

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”.

Statutory Notes and Related Subsidiaries

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 after Feb. 26, 1964, see section 229(c) of Pub. L. 88-272, set out as a note under section 852 of this title.

EFFECTIVE DATE OF 1960 AMENDMENT

Amendment by Pub. L. 86-779 applicable with respect to taxable years of real estate investment trusts beginning after Dec. 31, 1960, see section 10(k) of Pub. L. 86-779, set out as an Effective Date note under section 856 of this title.

PART II—REAL ESTATE INVESTMENT TRUSTS

Sec.	
856.	Definition of real estate investment trust.
857.	Taxation of real estate investment trusts and their beneficiaries.
858.	Dividends paid by real estate investment trust after close of taxable year.
859.	Adoption of annual accounting period.

Editorial Notes

AMENDMENTS

1978—Pub. L. 95-600, title III, §362(d)(7), Nov. 6, 1978, 92 Stat. 2852, substituted in item 859 “Adoption of annual accounting period” for “Deduction of deficiency dividends” and struck out item 860 “Adoption of annual accounting period”.

1976—Pub. L. 94-455, title XVI, §§1601(a)(2), 1604(i)(2), Oct. 4, 1976, 90 Stat. 1745, 1752, added items 859 and 860.

1960—Pub. L. 86-779, §10(a), Sept. 14, 1960, 74 Stat. 1003, added part II analysis.

§ 856. Definition of real estate investment trust

(a) In general

For purposes of this title, the term “real estate investment trust” means a corporation, trust, or association—

- (1) which is managed by one or more trustees or directors;
- (2) the beneficial ownership of which is evidenced by transferable shares, or by transferable certificates of beneficial interest;
- (3) which (but for the provisions of this part) would be taxable as a domestic corporation;
- (4) which is neither (A) a financial institution referred to in section 582(c)(2), nor (B) an insurance company to which subchapter L applies;
- (5) the beneficial ownership of which is held by 100 or more persons;
- (6) subject to the provisions of subsection (k), which is not closely held (as determined under subsection (h)); and
- (7) which meets the requirements of subsection (c).

(b) Determination of status

The conditions described in paragraphs (1) to (4), inclusive, of subsection (a) must be met during the entire taxable year, and the condition described in paragraph (5) must exist during at least 335 days of a taxable year of 12 months, or during a proportionate part of a taxable year of less than 12 months.

(c) Limitations

A corporation, trust, or association shall not be considered a real estate investment trust for any taxable year unless—

- (1) it files with its return for the taxable year an election to be a real estate investment trust or has made such election for a previous taxable year, and such election has not been terminated or revoked under subsection (g);
- (2) at least 95 percent (90 percent for taxable years beginning before January 1, 1980) of its