-647, title I, §1006(s)(1), (3), Nov. 10, 1988, 102 Stat. 3418.)

REFERENCES IN TEXT

Subsection (b)(3)(A) of section 857, referred to in subsec. (c)(1)(B), was repealed and subsection (b)(3)(B) was redesignated (b)(3)(A) by Pub. L. 115-97, title I, §13001(b)(2)(K)(i), Dec. 22, 2017, 131 Stat. 2096.

AMENDMENTS

1988—Subsec. (c)(1)(A). Pub. L. 100-647, §1006(s)(3), inserted “(but computed without regard to that portion of such deduction which is attributable to the amount excluded under section 857(b)(2)(D))” after “such calendar year”.

Subsec. (e)(2). Pub. L. 100-647, §1006(s)(1), amended par. (2) generally, designating existing provisions as subparagraph (A) and adding subpars. (B) and (C).

1986—Pub. L. 99-514 substituted “Excise tax on undistributed income of real estate investment trusts” for “Excise tax based on certain real estate investment trust taxable income not distributed during the taxable year” as section catchline and amended text generally. Prior to amendment text read as follows: “Effective with respect to taxable years beginning after December 31, 1979, there is hereby imposed on each real estate investment trust for the taxable year a tax equal to 3 percent of the amount (if any) by which 75 percent of the real estate investment trust taxable income (as defined in section 857(b)(2), but determined without regard to section 857(b)(2)(B), and by excluding any net capital gain for the taxable year) exceeds the amount of the dividends paid deduction (as defined in section 561, but computed without regard to capital gains dividends as defined in section 857(b)(3)(C) and without regard to any dividend paid after the close of the taxable year) for the taxable year. For purposes of the preceding sentence, the determination of the real estate investment trust taxable income shall be made by taking into account only the amount and character of the items of income and deduction as reported by such trust in its return for the taxable year.”

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 Pub. L. 99-514 applicable to calendar years beginning after Dec. 31, 1986, see section 669(b) of

<sup>1</sup> See References in Text note below.

Pub. L. 99-514, set out as a note under section 856 of this title.

**§ 4982. Excise tax on undistributed income of regulated investment companies**

**(a) Imposition of tax**

There is hereby imposed a tax on every regulated investment company for each calendar year equal to 4 percent of the excess (if any) of—

- (1) the required distribution for such calendar year, over
- (2) the distributed amount for such calendar year.

**(b) Required distribution**

For purposes of this section—

**(1) In general**

The term “required distribution” means, with respect to any calendar year, the sum of—

- (A) 98 percent of the regulated investment company’s ordinary income for such calendar year, plus
- (B) 98.2 percent of the regulated investment company’s capital gain net income for the 1-year period ending on October 31 of such calendar year.

**(2) Increase by prior year shortfall**

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the grossed up required distribution for the preceding calendar year, over
- (B) the distributed amount for such preceding calendar year.

**(3) Grossed up required distribution**

The grossed up required distribution for any calendar year is the required distribution for such year determined—

- (A) with the application of paragraph (2) to such taxable year, and
- (B) by substituting “100 percent” for each percentage set forth in paragraph (1).

**(c) Distributed amount**

For purposes of this section—

**(1) In general**

The term “distributed amount” means, with respect to any calendar year, the sum of—

- (A) the deduction for dividends paid (as defined in section 561) during such calendar year, and
- (B) any amount on which tax is imposed under subsection (b)(1) or (b)(3)(A) of section 852 for any taxable year ending in such calendar year.

**(2) Increase by prior year overdistribution**

The amount determined under paragraph (1) for any calendar year shall be increased by the excess (if any) of—

- (A) the distributed amount for the preceding calendar year (determined with the application of this paragraph to such preceding calendar year), over
- (B) the grossed up required distribution for such preceding calendar year.

**(3) Determination of dividends paid**

The amount of the dividends paid during any calendar year shall be determined without regard to—

- (A) the provisions of section 855, and
- (B) any exempt-interest dividend as defined in section 852(b)(5).

**(4) Special rule for estimated tax payments**

**(A) In general**

In the case of a regulated investment company which elects the application of this paragraph for any calendar year—

- (i) the distributed amount with respect to such company for such calendar year shall be increased by the amount on which qualified estimated tax payments are made by such company during such calendar year, and
- (ii) the distributed amount with respect to such company for the following calendar year shall be reduced by the amount of such increase.

**(B) Qualified estimated tax payments**

For purposes of this paragraph, the term “qualified estimated tax payments” means, with respect to any calendar year, payments of estimated tax of a tax described in paragraph (1)(B) for any taxable year which begins (but does not end) in such calendar year.

**(d) Time for payment of tax**

The tax imposed by this section for any calendar year shall be paid on or before March 15 of the following calendar year.

**(e) Definitions and special rules**

For purposes of this section—

**(1) Ordinary income**

The term “ordinary income” means the investment company taxable income (as defined in section 852(b)(2)) determined—

- (A) without regard to subparagraphs (A) and (D) of section 852(b)(2),
- (B) by not taking into account any gain or loss from the sale or exchange of a capital asset, and
- (C) by treating the calendar year as the company’s taxable year.

**(2) Capital gain net income**

**(A) In general**

Except as provided in subparagraph (B), the term “capital gain net income” has the meaning given such term by section 1222(9) (determined by treating the 1-year period ending on October 31 of any calendar year as the company’s taxable year).

**(B) Reduction by net ordinary loss for calendar year**

The amount determined under subparagraph (A) shall be reduced (but not below the net capital gain) by the amount of the company’s net ordinary loss for the calendar year.

**(C) Definitions**

For purposes of this paragraph—

**(i) Net capital gain**

The term “net capital gain” has the meaning given such term by section 1222(11) (determined by treating the 1-year