(1) In the case of a trust having 2,000 or more shareholders of record of its stock on any dividend record date, from each record holder of 5 percent or more of its stock; or

(2) In the case of a trust having less than 2,000 and more than 200 shareholders of record of its stock on any dividend record date, from each record holder of 1 percent or more of its stock; or

(3) In the case of a trust having 200 or less shareholders of record of its stock on any dividend record date, from each record holder of one-half of 1 percent or more of its stock.

(e) Demands for statements. The written statements from shareholders of record shall be demanded by the real estate investment trust in accordance with paragraph (d) of this section within 30 days after the close of the real estate investment trust’s taxable year (or before June 1, 1962, whichever is later). When making demand for such written statements, the trust shall inform each such shareholder of his duty to submit at the time he files his income tax return (or before July 1, 1962, whichever is later) a statement setting forth the information required by this section.

(2) Actual owner of shares. In the case of an actual owner of shares of stock in any trust claiming to be a real estate investment trust—

(i) The name and address of each such trust, the number of shares actually owned by him at any and all times during his taxable year, and the amount of dividends from each such trust received during his taxable year;

(ii) If shares of any such trust were acquired or disposed of during such person’s taxable year, the name and address of the person from whom such shares were acquired or to whom they were transferred;

(iii) If any shares of stock (including securities convertible into stock) of any such trust are also owned by any member of such person’s family (as defined in section 544(a)(2)), or by any of his partners, the name and address of the trust, the number of shares acquired or disposed of, the dates of acquisition or disposition, and the names and addresses of the persons from whom such shares were acquired or to whom they were transferred;

(iv) The names and addresses of any corporation, partnership, association, or trust, in which such person had a
beneficial interest of 10 percent or more at any time during his taxable year.


§ 1.857–10 Information returns.

Nothing in §§ 1.857–8 and 1.857–9 shall be construed to relieve a real estate investment trust or its shareholders from the duty of filing information returns required by regulations prescribed under the provisions of subchapter A, chapter 61 of the Code.


§ 1.857–11 Non-REIT earnings and profits.

(a) Applicability of section 857(a)(3)(A). A real estate investment trust does not satisfy section 857(a)(3)(A) unless:

(1) Part II of subchapter M applied to the trust for all its taxable years beginning after February 28, 1986; and

(2) For each corporation to whose earnings and profits the trust succeeded by the operation of section 381, part II of subchapter M applied for all the corporation’s taxable years beginning after February 28, 1986.

(b) Applicability of section 857(a)(3)(B); in general. A real estate investment trust does not satisfy section 857(a)(3)(B) unless, as of the close of the taxable year, it has no earnings and profits other than earnings and profits that—

(1) Were earned by a corporation in a year for which part II of subchapter M applied to the corporation and, at all times thereafter, were the earnings and profits of a corporation to which part II of subchapter M applied; or

(2) By the operation of section 381 pursuant to a transaction that occurred before December 22, 1992, became the earnings and profits of a corporation to which part II of subchapter M applied and, at all times thereafter, were the earnings and profits of a corporation to which part II of subchapter M applied.

(c) Distribution procedures similar to those for regulated investment companies to apply. Distribution procedures similar to those in section 852(e) for regulated investment companies apply to non-REIT earnings and profits of real estate investment trusts.

(d) Effective date. This regulation is effective for taxable years ending on or after December 22, 1992.

(e) For treatment of net built-in gain assets of a C corporation that become assets of a REIT, see § 1.337(d)–5T.


§ 1.858–1 Dividends paid by a real estate investment trust after close of taxable year.

(a) General rule. Under section 858, a real estate investment trust may elect to treat certain dividends that are distributed within a specified period after the close of a taxable year as having been paid during the taxable year. The dividend is taken into account in determining the deduction for dividends paid for the taxable year in which it is treated as paid. The dividend may be an ordinary dividend or, subject to the requirements of sections 857(b)(3)(C) and 858(c), a capital gain dividend. The trust may make the dividend declaration required by section 858(a)(1) either before or after the close of the taxable year as long as the declaration is made before the time prescribed by law for