

**TITLE 26 - INTERNAL REVENUE CODE****Subtitle A - Income Taxes****CHAPTER 1 - NORMAL TAXES AND SURTAXES****Subchapter M - Regulated Investment Companies and Real Estate Investment Trusts****PART I - REGULATED INVESTMENT COMPANIES****§ 853. Foreign tax credit allowed to shareholders****(a) General rule**

A regulated investment company—

- (1) more than 50 percent of the value (as defined in section 851(c)(4)) of whose total assets at the close of the taxable year consists of stock or securities in foreign corporations, and
- (2) which meets the requirements of section 852 (a) for the taxable year,

may, for such taxable year, elect the application of this section with respect to income, war profits, and excess profits taxes described in section 901 (b)(1), which are paid by the investment company during such taxable year to foreign countries and possessions of the United States.

**(b) Effect of election**

If the election provided in subsection (a) is effective for a taxable year—

- (1) the regulated investment company—
  - (A) shall not, with respect to such taxable year, be allowed a deduction under section 164 (a) or a credit under section 901 for taxes to which subsection (a) is applicable, and
  - (B) shall be allowed as an addition to the dividends paid deduction for such taxable year the amount of such taxes;
- (2) each shareholder of such investment company shall—
  - (A) include in gross income and treat as paid by him his proportionate share of such taxes, and
  - (B) treat as gross income from sources within the respective foreign countries and possessions of the United States, for purposes of applying subpart A of part III of subchapter N, the sum of his proportionate share of such taxes and the portion of any dividend paid by such investment company which represents income derived from sources within foreign countries or possessions of the United States.

**(c) Notice to shareholders**

The amounts to be treated by the shareholder, for purposes of subsection (b)(2), as his proportionate share of—

- (1) taxes paid to any foreign country or possession of the United States, and
- (2) gross income derived from sources within any foreign country or possession of the United States,

shall not exceed the amounts so designated by the company in a written notice mailed to its shareholders not later than 60 days after the close of its taxable year.

**(d) Manner of making election and notifying shareholders**

The election provided in subsection (a) and the notice to shareholders required by subsection (c) shall be made in such manner as the Secretary may prescribe by regulations.

**(e) Treatment of certain taxes not allowed as a credit under section 901**

This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of subsection (k) or (l) of such section.

**(f) Cross references**

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscprint.html>).*

- (1) For treatment by shareholders of taxes paid to foreign countries and possessions of the United States, see section 164 (a) and section 901.
- (2) For definition of foreign corporation, see section 7701 (a)(5).

(Aug. 16, 1954, ch. 736, 68A Stat. 272; Pub. L. 88–272, title II, § 229(a)(3), Feb. 26, 1964, 78 Stat. 99; Pub. L. 94–455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 99–514, title VI, § 655(a)(3), Oct. 22, 1986, 100 Stat. 2299; Pub. L. 105–34, title X, § 1053(b), Aug. 5, 1997, 111 Stat. 943; Pub. L. 105–206, title VI, § 6010(k)(1), (2), July 22, 1998, 112 Stat. 815; Pub. L. 109–135, title IV, § 403(aa)(1), Dec. 21, 2005, 119 Stat. 2630.)

## Amendments

2005—Subsec. (e). Pub. L. 109–135 amended heading and text of subsec. (e) generally. Prior to amendment, text read as follows: “This section shall not apply to any tax with respect to which the regulated investment company is not allowed a credit under section 901 by reason of section 901 (k).”

1998—Subsec. (c). Pub. L. 105–206, § 6010(k)(2), struck out at end “Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901 (a) to the regulated investment company by reason of section 901 (k).”

Subsecs. (e), (f). Pub. L. 105–206, § 6010(k)(1), added subsec. (e) and redesignated former subsec. (e) as (f).

1997—Subsec. (c). Pub. L. 105–34 inserted at end “Such notice shall also include the amount of such taxes which (without regard to the election under this section) would not be allowable as a credit under section 901 (a) to the regulated investment company by reason of section 901 (k).”

1986—Subsec. (c). Pub. L. 99–514 substituted “60 days” for “45 days”.

1976—Subsec. (d). Pub. L. 94–455 struck out “or his delegate” after “Secretary”.

1964—Subsec. (c). Pub. L. 88–272 substituted “45 days” for “30 days”.

## Effective Date of 2005 Amendment

Amendment by Pub. L. 109–135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108–357, to which such amendment relates, see section 403(nn) of Pub. L. 109–135, set out as a note under section 26 of this title.

## Effective Date of 1998 Amendment

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.

## Effective Date of 1997 Amendment

Section 1053(c) of Pub. L. 105–34 provided that: “The amendments made by this section [amending this section and section 901 of this title] shall apply to dividends paid or accrued more than 30 days after the date of the enactment of this Act [Aug. 5, 1997].”

## Effective Date of 1986 Amendment

Amendment by Pub. L. 99–514 applicable to taxable years beginning after Oct. 22, 1986, see section 655(b) of Pub. L. 99–514, set out as a note under section 852 of this title.

## Effective Date of 1964 Amendment

Amendment by Pub. L. 88–272 applicable to taxable years of regulated investment companies ending on or after Feb. 26, 1964, see section 229(c) of Pub. L. 88–272, set out as a note under section 852 of this title.