

Public Law 86-779

AN ACT

September 14, 1960
[H. R. 10960]

To amend section 5701 of the Internal Revenue Code of 1954 with respect to the excise tax upon cigars, and for other purposes.

Taxes.
Cigars.

26 USC 5701.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That the next to the last sentence of section 5701(b) of the Internal Revenue Code of 1954 (relating to tax on cigars) is amended by striking out "exclusive of any State or local taxes imposed on the retail sale of cigars" and inserting in lieu thereof "exclusive of any State or local taxes imposed on cigars as a commodity".

SEC. 2. The amendment made by the first section of this Act shall apply with respect to cigars removed on or after the ninth day of the first month which begins after the date of the enactment of this Act.

Corporations.
Dividends.

26 USC 243.

SEC. 3. (a) Section 243 of the Internal Revenue Code of 1954 (relating to deduction for dividends received by corporations) is amended by adding at the end thereof the following new subsection:

26 USC 245.

"(d) CERTAIN DIVIDENDS FROM FOREIGN CORPORATIONS.—For purposes of subsections (a) and (b) of this section and for purposes of section 245, any dividend from a foreign corporation from earnings and profits accumulated by a domestic corporation during a period with respect to which such domestic corporation was subject to taxation under this chapter (or corresponding provisions of prior law) shall be treated as a dividend from a domestic corporation which is subject to taxation under this chapter."

26 USC 861.

(b) Section 861(a)(2) of the Internal Revenue Code of 1954 (relating to treatment of dividends as income from sources within the United States) is amended by striking out the period at the end of subparagraph (B) and inserting in lieu thereof "or", and by adding after subparagraph (B) the following new subparagraph:

"(C) from a foreign corporation to the extent that such amount is required by section 243(d) (relating to certain dividends from foreign corporations) to be treated as dividends from a domestic corporation which is subject to taxation under this chapter, and to such extent subparagraph (B) shall not apply to such amount."

(c) The amendments made by subsections (a) and (b) shall apply to dividends received after December 31, 1959, in taxable years ending after such date.

26 USC 931.

SEC. 4. (a) (1) Subpart D of part III of subchapter N of chapter 1 of the Internal Revenue Code of 1954 (relating to possessions of the United States) is amended by adding at the end thereof the following new section:

"SEC. 934. LIMITATION ON REDUCTION IN INCOME TAX LIABILITY INCURRED TO THE VIRGIN ISLANDS.

42 Stat. 123.

68 Stat. 508.

"(a) GENERAL RULE.—Tax liability incurred to the Virgin Islands pursuant to this subtitle, as made applicable in the Virgin Islands by the Act entitled 'An Act making appropriations for the naval service for the fiscal year ending June 30, 1922, and for other purposes', approved July 12, 1921 (48 U.S.C. 1397), or pursuant to section 28(a) of the Revised Organic Act of the Virgin Islands, approved July 22, 1954 (48 U.S.C. 1642), shall not be reduced or remitted in any way, directly or indirectly, whether by grant, subsidy, or other similar payment, by any law enacted in the Virgin Islands, except to the extent provided in subsection (b) or (c).

"(b) EXCEPTION FOR CERTAIN DOMESTIC AND VIRGIN ISLANDS CORPORATIONS.—In the case of a domestic corporation or a Virgin Islands

corporation, subsection (a) shall not apply (if the information required by subsection (d) is supplied) to the extent such corporation derived its income from sources without the United States if the conditions of both paragraph (1) and paragraph (2) are satisfied:

“(1) **THREE-YEAR PERIOD.**—If 80 percent or more of the gross income of such corporation for the 3-year period immediately preceding the close of the taxable year (or for such part of such period immediately preceding the close of such taxable year as may be applicable) was derived from sources within the Virgin Islands; and

“(2) **TRADE OR BUSINESS.**—If 50 percent or more of the gross income of such corporation for such period or such part thereof was derived from the active conduct of a trade or business within the Virgin Islands.

For purposes of the preceding sentence, the gross income of a Virgin Islands corporation, and the sources from which the income of such corporation is derived, shall be determined as if such corporation were a domestic corporation. For the purposes of this subsection, all amounts received by such corporation within the United States, whether derived from sources within or without the United States, shall be considered as being derived from sources within the United States.

“(c) **EXCEPTION FOR CERTAIN RESIDENTS OF THE VIRGIN ISLANDS.**—Subsection (a) shall not apply in the case of an individual citizen of the United States who is a bona fide resident of the Virgin Islands during the entire taxable year (if the information required by subsection (d) is supplied), to the extent his income is derived from sources within the Virgin Islands (except that subsection (a) shall apply in the case of amounts received for services performed as an employee of the United States or any agency thereof). For purposes of the preceding sentence, gain or loss from the sale or exchange of any security (as defined in section 165(g)(2)) shall not be treated as derived from sources within the Virgin Islands.

26 USC 165.

“(d) **REQUIREMENT TO SUPPLY INFORMATION.**—Subsections (b) and (c) shall apply only in the case of persons who supply (at such time and in such manner as the Secretary or his delegate may by regulations prescribe) such information as the Secretary or his delegate may by regulations prescribe for purposes of determining the applicability of such subsections.”

(2) The table of sections for such subpart D is amended by adding at the end thereof the following:

“Sec. 934. Limitation on reduction in income tax liability incurred to the Virgin Islands.”

(b) (1) Subchapter C of chapter 11 of the Internal Revenue Code of 1954 (relating to miscellaneous estate tax provisions) is amended by adding at the end thereof the following new section:

26 USC 2201.

“**SEC. 2209. CERTAIN RESIDENTS OF POSSESSIONS CONSIDERED NON-RESIDENTS NOT CITIZENS OF THE UNITED STATES.**

“A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a ‘nonresident not a citizen of the United States’ within the meaning of that term wherever used in this title, but only if such person acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.”

(2) The table of sections for subchapter C of chapter 11 of the Internal Revenue Code of 1954 is amended by adding at the end thereof the following:

“Sec. 2209. Certain residents of possessions considered nonresidents not citizens of the United States.”

26 USC 2106.
Nonresidents.
Taxable estate.

(c) Section 2106(a)(3) of the Internal Revenue Code of 1954 (relating to exemption in determining taxable estate of nonresidents not citizens) is amended to read as follows:

“(3) EXEMPTION.—

“(A) GENERAL RULE.—An exemption of \$2,000.

“(B) RESIDENTS OF POSSESSIONS OF THE UNITED STATES.—In the case of a decedent who is considered to be a ‘nonresident not a citizen of the United States’ under the provisions of section 2209, the exemption shall be the greater of (i) \$2,000, or (ii) that proportion of the exemption authorized by section 2052 which the value of that part of the decedent’s gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.”

26 USC 2209.

26 USC 2052.

Gift tax.
26 USC 2501.

(d) (1) Section 2501 of the Internal Revenue Code of 1954 (relating to imposition of gift tax) is amended by redesignating subsection (c) to be subsection (d) and by adding after subsection (b) the following new subsection:

“(c) CERTAIN RESIDENTS OF POSSESSIONS CONSIDERED NONRESIDENTS NOT CITIZENS OF THE UNITED STATES.—A donor who is a citizen of the United States and a resident of a possession thereof shall, for purposes of the tax imposed by this chapter, be considered a ‘nonresident not a citizen of the United States’ within the meaning of that term wherever used in this title, but only if such donor acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.”

(2) Section 2501(a) of such Code is amended by striking out “nonresident who is not a citizen of the United States and” and inserting in lieu thereof “nonresident not a citizen of the United States.”

(e) (1) The amendments made by subsection (a) shall apply to tax liability incurred with respect to taxable years beginning on or after January 1, 1960.

(2) The amendments made by subsections (b) and (c) shall apply with respect to estates of decedents dying after the date of the enactment of this Act.

(3) The amendments made by subsection (d) shall apply with respect to gifts made after the date of the enactment of this Act.

Estimated in-
come tax.
26 USC 6015.

SEC. 5. (a) Section 6015(a) of the Internal Revenue Code of 1954 (relating to requirement of declaration of estimated income tax by individuals) is amended to read as follows:

26 USC 3401.

“(a) REQUIREMENT OF DECLARATION.—Every individual (other than a nonresident alien with respect to whose wages, as defined in section 3401(a), withholding under chapter 24 is not made applicable, but including every alien individual who is a resident of Puerto Rico during the entire taxable year) shall make a declaration of his estimated tax for the taxable year if—

“(1) the gross income for the taxable year can reasonably be expected to exceed—

“(A) \$5,000, in the case of—

“(i) a single individual other than a head of a household (as defined in section 1(b)(2)) or a surviving spouse (as defined in section 2(b));

“(ii) a married individual not entitled under subsection (b) to file a joint declaration with his spouse; or

“(iii) a married individual entitled under subsection (b) to file a joint declaration with his spouse, but only if the aggregate gross income of such individual and his spouse for the taxable year can reasonably be expected to exceed \$10,000; or

“(B) \$10,000, in the case of—

“(i) a head of a household (as defined in section 1(b)(2)); or

“(ii) a surviving spouse (as defined in section 2(b)); or

“(2) the gross income can reasonably be expected to include more than \$200 from sources other than wages (as defined in section 3401(a)).

26 USC 3401.

Notwithstanding the provisions of this subsection, no declaration is required if the estimated tax (as defined in subsection (c)) can reasonably be expected to be less than \$40.”

(b) The amendment made by subsection (a) shall apply with respect to taxable years beginning after December 31, 1960.

26 USC 161.

SEC. 6. (a) Part VI of subchapter B of chapter 1 of the Internal Revenue Code of 1954 (relating to itemized deductions for individuals and corporations) is amended by adding at the end thereof the following new section:

“SEC. 180. EXPENDITURES BY FARMERS FOR FERTILIZER, ETC.

“(a) IN GENERAL.—A taxpayer engaged in the business of farming may elect to treat as expenses which are not chargeable to capital account expenditures (otherwise chargeable to capital account) which are paid or incurred by him during the taxable year for the purchase or acquisition of fertilizer, lime, ground limestone, marl, or other materials to enrich, neutralize, or condition land used in farming, or for the application of such materials to such land. The expenditures so treated shall be allowed as a deduction.

“(b) LAND USED IN FARMING.—For purposes of subsection (a), the term ‘land used in farming’ means land used (before or simultaneously with the expenditures described in subsection (a)) by the taxpayer or his tenant for the production of crops, fruits, or other agricultural products or for the sustenance of livestock.

“(c) ELECTION.—The election under subsection (a) for any taxable year shall be made within the time prescribed by law (including extensions thereof) for filing the return for such taxable year. Such election shall be made in such manner as the Secretary or his delegate may by regulations prescribe. Such election may not be revoked except with the consent of the Secretary or his delegate.”

(b) The table of sections for such part VI is amended by adding at the end thereof the following:

“Sec. 180. Expenditures by farmers for fertilizer, etc.”

(c) Section 263(a)(1) of such Code (relating to capital expenditures) is amended—

26 USC 263.

(1) by striking out “or” at the end of subparagraph (B);

(2) by striking out the period at the end of subparagraph (C) and inserting in lieu thereof “, or”; and

(3) by adding after subparagraph (C) the following new subparagraph:

“(D) expenditures by farmers for fertilizer, etc., deductible under section 180.”

(d) The amendments made by subsections (a), (b), and (c) shall apply to taxable years beginning after December 31, 1959.

Supra.

Charitable con-
tributions, etc.
26 USC 170.

SEC. 7. (a) Section 170 of the Internal Revenue Code of 1954 (relating to charitable, etc., contributions and gifts) is amended—

(1) by adding at the end of subsection (c) the following new sentence:

“For purposes of this section, the term ‘charitable contribution’ also means an amount treated under subsection (d) as paid for the use of an organization described in paragraph (2), (3), or (4).”; and

(2) by redesignating subsections (d) and (e) as subsections (e) and (f), respectively, and by inserting after subsection (c) the following new subsection:

“(d) AMOUNTS PAID TO MAINTAIN CERTAIN STUDENTS AS MEMBERS OF TAXPAYER’S HOUSEHOLD.—

26 USC 152.

“(1) IN GENERAL.—Subject to the limitations provided by paragraph (2), amounts paid by the taxpayer to maintain an individual (other than a dependent, as defined in section 152, or a relative of the taxpayer) as a member of his household during the period that such individual is—

“(A) a member of the taxpayer’s household under a written agreement between the taxpayer and an organization described in paragraph (2), (3), or (4) of subsection (c) to implement a program of the organization to provide educational opportunities for pupils or students in private homes, and

26 USC 151.

“(B) a full-time pupil or student in the twelfth or any lower grade at an educational institution (as defined in section 151(e)(4)) located in the United States, shall be treated as amounts paid for the use of the organization.

“(2) LIMITATIONS.—

“(A) AMOUNT.—Paragraph (1) shall apply to amounts paid within the taxable year only to the extent that such amounts do not exceed \$50 multiplied by the number of full calendar months during the taxable year which fall within the period described in paragraph (1). For purposes of the preceding sentence, if 15 or more days of a calendar month fall within such period such month shall be considered as a full calendar month.

“(B) COMPENSATION OR REIMBURSEMENT.—Paragraph (1) shall not apply to any amount paid by the taxpayer within the taxable year if the taxpayer receives any money or other property as compensation or reimbursement for maintaining the individual in his household during the period described in paragraph (1).

26 USC 152.

“(3) RELATIVE DEFINED.—For purposes of paragraph (1), the term ‘relative of the taxpayer’ means an individual who, with respect to the taxpayer, bears any of the relationships described in paragraphs (1) through (8) of section 152(a).

“(4) NO OTHER AMOUNT ALLOWED AS DEDUCTION.—No deduction shall be allowed under subsection (a) for any amount paid by a taxpayer to maintain an individual as a member of his household under a program described in paragraph (1)(A) except as provided in this subsection.”

26 USC 162.

(b) Section 162(b) of the Internal Revenue Code of 1954 (relating to charitable contributions and gifts excepted from trade or business expenses) is amended by inserting after “the percentage limitations,” the following: “the dollar limitations.”

(c) The amendments made by subsections (a) and (b) shall apply with respect to taxable years beginning after December 31, 1959.

SEC. 8. (a) Section 162 of the Internal Revenue Code of 1954 (relating to trade or business expenses) is amended by redesignating subsection (d) as subsection (e), and by inserting after subsection (c) the following new subsection:

Trade or business expenses.

“(d) CAPITAL CONTRIBUTIONS TO FEDERAL NATIONAL MORTGAGE ASSOCIATION.—For purposes of this subtitle, whenever the amount of capital contributions evidenced by a share of stock issued pursuant to section 303(c) of the Federal National Mortgage Association Charter Act (12 U.S.C., sec. 1718) exceeds the fair market value of the stock as of the issue date of such stock, the initial holder of the stock shall treat the excess as ordinary and necessary expenses paid or incurred during the taxable year in carrying on a trade or business.”

68 Stat. 613.

(b) Part IV of subchapter O of chapter 1 of the Internal Revenue Code of 1954 (relating to special rules as to basis of property) is amended by redesignating section 1054 as 1055, and by inserting after section 1053 the following new section:

26 USC 1053.

“SEC. 1054. CERTAIN STOCK OF FEDERAL NATIONAL MORTGAGE ASSOCIATION.

“In the case of a share of stock issued pursuant to section 303(c) of the Federal National Mortgage Association Charter Act (12 U.S.C., sec. 1718), the basis of such share in the hands of the initial holder shall be an amount equal to the capital contributions evidenced by such share reduced by the amount (if any) required by section 162(d) to be treated (with respect to such share) as ordinary and necessary expenses paid or incurred in carrying on a trade or business.”

Supra.

(c) The table of sections for such part IV is amended by striking out the last line and inserting in lieu thereof the following:

“Sec. 1054. Certain stock of Federal National Mortgage Association.
“Sec. 1055. Cross references.”

(d) The amendments made by subsections (a), (b), and (c) shall apply with respect to taxable years beginning after December 31, 1959.

SEC. 9. (a) Section 4201 of the Internal Revenue Code of 1954 (relating to tax on pens and mechanical pencils and lighters) is amended—

Pens, mechanical pencils, lighters.

26 USC 4201.

(1) by inserting “(a)” before “There”,

(2) by striking out “Mechanical lighters for cigarettes, cigars, and pipes.”, and

(3) by adding at the end thereof the following new subsection:

“(b) There is hereby imposed upon the sale by the manufacturer, producer, or importer of mechanical lighters for cigarettes, cigars, and pipes a tax of 10 cents for each lighter but not more than 10 percent of the price for which so sold.”

(b) The amendments made by subsection (a) shall apply only with respect to articles sold by the manufacturer, producer, or importer thereof on or after the first day of the first month which begins more than 10 days after the date of the enactment of this Act.

SEC. 10. (a) Subchapter M of chapter 1 of the Internal Revenue Code of 1954 (relating to regulated investment companies) is amended by adding at the end thereof the following:

26 USC 851.

“PART II—REAL ESTATE INVESTMENT TRUSTS

“Sec. 856. Definition of real estate investment trust.

“Sec. 857. Taxation of real estate investment trusts and their beneficiaries.

“Sec. 858. Dividends paid by real estate investment trust after close of taxable year.

“SEC. 856. DEFINITION OF REAL ESTATE INVESTMENT TRUST.

“(a) **IN GENERAL.**—For purposes of this subtitle, the term ‘real estate investment trust’ means an unincorporated trust or an unincorporated association—

“(1) which is managed by one or more trustees;

“(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 does not hold any property primarily for sale to customers in the ordinary course of its trade or business;

“(5) the beneficial ownership of which is held by 100 or more persons;

“(6) which would not be a personal holding company (as defined in section 542) if all of its gross income constituted personal holding company income (as defined in section 543); 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 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 which began after December 31, 1960;

“(2) at least 90 percent of its gross income is derived from—

“(A) dividends;

“(B) interest;

“(C) rents from real property;

“(D) gain from the sale or other disposition of stock, securities, and real property (including interests in real property and interests in mortgages on real property); and

“(E) abatements and refunds of taxes on real property;

“(3) at least 75 percent of its gross income is derived from—

“(A) rents from real property;

“(B) interest on obligations secured by mortgages on real property or on interests in real property;

“(C) gain from the sale or other disposition of real property (including interests in real property and interests in mortgages on real property);

“(D) dividends or other distributions on, and gain from the sale or other disposition of, transferable shares (or transferable certificates of beneficial interest) in other real estate investment trusts which meet the requirements of this part; and

“(E) abatements and refunds of taxes on real property;

“(4) less than 30 percent of its gross income is derived from the sale or other disposition of—

“(A) stock or securities held for less than 6 months; and

“(B) real property (including interests in real property) not compulsorily or involuntarily converted within the meaning of section 1033, held for less than 4 years; and

“(5) at the close of each quarter of the taxable year—

“(A) at least 75 percent of the value of its total assets is represented by real estate assets, cash and cash items (including receivables), and Government securities; and

“(B) not more than 25 percent of the value of its total assets is represented by securities (other than those includible under subparagraph (A)) for purposes of this calculation limited in respect of any one issuer to an amount not greater in value than 5 percent of the value of the total assets of the trust and to not more than 10 percent of the outstanding voting securities of such issuer.

A real estate investment trust which meets the requirements of this paragraph at the close of any quarter shall not lose its status as a real estate investment trust because of a discrepancy during a subsequent quarter between the value of its various investments and such requirements unless such discrepancy exists immediately after the acquisition of any security or other property and is wholly or partly the result of such acquisition. A real estate investment trust which does not meet such requirements at the close of any quarter by reason of a discrepancy existing immediately after the acquisition of any security or other property which is wholly or partly the result of such acquisition during such quarter shall not lose its status for such quarter as a real estate investment trust if such discrepancy is eliminated within 30 days after the close of such quarter and in such cases it shall be considered to have met such requirements at the close of such quarter for purposes of applying the preceding sentence.

“(6) For purposes of this part—

Definitions.

“(A) The term ‘value’ means, with respect to securities for which market quotations are readily available, the market value of such securities; and with respect to other securities and assets, fair value as determined in good faith by the trustees, except that in the case of securities of real estate investment trusts such fair value shall not exceed market value or asset value, whichever is higher.

“(B) The term ‘real estate assets’ means real property (including interests in real property and interests in mortgages on real property) and shares (or transferable certificates of beneficial interest) in other real estate investment trusts which meet the requirements of this part.

“(C) The term ‘interests in real property’ includes fee ownership and co-ownership of land or improvements thereon and leaseholds of land or improvements thereon, but does not include mineral, oil, or gas royalty interests.

“(D) All other terms shall have the same meaning as when used in the Investment Company Act of 1940, as amended.

54 Stat. 847.
15 USC 80a-5 l.

“(d) RENTS FROM REAL PROPERTY DEFINED.—For purposes of paragraphs (2) and (3) of subsection (c), the term ‘rents from real property’ includes rents from interests in real property but does not include—

“(1) any amount received or accrued, directly or indirectly, with respect to any real property, if the determination of such amount depends in whole or in part on the income or profits derived by any person from such property (except that any amount so received or accrued shall not be excluded from the term ‘rents from real property’ solely by reason of being based on a fixed percentage or percentages of receipts or sales);

“(2) any amount received or accrued directly or indirectly from any person if the real estate investment trust owns, directly or indirectly—

“(A) in the case of any person which is a corporation, stock of such person possessing 10 percent or more of the

total combined voting power of all classes of stock entitled to vote, or 10 percent or more of the total number of shares of all classes of stock of such person; or

“(B) in the case of any person which is not a corporation, an interest of 10 percent or more in the assets or net profits of such person; and

“(3) any amount received or accrued, directly or indirectly, with respect to any real property, if the real estate investment trust furnishes or renders services to the tenants of such property, or manages or operates such property, other than through an independent contractor from whom the trust itself does not derive or receive any income. For purposes of this paragraph, the term ‘independent contractor’ means—

“(A) a person who does not own, directly or indirectly, more than 35 percent of the shares, or certificates of beneficial interest, in the real estate investment trust, or

“(B) a person, if a corporation, not more than 35 percent of the total combined voting power of whose stock (or 35 percent of the total shares of all classes of whose stock), or, if not a corporation, not more than 35 percent of the interest in whose assets or net profits is owned, directly or indirectly, by one or more persons owning 35 percent or more of the shares or certificates of beneficial interest in the trust.

For purposes of paragraphs (2) and (3), the rules prescribed by section 318(a) for determining the ownership of stock shall apply in determining the ownership of stock, assets, or net profits of any person; except that ‘10 percent’ shall be substituted for ‘50 percent’ in subparagraph (C) of section 318(a) (2).

26 USC 318.

“SEC. 857. TAXATION OF REAL ESTATE INVESTMENT TRUSTS AND THEIR BENEFICIARIES.

“(a) REQUIREMENTS APPLICABLE TO REAL ESTATE INVESTMENT TRUSTS.—The provisions of this part (other than subsection (d) of this section) shall not apply to a real estate investment trust for a taxable year unless—

26 USC 561.

“(1) the deduction for dividends paid during the taxable year (as defined in section 561, but without regard to capital gains dividends) equals or exceeds 90 percent of its real estate investment trust taxable income for the taxable year (determined without regard to subsection (b) (2) (C)), and

“(2) the real estate investment trust complies for such year with regulations prescribed by the Secretary or his delegate for the purpose of ascertaining the actual ownership of the outstanding shares, or certificates of beneficial interest, of such trust.

“(b) METHOD OF TAXATION OF REAL ESTATE INVESTMENT TRUSTS AND HOLDERS OF SHARES OR CERTIFICATES OF BENEFICIAL INTEREST.—

26 USC 11.

“(1) IMPOSITION OF NORMAL TAX AND SURTAX ON REAL ESTATE INVESTMENT TRUSTS.—There is hereby imposed for each taxable year on the real estate investment trust taxable income of every real estate investment trust a normal tax and surtax computed as provided in section 11, as though the real estate investment trust taxable income were the taxable income referred to in section 11. For purposes of computing the normal tax under section 11, the taxable income and the dividends paid deduction

of such real estate investment trust for the taxable year (computed without regard to capital gains dividends) shall be reduced by the deduction provided by section 242 (relating to partially tax-exempt interest).

26 USC 242.

“(2) REAL ESTATE INVESTMENT TRUST TAXABLE INCOME.—For purposes of this part, the term ‘real estate investment trust taxable income’ means the taxable income of the real estate investment trust, adjusted as follows:

“(A) There shall be excluded the excess, if any, of the net long-term capital gain over the net short-term capital loss.

“(B) The deductions for corporations provided in part VIII (except section 248) of subchapter B (section 241 and following, relating to the deduction for dividends received, etc.) shall not be allowed.

26 USC 248.

“(C) The deduction for dividends paid (as defined in section 561) shall be allowed, but shall be computed without regard to capital gains dividends.

26 USC 561.

“(D) The taxable income shall be computed without regard to section 443(b) (relating to computation of tax on change of annual accounting period).

26 USC 443.

“(E) The net operating loss deduction provided in section 172 shall not be allowed.

26 USC 172.

“(3) CAPITAL GAINS.—

“(A) IMPOSITION OF TAX.—There is hereby imposed for each taxable year in the case of every real estate investment trust a tax of 25 percent of the excess, if any, of the net long-term capital gain over the sum of—

“(i) the net short-term capital loss; and

“(ii) the deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only.

26 USC 561.

“(B) TREATMENT OF CAPITAL GAIN DIVIDENDS BY SHAREHOLDERS.—A capital gain dividend shall be treated by the shareholders or holders of beneficial interests as a gain from the sale or exchange of a capital asset held for more than 6 months.

“(C) DEFINITION OF CAPITAL GAIN DIVIDEND.—For purposes of this part, a capital gain dividend is any dividend, or part thereof, which is designated by the real estate investment trust as a capital gain dividend in a written notice mailed to its shareholders or holders of beneficial interests at any time before the expiration of 30 days after the close of its taxable year. If the aggregate amount so designated with respect to a taxable year of the trust (including capital gain dividends paid after the close of the taxable year described in section 858) is greater than the excess of the net long-term capital gain over the net short-term capital loss of the taxable year, the portion of each distribution which shall be a capital gain dividend shall be only that proportion of the amount so designated which such excess of the net long-term capital gain over the net short-term capital loss bears to the aggregate amount so designated.

Post, p. 1008.

“(4) LOSS ON SALE OR EXCHANGE OF STOCK HELD LESS THAN 31 DAYS.—If—

“(A) under subparagraph (B) of paragraph (3) a shareholder of, or a holder of a beneficial interest in, a real estate investment trust is required, with respect to any share or beneficial interest, to treat any amount as a long-term capital gain, and

“(B) such share or interest is held by the taxpayer for less than 31 days,

then any loss on the sale or exchange of such share or interest shall, to the extent of the amount described in subparagraph (A) of this paragraph, be treated as loss from the sale or exchange of a capital asset held for more than 6 months. For purposes of this paragraph, the rules of section 246(c)(3) shall apply in determining whether any share of stock or beneficial interest has been held for less than 31 days; except that ‘30 days’ shall be substituted for the number of days specified in subparagraph (B) of section 246(c)(3).

26 USC 246.

“(c) RESTRICTIONS APPLICABLE TO DIVIDENDS RECEIVED FROM REAL ESTATE INVESTMENT TRUSTS.—For purposes of section 34(a) (relating to credit for dividends received by individuals), section 116 (relating to an exclusion for dividends received by individuals), and section 243 (relating to deductions for dividends received by corporations), a dividend received from a real estate investment trust which meets the requirements of this part shall not be considered as a dividend.

26 USC 34.

Post, p. 1009.

“(d) EARNINGS AND PROFITS.—The earnings and profits of a real estate investment trust for any taxable year (but not its accumulated earnings and profits) shall not be reduced by any amount which is not allowable as a deduction in computing its taxable income for such taxable year. For purposes of this subsection, the term ‘real estate investment trust’ includes a domestic unincorporated trust or association which is a real estate investment trust determined without regard to the requirements of subsection (a).

“SEC. 858. DIVIDENDS PAID BY REAL ESTATE INVESTMENT TRUST AFTER CLOSE OF TAXABLE YEAR.

“(a) GENERAL RULE.—For purposes of this part, if a real estate investment trust—

“(1) declares a dividend before 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

“(2) distributes the amount of such dividend to shareholders or holders of beneficial interests in the 12-month period following the close of such taxable year and not later than the date of the first regular dividend payment made after such declaration, the amount so declared and distributed shall, to the extent the trust elects in such return in accordance with regulations prescribed by the Secretary or his delegate, be considered as having been paid during such taxable year, except as provided in subsections (b) and (c).

“(b) RECEIPT BY SHAREHOLDER.—Amounts to which subsection (a) applies shall be treated as received by the shareholder or holder of a beneficial interest in the taxable year in which the distribution is made.

“(c) NOTICE TO SHAREHOLDERS.—In the case of amounts to which subsection (a) applies, any notice to shareholders or holders of beneficial interests required under this part with respect to such amounts shall be made not later than 30 days after the close of the taxable year in which the distribution is made.”

26 USC 851.

(b) Subchapter M of chapter 1 of the Internal Revenue Code of 1954 is amended—

(1) by striking out the heading thereof and inserting in lieu thereof the following:

“Subchapter M—Regulated Investment Companies and Real Estate Investment Trusts

“Part I. Regulated investment companies.

“Part II. Real estate investment trusts.

“Part I—Regulated Investment Companies”;

(2) by striking out “this subchapter” in sections 852(a) and 855(c) and inserting in lieu thereof “this part”; and

26 USC 852, 855.

(3) by striking out “A capital gain dividend means” in section 852(b)(3)(C) and inserting in lieu thereof “For purposes of this part, a capital gain dividend is”.

(c) The table of subchapters for chapter 1 of such Code is amended by inserting “and real estate investment trusts” after “Regulated investment companies”.

(d) Section 11(d)(3) of such Code (relating to tax on corporations) is amended by inserting “and real estate investment trusts” after “regulated investment companies.”

26 USC 11.

(e) Section 34(c) of such Code (relating to credit for dividends received by individuals) is amended by striking out the word “or” at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; or”, and by adding at the end thereof the following new paragraph:

26 USC 34.

“(3) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (sec. 856 and following).”

(f) Section 116(b) of such Code (relating to an exclusion for dividends received by individuals) is amended by striking out the word “or” at the end of paragraph (1), by striking out the period at the end of paragraph (2) and inserting in lieu thereof “; or”, and by adding at the end thereof the following new paragraph:

26 USC 116.

“(3) a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (sec. 856 and following).”

(g) Section 243(c) of such Code (relating to deduction for dividends received by corporations) is amended by adding at the end thereof the following new paragraph:

26 USC 243.

“(3) Any dividend received from a real estate investment trust which, for the taxable year of the trust in which the dividend is paid, qualifies under part II of subchapter M (sec. 856 and following) shall not be treated as a dividend.”

(h) Section 318(b) of such Code (relating to constructive ownership of stock) is amended by striking out the word “and” at the end of paragraph (4), by striking out the period at the end of paragraph (5) and inserting in lieu thereof “; and”, and by adding at the end thereof the following new paragraph:

26 USC 318.

“(6) section 856(d) (relating to definition of rents from real property in the case of real estate investment trusts).”

(i) Section 443(d) of such Code (relating to computation of tax on change of annual accounting period) is amended by adding at the end thereof the following new paragraph:

26 USC 443.

“(5) The taxable income of a real estate investment trust, see section 857(b)(2)(D).”

(j) Section 1504(b)(6) of such Code (relating to consolidated returns) is amended by inserting “and real estate investment trusts” after “Regulated investment companies”.

26 USC 1504.

(k) The amendments made by this section shall apply with respect to taxable years of real estate investment trusts beginning after December 31, 1960.

Pension Fund,
Plumbers' Local
Union Numbered
775.

SEC. 11. The Pension Fund, Plumbers' Local Union Numbered 775, which was created May 1, 1957, as a result of an agreement between Plumbers' Local Union Numbered 775, of Suffolk County, New York, affiliated with the United Association of Journeymen and Apprentices of the Plumbing and Pipe Fitting Industry of the United States and Canada, and the Suffolk County Plumbing and Heating Contractors Association, Inc., and which has been held by the Internal Revenue Service to constitute a qualified trust under section 401(a) of the Internal Revenue Code of 1954, and to be exempt from taxation under section 501(a) of such Code, shall be held and considered to have been a qualified trust under such section 401(a), and to have been exempt from taxation under such section 501(a), for the period beginning May 1, 1957, and ending May 11, 1959, but only if it is shown to the satisfaction of the Secretary of the Treasury or his delegate that the trust has not in this period been operated in a manner which would jeopardize the interests of its beneficiaries.

Approved September 14, 1960.

26 USC 401.
26 USC 501.

Public Law 86-780

September 14, 1960
[H. R. 10087]

AN ACT

To amend the Internal Revenue Code of 1954 to permit taxpayers to elect an overall limitation on the foreign tax credit.

IRC 1954, a-
amendment.
Foreign tax
credit.
68A Stat. 287.
26 USC 904.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That (a) section 904 of the Internal Revenue Code of 1954 (relating to limitation on foreign tax credit) is amended by striking out subsection (a) and inserting in lieu thereof the following new subsections:

“(a) ALTERNATIVE LIMITATIONS.—

“(1) PER-COUNTRY LIMITATION.—In the case of any taxpayer who does not elect the limitation provided by paragraph (2), the amount of the credit in respect of the tax paid or accrued to any foreign country or possession of the United States shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources within such country or possession (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

“(2) OVERALL LIMITATION.—In the case of any taxpayer who elects the limitation provided by this paragraph, the total amount of the credit in respect of taxes paid or accrued to all foreign countries and possessions of the United States shall not exceed the same proportion of the tax against which such credit is taken which the taxpayer's taxable income from sources without the United States (but not in excess of the taxpayer's entire taxable income) bears to his entire taxable income for the same taxable year.

“(b) ELECTION OF OVERALL LIMITATION.—

“(1) IN GENERAL.—A taxpayer may elect the limitation provided by subsection (a)(2) for any taxable year beginning after December 31, 1960. An election under this paragraph for any taxable year shall remain in effect for all subsequent taxable years, except that it may be revoked with the consent of the Secretary or his delegate with respect to any taxable year.