EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108–357 effective Jan. 1, 2005, with exception for any FASIT in existence on Oct. 22, 2004, to the extent that regular interests issued by the FASIT before such date continue to remain outstanding in accordance with the original terms of issuance, see section 835(c) of Pub. L. 108–357, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104–188 effective Sept. 1, 1997, see section 1621(d) of Pub. L. 104–188, set out as a note under section 26 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 1986 AMENDMENT

Amendment by section 671(b)(4) of Pub. L. 99–514 effective Jan. 1, 1987, see section 675(a) of Pub. L. 99–514, as amended, set out as an Effective Date note under section 860A of this title.

Amendment by section 901(d)(3) of Pub. L. 99–514 applicable to taxable years beginning after Dec. 31, 1986, see section 901(e) of Pub. L. 99–514, set out as a note under section 166 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98–369, set out as a note under section 166 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Section 1044(b) of Pub. L. 94–455, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) The amendment made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after July 11, 1969.

''(2) If the refund or credit of any overpayment attributable to the application of the amendment made by subsection (a) to any taxable year is otherwise prevented by the operation of any law or rule of law (other than section 7122 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], relating to compromises) on the day which is one year after the date of the enactment of this Act [Oct. 4, 1976], such credit or refund shall be nevertheless allowed or made if claim therefor is filed on or before such day.''

Section 1402(b)(1) of Pub. L. 94–455 provided that amendment made by that section is effective with respect to taxable years beginning in 1977.

Section 1402(b)(2) of Pub. L. 94–455 provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

EFFECTIVE DATE OF 1969 AMENDMENT

Section 433(d) of Pub. L. 91–172, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

''(1) IN GENERAL.—The amendments made by this section [amending this section and section 1243 of this title] shall apply to taxable years beginning after July 11, 1969.

''(2) ELECTION FOR SMALL BUSINESS INVESTMENT COMPANIES AND BUSINESS DEVELOPMENT CORPORATIONS.—Notwithstanding paragraph (1), in the case of a financial institution described in section 586(a) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the amendments made by this section [amending this section and section 1243 of this title] shall not apply for its taxable years beginning after July 11, 1969, and before July 11, 1974, unless the taxpayer so elects at such time and in such manner as shall be prescribed by the Secretary of the Treasury or his delegate. Such election shall be irrevocable and shall apply to all such taxable years.''

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85–866 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85–866, set out as a note under section 165 of this title.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101–508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101–508, set out as a note under section 45K of this title.

[§ 583. Repealed. Pub. L. 94–455, title XIX, § 1901(a)(82), Oct. 4, 1976, 90 Stat. 1778]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 202, related to deductions by certain taxpayers of dividends paid to the United States or any instrumentality thereof exempt from Federal income taxes on the preferred stock of the corporation owned by the United States or such instrumentality.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

§ 584. Common trust funds

(a) Definitions

For purposes of this subtitle, the term ''common trust fund'' means a fund maintained by a bank—

(1) exclusively for the collective investment and reinvestment of moneys contributed thereto by the bank in its capacity—

(A) as a trustee, executor, administrator, or guardian, or

(B) as a custodian of accounts—

(i) which the Secretary determines are established pursuant to a State law which is substantially similar to the Uniform Gifts to Minors Act as published by the American Law Institute, and

(ii) with respect to which the bank establishes, to the satisfaction of the Secretary, that it has duties and responsibilities similar to duties and responsibilities of a trustee or guardian; and

(2) in conformity with the rules and regulations, prevailing from time to time, of the Board of Governors of the Federal Reserve System or the Comptroller of the Currency pertaining to the collective investment of trust funds by national banks.

For purposes of this subsection, two or more banks which are members of the same affiliated group (within the meaning of section 1504) shall be treated as one bank for the period of affiliation with respect to any fund of which any of the member banks is trustee or two or more of the member banks are cotrustees.

(b) Taxation of common trust funds

A common trust fund shall not be subject to taxation under this chapter and for purposes of

this chapter shall not be considered a corporation.

(c) Income of participants in fund

Each participant in the common trust fund in computing its taxable income shall include, whether or not distributed and whether or not distributable—

(1) as part of its gains and losses from sales or exchanges of capital assets held for not more than 1 year, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for not more than 1 year,

(2) as part of its gains and losses from sales or exchanges of capital assets held for more than 1 year, its proportionate share of the gains and losses of the common trust fund from sales or exchanges of capital assets held for more than 1 year, and

(3) its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in subsection (d).

The proportionate share of each participant in the amount of dividends received by the common trust fund and to which section 1(h)(11) applies shall be considered for purposes of such paragraph as having been received by such participant.

(d) Computation of common trust fund income

The taxable income of a common trust fund shall be computed in the same manner and on the same basis as in the case of an individual, except that—

(1) there shall be segregated the gains and losses from sales or exchanges of capital assets;

(2) after excluding all items of gain and loss from sales or exchanges of capital assets, there shall be computed—

(A) an ordinary taxable income which shall consist of the excess of the gross income over deductions; or

(B) an ordinary net loss which shall consist of the excess of the deductions over the gross income; and

(3) the deduction provided by section 170 (relating to charitable, etc., contributions and gifts) shall not be allowed.

(e) Admission and withdrawal

No gain or loss shall be realized by the common trust fund by the admission or withdrawal of a participant. The admission of a participant shall be treated with respect to the participant as the purchase of, or an exchange for, the participating interest. The withdrawal of any participating interest by a participant shall be treated as a sale or exchange of such interest by the participant.

(f) Different taxable years of common trust fund and participant

If the taxable year of the common trust fund is different from that of a participant, the inclusions with respect to the taxable income of the common trust fund, in computing the taxable income of the participant for its taxable year, shall be based upon the taxable income of the common trust fund for any taxable year of the common trust fund ending within or with the taxable year of the participant.

(g) Net operating loss deduction

The benefit of the deduction for net operating losses provided by section 172 shall not be allowed to a common trust fund, but shall be allowed to the participants in the common trust fund under regulations prescribed by the Secretary.

(h) Nonrecognition treatment for certain transfers to regulated investment companies

(1) In general

If—

(A) a common trust fund transfers substantially all of its assets to one or more regulated investment companies in exchange solely for stock in the company or companies to which such assets are so transferred, and

(B) such stock is distributed by such common trust fund to participants in such common trust fund in exchange solely for their interests in such common trust fund,

no gain or loss shall be recognized by such common trust fund by reason of such transfer or distribution, and no gain or loss shall be recognized by any participant in such common trust fund by reason of such exchange.

(2) Basis rules

(A) Regulated investment company

The basis of any asset received by a regulated investment company in a transfer referred to in paragraph (1)(A) shall be the same as it would be in the hands of the common trust fund.

(B) Participants

The basis of the stock which is received in an exchange referred to in paragraph (1)(B) shall be the same as that of the property exchanged. If stock in more than one regulated investment company is received in such exchange, the basis determined under the preceding sentence shall be allocated among the stock in each such company on the basis of respective fair market values.

(3) Treatment of assumptions of liability

(A) In general

In determining whether the transfer referred to in paragraph (1)(A) is in exchange solely for stock in one or more regulated investment companies, the assumption by any such company of a liability of the common trust fund shall be disregarded.

(B) Special rule where assumed liabilities exceed basis

(i) In general

If, in any transfer referred to in paragraph (1)(A), the assumed liabilities exceed the aggregate adjusted bases (in the hands of the common trust fund) of the assets transferred to the regulated investment company or companies—

(I) notwithstanding paragraph (1), gain shall be recognized to the common trust

fund on such transfer in an amount equal to such excess,

(II) the basis of the assets received by the regulated investment company or companies in such transfer shall be increased by the amount so recognized, and

(III) any adjustment to the basis of a participant's interest in the common trust fund as a result of the gain so recognized shall be treated as occurring immediately before the exchange referred to in paragraph (1)(B).

If the transfer referred to in paragraph (1)(A) is to two or more regulated investment companies, the basis increase under subclause (II) shall be allocated among such companies on the basis of the respective fair market values of the assets received by each of such companies.

(ii) Assumed liabilities

For purposes of clause (i), the term ''assumed liabilities'' means any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A).

(C) Assumption

For purposes of this paragraph, in determining the amount of any liability assumed, the rules of section 357(d) shall apply.

(4) Common trust fund must meet diversification rules

This subsection shall not apply to any common trust fund which would not meet the requirements of section 368(a)(2)(F)(ii) if it were a corporation. For purposes of the preceding sentence, Government securities shall not be treated as securities of an issuer in applying the 25-percent and 50-percent test and such securities shall not be excluded for purposes of determining total assets under clause (iv) of section 368(a)(2)(F).

(i) Taxable year of common trust fund

For purposes of this subtitle, the taxable year of any common trust fund shall be the calendar year.

(Aug. 16, 1954, ch. 736, 68A Stat. 203; Pub. L. 87–722, §4, Sept. 28, 1962, 76 Stat. 670; Pub. L. 88–272, title II, §201(d)(5), Feb. 26, 1964, 78 Stat. 32; Pub. L. 94–414, §1, Sept. 17, 1976, 90 Stat. 1273; Pub. L. 94–455, title XIV, §1402(b)(1)(H), (2), title XIX, §§1901(b)(1)(G), 1906(b)(13)(A), title XXI, §§2131(d), 2138, Oct. 4, 1976, 90 Stat. 1732, 1790, 1834, 1924, 1932; Pub. L. 95–30, title I, §101(d)(7), May 23, 1977, 91 Stat. 133; Pub. L. 96–223, title IV, §404(b)(3), Apr. 2, 1980, 94 Stat. 306; Pub. L. 97–34, title III, §301(b)(3), (6)(A), Aug. 13, 1981, 95 Stat. 270; Pub. L. 97–448, title I, §103(a)(2), Jan. 12, 1983, 96 Stat. 2375; Pub. L. 98–369, div. A, title X, §1001(b)(7), (e), July 18, 1984, 98 Stat. 1011, 1012; Pub. L. 99–514, title VI, §612(b)(2), Oct. 22, 1986, 100 Stat. 2250; Pub. L. 100–647, title I, §1008(e)(5)(A), Nov. 10, 1988, 102 Stat. 3440; Pub. L. 104–188, title I, §1805(a), Aug. 20, 1996, 110 Stat. 1894; Pub. L. 106–36, title III, §3001(c)(1), June 25, 1999, 113 Stat. 183; Pub. L. 108–27, title III, §302(e)(7), May 28, 2003, 117 Stat. 764.)

AMENDMENT OF SECTION

For termination of amendment by section 303 of Pub. L. 108–27, see Effective and Termination Dates of 2003 Amendment note below.

AMENDMENTS

2003—Subsec. (c). Pub. L. 108–27, §§302(e)(7), 303, temporarily inserted concluding provisions. See Effective and Termination Dates of 2003 Amendment note below.

1999—Subsec. (h)(3)(A). Pub. L. 106–36, §3001(c)(1)(A), struck out '', and the fact that any property transferred by the common trust fund is subject to a liability,'' before ''shall be disregarded''.

Subsec. (h)(3)(B)(ii). Pub. L. 106–36, §3001(c)(1)(B), added cl. (ii) and struck out heading and text of former cl. (ii). Text read as follows: ''For purposes of clause (i), the term 'assumed liabilities' means the aggregate of—

''(I) any liability of the common trust fund assumed by any regulated investment company in connection with the transfer referred to in paragraph (1)(A), and

''(II) any liability to which property so transferred is subject.''

Subsec. (h)(3)(C). Pub. L. 106–36, §3001(c)(1)(B), added subpar. (C).

1996—Subsecs. (h), (i). Pub. L. 104–188 added subsec. (h) and redesignated former subsec. (h) as (i).

1988—Subsec. (h). Pub. L. 100–647 added subsec. (h).

1986—Subsec. (c). Pub. L. 99–514, §612(b)(2)(B), substituted ''1 year'' for ''6 months'' wherever appearing in pars. (1) and (2).

Pub. L. 99–514, §612(b)(2)(A), amended subsec. (c) generally, restating subpars. (A) to (C) of former par. (1) as pars. (1) to (3) and striking out former par. (2) which read as follows: ''The proportionate share of each participant in the amount of dividends or interest received by the common trust fund and to which section 116 or 128 applies shall be considered for purposes of such section as having been received by such participant.''

1984—Subsec. (c)(1)(A), (B). Pub. L. 98–369 substituted ''6 months'' for ''1 year'', wherever appearing, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

1983—Subsec. (c)(2). Pub. L. 97–448 reenacted par. (2) without change.

1981—Subsec. (c)(2). Pub. L. 97–34, §301(b)(6)(A), inserted reference to ''interest'' in heading and text, which continued the amendment made by Pub. L. 96–223.

Pub. L. 97–34, §301(b)(3), inserted ''or 128'' after ''section 116''.

1980—Subsec. (c)(2). Pub. L. 96–223 inserted ''or interest'' after ''dividends'' in heading and text.

1977—Subsec. (d)(4). Pub. L. 95–30 struck out par. (4) relating to standard deduction.

1976—Subsec. (a). Pub. L. 94–414 inserted provision relating to treatment of two or more bank members of same affiliated group.

Subsec. (a)(1). Pub. L. 94–455, §2138, designated existing provisions relating to trustee, executor, administrator and guardian as subpar. (A) and added subpar. (B).

Subsec. (c)(1)(A), (B). Pub. L. 94–455, §1402(b)(2), provided that ''9 months'' would be changed to ''1 year'' wherever appearing.

Pub. L. 94–455, §1402(b)(1)(H), provided that ''6 months'' would be changed to ''9 months'' for taxable years beginning in 1977.

Subsec. (c)(2). Pub. L. 94–455, §1901(b)(1)(G), struck out provisions relating to partially tax exempt interest and election of a common trust fund to amortize premiums on bonds and other obligations.

Subsec. (e). Pub. L. 94–455, §2131(d), inserted ''The admission of a participant shall be treated with respect to the participant as the purchase of, or exchange for, the participating interest''.

Subsec. (g). Pub. L. 94–455, §1906(b)(13)(A), struck out ''or his delegate'' after ''Secretary''.

1964—Subsec. (c)(2). Pub. L. 88–272 struck out ''section 34 or'' before ''section 116 applies''.

1962—Subsec. (a)(2). Pub. L. 87–722 inserted ''or the Comptroller of the Currency'' after ''the Board of Governors of the Federal Reserve System''.

EFFECTIVE AND TERMINATION DATES 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 a note under section 1 of this title.

Amendment by Pub. L. 108–27 inapplicable to taxable years beginning after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such years as if such amendment had never been enacted, see section 303 of Pub. L. 108–27, as amended, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–36 applicable to transfers after Oct. 18, 1998, see section 3001(e) of Pub. L. 106–36, set out as a note under section 351 of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Section 1805(b) of Pub. L. 104–188 provided that: ''The amendment made by subsection (a) [amending this section] shall apply to transfers after December 31, 1995.''

EFFECTIVE DATE OF 1988 AMENDMENT

Section 1008(e)(5)(B) of Pub. L. 100–647 provided that: ''The amendment made by subparagraph (A) [amending this section] shall take effect as if included in the amendments made by section 806 of the Reform Act [Pub. L. 99–514], except that section 806(e)(1) [set out as a note under section 1378 of this title] shall be applied by substituting 'December 31, 1987' for 'December 31, 1986'. For purposes of section 806(e)(2) of the Reform Act [set out as a note under section 1378 of this title]—

''(i) a participant in a common trust fund shall be treated in the same manner as a partner, and

''(ii) subparagraph (C) thereof shall be applied by substituting 'December 31, 1987' for 'December 31, 1986' and as if it did not contain the election to include all income in the short taxable year.''

EFFECTIVE DATE OF 1986 AMENDMENT

Section 612(b)(2)(B) of Pub. L. 99–514 provided that: ''If the amendments made by section 1001 of the Tax Reform Act of 1984 [Pub. L. 98–369, amending this section and sections 166, 341, 402, 403, 423, 582, 631, 642, 702, 818, 852, 856, 857, 1222, 1223, 1231, 1232, 1233, 1234, 1235, 1246, 1247, and 1248 of this title] cease to apply [see Effective Date of 1984 Amendment note below], effective with respect to property to which such amendments do not apply, subsection (c) of section 584 is amended by striking out '6 months' each place it appears and inserting in lieu thereof '1 year'.''

Amendment by section 612(b)(2) 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.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98–369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98–369, set out as a note under section 166 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97–448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97–34, to which such amendment relates, see section 109 of Pub. L. 97–448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 301(b)(3) of Pub. L. 97–34 applicable to taxable years ending after Sept. 30, 1981, and amendment by section 301(b)(6)(A) of Pub. L. 97–34 applicable to taxable years beginning after Dec. 31, 1981, see section 301(d) of Pub. L. 97–34, set out as a note under section 265 of this title.

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 1977 AMENDMENT

Amendment by Pub. L. 95–30 applicable to taxable years beginning after Dec. 31, 1976, see section 106(a) of Pub. L. 95–30, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENTS

Section 2131(f)(6) of Pub. L. 94–455 provided that: ''The amendments made by subsections (d) and (e) [amending this section and section 683 of this title] shall take effect on April 8, 1976, in taxable years ending on or after such date.''

Section 1402(b)(1) of Pub. L. 94–455 provided that the amendment made by that section is effective with respect to taxable years beginning in 1977.

Section 1402(b)(2) of Pub. L. 94–455 provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

Amendment by section 1901(b)(1)(G) of Pub. L. 94–455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94–455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

Section 2 of Pub. L. 94–414 provided that: ''The amendment made by the first section of this Act [amending this section] shall apply to taxable years beginning after December 31, 1975.''

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88–272 applicable with respect 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.

§ 585. Reserves for losses on loans of banks

(a) Reserve for bad debts

(1) In general

Except as provided in subsection (c), a bank shall be allowed a deduction for a reasonable addition to a reserve for bad debts. Such deduction shall be in lieu of any deduction under section 166(a).

(2) Bank

For purposes of this section—

(A) In general

The term ''bank'' means any bank (as defined in section 581).

(B) Banking business of United States branch of foreign corporation

The term ''bank'' also includes any corporation to which subparagraph (A) would apply except for the fact that it is a foreign corporation. In the case of any such foreign corporation, this section shall apply only with respect to loans outstanding the interest on which is effectively connected with the conduct of a banking business within the United States.

(b) Addition to reserves for bad debts

(1) General rule

For purposes of subsection (a), the reasonable addition to the reserve for bad debts of