

tion] shall apply with respect to plan years beginning after the date of the enactment of this Act [Aug. 10, 1993].”

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 effective as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 11702(j) of Pub. L. 101-508, set out as a note under section 59 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by section 6202(b)(3)(B) of Pub. L. 101-239 applicable to items and services furnished after Dec. 19, 1989, see section 6202(b)(5) of Pub. L. 101-239, set out as a note under section 162 of this title.

Section 6701(d) of Pub. L. 101-239 provided that: “The amendments made by this section [amending this section] shall apply to plan years beginning on or after the date of the enactment of this Act [Dec. 19, 1989], regardless of whether the qualifying event occurred before, on, or after such date.”

Section 7862(c)(2)(C) of Pub. L. 101-239 provided that: “The amendments made by this paragraph [amending this section and section 1167 of Title 29, Labor] shall apply to plan years beginning after December 31, 1989.”

Amendment by section 7862(c)(3)(C) of Pub. L. 101-239 applicable to (i) qualifying events occurring after Dec. 31, 1989, and (ii) in the case of qualified beneficiaries who elected continuation coverage after Dec. 31, 1988, the period for which the required premium was paid (or was attempted to be paid but was rejected as such), see section 7862(c)(3)(D) of Pub. L. 101-239, set out as a note under section 162 of this title.

Section 7862(c)(4)(C) of Pub. L. 101-239 provided that: “The amendments made by this paragraph [amending this section and section 1162 of Title 29, Labor] shall apply to plan years beginning after December 31, 1989.”

Section 7862(c)(5)(C) of Pub. L. 101-239 provided that: “The amendments made by this paragraph [amending this section and section 1162 of Title 29] shall apply to plan years beginning after December 31, 1989.”

Section 7891(d)(1)(C) of Pub. L. 101-239 provided that: “The amendments made by this paragraph [amending this section and section 1166 of Title 29] shall apply with respect to plan years beginning on or after January 1, 1990.”

Section 7891(d)(2)(C) of Pub. L. 101-239 provided that: “The amendments made by this paragraph [amending this section and section 1167 of Title 29] shall apply with respect to plan years beginning on or after January 1, 1990.”

EFFECTIVE DATE

Section applicable to taxable years beginning after Dec. 31, 1988, but not applicable to any plan for any plan year to which section 162(k) of this title (as in effect on the day before Nov. 10, 1988) did not apply by reason of section 10001(e)(2) of Pub. L. 99-272, see section 3011(d) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 162 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 414, 9707 of this title; title 38 section 4317; title 42 sections 1396a, 1396e.

**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.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 275, 6103, 6161, 6211, 6212, 6213, 6214, 6405, 6501, 6512, 6862, 6871, 7422 of this title.

**§ 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) 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.)

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

## SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 857 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 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).

**(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 period ending on October 31 of the calendar year as the company’s taxable year).

**(ii) Net ordinary loss**

The net ordinary loss for the calendar year is the amount which would be the net operating loss of the company 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.

**(4) Election to use taxable year in certain cases**

**(A) In general**

If—

(i) the taxable year of the regulated investment company ends with the month of November or December, and

(ii) such company makes an election under this paragraph,

subsection (b)(1)(B) and paragraph (2) of this subsection shall be applied by taking into account the company’s taxable year in lieu of the 1-year period ending on October 31 of the calendar year.

**(B) Election revocable only with consent**

An election under this paragraph, once made, may be revoked only with the consent of the Secretary.

**(5) Treatment of foreign currency gains and losses after October 31 of calendar year**

Any foreign currency gain or loss which is attributable to a section 988 transaction and which is properly taken into account for the portion of the calendar year after October 31 shall not be taken into account in determining the amount of the ordinary income of the regulated investment company for such calendar year but shall be taken into account in determining the ordinary income of the investment company for the following calendar year. In the case of any company making an election under paragraph (4), the preceding sentence shall be applied by substituting the last day of the company’s taxable year for October 31.

**(f) Exception for certain regulated investment companies**

This section shall not apply to any regulated investment company for any calendar year if at all times during such calendar year each shareholder in such company was either—

(1) a trust described in section 401(a) and exempt from tax under section 501(a), or

(2) a segregated asset account of a life insurance company held in connection with variable contracts (as defined in section 817(d)).

For purposes of the preceding sentence, any shares attributable to an investment in the regulated investment company (not exceeding \$250,000) made in connection with the organization of such company shall not be taken into account.

(Added Pub. L. 99-514, title VI, §651(a), Oct. 22, 1986, 100 Stat. 2294; amended Pub. L. 100-203, title X, §10104(b)(1), Dec. 22, 1987, 101 Stat. 1330-387; Pub. L. 100-647, title I, §1006(l)(2), (5), (6), Nov. 10, 1988, 102 Stat. 3413, 3414; Pub. L. 101-239, title VII, §7204(a)(1), Dec. 19, 1989, 103 Stat. 2334.)

**AMENDMENTS**

1989—Subsec. (b)(1)(A). Pub. L. 101-239 substituted “98 percent” for “97 percent”.

1988—Subsec. (e)(2). Pub. L. 100-647, §1006(l)(2), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “The term ‘capital gain net income’ has the meaning given to 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).”

Subsec. (e)(5). Pub. L. 100-647, §1006(l)(5), added par. (5).

Subsec. (f). Pub. L. 100-647, §1006(l)(6), added subsec. (f).

1987—Subsec. (b)(1)(B). Pub. L. 100-203 substituted “98 percent” for “90 percent”.

**EFFECTIVE DATE OF 1989 AMENDMENT**

Section 7204(a)(2) of Pub. L. 101-239 provided that: “The amendment made by paragraph (1) [amending this section] shall apply to calendar years ending after July 10, 1989.”

**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 1987 AMENDMENT**

Section 10104(b)(2) of Pub. L. 100-203 provided that: “The amendment made by paragraph (1) [amending this section] shall take effect as if included in the amendments made by section 651 of the Tax Reform Act of 1986 [section 651 of Pub. L. 99-514, see Effective Date note below].”

**EFFECTIVE DATE**

Section 651(d) of Pub. L. 99-514 provided that: “The amendments made by this section [enacting this section and amending sections 852 and 855 of this title] shall apply to calendar years beginning after December 31, 1986.”

**SECTION REFERRED TO IN OTHER SECTIONS**

This section is referred to in section 852 of this title.

**[CHAPTER 45—REPEALED]****[§§ 4986 to 4990. Repealed. Pub. L. 100-418, title I, § 1941(a), Aug. 23, 1988, 102 Stat. 1322]**

Section 4986, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 230, related to imposition of windfall profit tax on domestic crude oil.

Section 4987, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 230; amended Pub. L. 97-34, title VI, §602(a), Aug. 13, 1981, 95 Stat. 337; Pub. L. 98-369, div. A, title I, §25(a), July 18, 1984, 98 Stat. 506, related to amount of windfall profit tax on domestic crude oil.

Section 4988, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 231; amended Pub. L. 97-448, title II, §201(a), (h)(1)(D), Jan. 12, 1983, 96 Stat. 2391, 2394; Pub. L. 99-514, title XIII, §1301(j)(4), Oct. 22, 1986, 100 Stat. 2657, related to windfall profit and removal price.

Section 4989, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 233; amended Pub. L. 97-448, title II, §201(b), Jan. 12, 1983, 96 Stat. 2392, related to adjusted base price for purposes of windfall profit tax on domestic crude oil.

Section 4990, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 234, related to phaseout of windfall profit tax on domestic crude oil.

**EFFECTIVE DATE OF REPEAL**

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

**ALLOCATION OF NET REVENUES FROM WINDFALL PROFIT TAX TO CERTAIN USES**

Pub. L. 96-223, title I, §102, Apr. 2, 1980, 94 Stat. 255, provided for Windfall Profit Tax Account in Treasury, specified uses for amounts in that Account, defined “net revenues”, required President to propose allocation of net revenues, and required Secretary of the Treasury to make reports to Congress.

**[§§ 4991 to 4994. Repealed. Pub. L. 100-418, title I, § 1941(a), Aug. 23, 1988, 102 Stat. 1322]**

Section 4991, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 235; amended Pub. L. 97-34, title VI, §§601(b)(1), 603(a), Aug. 13, 1981, 95 Stat. 336, 338; Pub. L. 97-448, title II, §201(c), Jan. 12, 1983, 96 Stat. 2392; Pub. L. 99-514, title XVIII, §1879(h)(1), Oct. 22, 1986, 100 Stat. 2907, related to taxable crude oil and categories of oil.

Section 4992, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 236; amended Pub. L. 97-34, title VI, §603(c), Aug. 13, 1981, 95 Stat. 338; Pub. L. 97-354, §3(b)(2), Oct. 19, 1982, 96 Stat. 1688; Pub. L. 97-448, title II, §201(d), Jan. 12, 1983, 96 Stat. 2392, related to independent producer oil.

Section 4993, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 239; amended Pub. L. 97-448, title II, §201(e), Jan. 12, 1983, 96 Stat. 2392, related to incremental tertiary oil.

Section 4994, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 241; amended Pub. L. 97-34, title VI, §§601(b)(2), 603(b), 604(a)-(c), Aug. 13, 1981, 95 Stat. 337-339; Pub. L. 97-248, title II, §291, Sept. 3, 1982, 96 Stat. 572; Pub. L. 97-448, title I, §106(a)(2), (4)(B), (b), title II, §201(f), Jan. 12, 1983, 96 Stat. 2388, 2390, 2392, related to definitions and special rules with respect to exempt oil.

**EFFECTIVE DATE OF REPEAL**

Repeal applicable to crude oil removed from the premises on or after Aug. 23, 1988, see section 1941(c) of Pub. L. 100-418, set out as an Effective Date of 1988 Amendment note under section 164 of this title.

**[§§ 4995 to 4998. Repealed. Pub. L. 100-418, title I, § 1941(a), Aug. 23, 1988, 102 Stat. 1322]**

Section 4995, added Pub. L. 96-223, title I, §101(a)(1), Apr. 2, 1980, 94 Stat. 244; amended Pub. L. 97-34, title VI,