

111TH CONGRESS  
2D SESSION

# S. 3948

To amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 17, 2010

Mr. BINGAMAN (for himself, Mr. CRAPO, and Mr. KERRY) introduced the following bill; which was read twice and referred to the Committee on Finance

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## A BILL

To amend the Internal Revenue Code of 1986 to modify certain rules applicable to regulated investment companies, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE, ETC.**

4 (a) **SHORT TITLE.**—This Act may be cited as the  
5 “Regulated Investment Company Modernization Act of  
6 2010”.

7 (b) **REFERENCE.**—Except as otherwise expressly pro-  
8 vided, whenever in this Act an amendment or repeal is  
9 expressed in terms of an amendment to, or repeal of, a  
10 section or other provision, the reference shall be consid-

1 ered to be made to a section or other provision of the In-  
 2 ternal Revenue Code of 1986.

3 (c) TABLE OF CONTENTS.—The table of contents for  
 4 this Act is as follows:

Sec. 1. Short title, etc.

TITLE I—CAPITAL LOSS CARRYOVERS OF REGULATED  
 INVESTMENT COMPANIES

Sec. 101. Capital loss carryovers of regulated investment companies.

TITLE II—MODIFICATION OF GROSS INCOME AND ASSET TESTS  
 OF REGULATED INVESTMENT COMPANIES

Sec. 201. Income from commodities counted toward gross income test of regulated investment companies.

Sec. 202. Savings provisions for failures of regulated investment companies to satisfy gross income and asset tests.

TITLE III—MODIFICATION OF RULES RELATED TO DIVIDENDS  
 AND OTHER DISTRIBUTIONS

Sec. 301. Modification of dividend designation requirements and allocation rules for regulated investment companies.

Sec. 302. Earnings and profits of regulated investment companies.

Sec. 303. Pass-thru of exempt-interest dividends and foreign tax credits in fund of funds structure.

Sec. 304. Modification of rules for spillover dividends of regulated investment companies.

Sec. 305. Return of capital distributions of regulated investment companies.

Sec. 306. Distributions in redemption of stock of a regulated investment company.

Sec. 307. Repeal of preferential dividend rule for publicly offered regulated investment companies.

Sec. 308. Elective deferral of certain late-year losses of regulated investment companies.

Sec. 309. Exception to holding period requirement for certain regularly declared exempt-interest dividends.

TITLE IV—MODIFICATIONS RELATED TO EXCISE TAX  
 APPLICABLE TO REGULATED INVESTMENT COMPANIES

Sec. 401. Excise tax exemption for certain regulated investment companies owned by tax exempt entities.

Sec. 402. Deferral of certain gains and losses of regulated investment companies for excise tax purposes.

Sec. 403. Distributed amount for excise tax purposes determined on basis of taxes paid by regulated investment company.

Sec. 404. Increase in required distribution of capital gain net income.

TITLE V—OTHER PROVISIONS

Sec. 501. Repeal of assessable penalty with respect to liability for tax of regulated investment companies.

Sec. 502. Modification of sales load basis deferral rule for regulated investment companies.

1 **TITLE I—CAPITAL LOSS**  
 2 **CARRYOVERS OF REGULATED**  
 3 **INVESTMENT COMPANIES**

4 **SEC. 101. CAPITAL LOSS CARRYOVERS OF REGULATED IN-**  
 5 **VESTMENT COMPANIES.**

6 (a) IN GENERAL.—Subsection (a) of section 1212 is  
 7 amended by redesignating paragraph (3) as paragraph (4)  
 8 and by inserting after paragraph (2) the following new  
 9 paragraph:

10 “(3) REGULATED INVESTMENT COMPANIES.—

11 “(A) IN GENERAL.—If a regulated invest-  
 12 ment company has a net capital loss for any  
 13 taxable year—

14 “(i) paragraph (1) shall not apply to  
 15 such loss,

16 “(ii) the excess of the net short-term  
 17 capital loss over the net long-term capital  
 18 gain for such year shall be a short-term  
 19 capital loss arising on the first day of the  
 20 next taxable year, and

21 “(iii) the excess of the net long-term  
 22 capital loss over the net short-term capital  
 23 gain for such year shall be a long-term

1 capital loss arising on the first day of the  
2 next taxable year.

3 “(B) COORDINATION WITH GENERAL  
4 RULE.—If a net capital loss to which paragraph  
5 (1) applies is carried over to a taxable year of  
6 a regulated investment company—

7 “(i) LOSSES TO WHICH THIS PARA-  
8 GRAPH APPLIES.—Clauses (ii) and (iii) of  
9 subparagraph (A) shall be applied without  
10 regard to any amount treated as a short-  
11 term capital loss under paragraph (1).

12 “(ii) LOSSES TO WHICH GENERAL  
13 RULE APPLIES.—Paragraph (1) shall be  
14 applied by substituting ‘net capital loss for  
15 the loss year or any taxable year thereafter  
16 (other than a net capital loss to which  
17 paragraph (3)(A) applies)’ for ‘net capital  
18 loss for the loss year or any taxable year  
19 thereafter’.”.

20 (b) CONFORMING AMENDMENTS.—

21 (1) Subparagraph (C) of section 1212(a)(1) is  
22 amended to read as follows:

23 “(C) a capital loss carryover to each of the  
24 10 taxable years succeeding the loss year, but

1           only to the extent such loss is attributable to a  
2           foreign expropriation loss,”.

3           (2) Paragraph (10) of section 1222 is amended  
4           by striking “section 1212” and inserting “section  
5           1212(a)(1)”.

6           (c) EFFECTIVE DATE.—

7           (1) IN GENERAL.—Except as provided in para-  
8           graph (2), the amendments made by this section  
9           shall apply to net capital losses for taxable years be-  
10          ginning after the date of the enactment of this Act.

11          (2) COORDINATION RULES.—Subparagraph (B)  
12          of section 1212(a)(3) of the Internal Revenue Code  
13          of 1986, as added by this section, shall apply to tax-  
14          able years beginning after the date of the enactment  
15          of this Act.

16       **TITLE II—MODIFICATION OF**  
17       **GROSS INCOME AND ASSET**  
18       **TESTS OF REGULATED IN-**  
19       **VESTMENT COMPANIES**

20       **SEC. 201. INCOME FROM COMMODITIES COUNTED TOWARD**  
21                       **GROSS INCOME TEST OF REGULATED IN-**  
22                       **VESTMENT COMPANIES.**

23          (a) GROSS INCOME TEST.—Subparagraph (A) of sec-  
24          tion 851(b)(2) is amended—

1           (1) by striking “foreign currencies” and insert-  
2           ing “commodities”, and

3           (2) by striking “or currencies” and inserting  
4           “or commodities”.

5           (b) REPEAL OF REGULATORY AUTHORITY TO EX-  
6           CLUDE CERTAIN FOREIGN CURRENCY GAINS FROM  
7           QUALIFYING INCOME.—Subsection (b) of section 851 is  
8           amended by striking “For purposes of paragraph (2), the  
9           Secretary may by regulation exclude from qualifying in-  
10          come foreign currency gains which are not directly related  
11          to the company’s principal business of investing in stock  
12          or securities (or options and futures with respect to stock  
13          or securities).” in the flush matter after paragraph (3).

14          (c) CONFORMING AMENDMENTS.—

15                 (1) Subsection (h) of section 851 is amended by  
16                 inserting “(determined by substituting ‘foreign cur-  
17                 rencies’ for ‘commodities’ therein)” after “subsection  
18                 (b)(2)(A)”.

19                 (2) Paragraph (4) of section 7704(d) is amend-  
20                 ed by inserting “(determined by substituting ‘foreign  
21                 currencies’ for ‘commodities’ therein)” after “section  
22                 851(b)(2)(A)”.

23           (d) EFFECTIVE DATE.—The amendments made by  
24           this section shall apply to taxable years beginning after  
25           the date of the enactment of this Act.

1 **SEC. 202. SAVINGS PROVISIONS FOR FAILURES OF REGU-**  
2 **LATED INVESTMENT COMPANIES TO SATISFY**  
3 **GROSS INCOME AND ASSET TESTS.**

4 (a) ASSET TEST.—Subsection (d) of section 851 is  
5 amended—

6 (1) by striking “A corporation which meets”  
7 and inserting the following:

8 “(1) IN GENERAL.—A corporation which  
9 meets”, and

10 (2) by adding at the end the following new  
11 paragraph:

12 “(2) SPECIAL RULES REGARDING FAILURE TO  
13 SATISFY REQUIREMENTS.—If paragraph (1) does  
14 not preserve a corporation’s status as a regulated in-  
15 vestment company for any particular quarter—

16 “(A) IN GENERAL.—A corporation that  
17 fails to meet the requirements of subsection  
18 (b)(3) (other than a failure described in sub-  
19 paragraph (B)(i)) for such quarter shall never-  
20 theless be considered to have satisfied the re-  
21 quirements of such subsection for such quarter  
22 if—

23 “(i) following the corporation’s identi-  
24 fication of the failure to satisfy the re-  
25 quirements of such subsection for such  
26 quarter, a description of each asset that

1 causes the corporation to fail to satisfy the  
2 requirements of such subsection at the  
3 close of such quarter is set forth in a  
4 schedule for such quarter filed in the man-  
5 ner provided by the Secretary,

6 “(ii) the failure to meet the require-  
7 ments of such subsection for such quarter  
8 is due to reasonable cause and not due to  
9 willful neglect, and

10 “(iii)(I) the corporation disposes of  
11 the assets set forth on the schedule speci-  
12 fied in clause (i) within 6 months after the  
13 last day of the quarter in which the cor-  
14 poration’s identification of the failure to  
15 satisfy the requirements of such subsection  
16 occurred or such other time period pre-  
17 scribed by the Secretary and in the manner  
18 prescribed by the Secretary, or

19 “(II) the requirements of such sub-  
20 section are otherwise met within the time  
21 period specified in subclause (I).

22 “(B) RULE FOR CERTAIN DE MINIMIS  
23 FAILURES.—A corporation that fails to meet  
24 the requirements of subsection (b)(3) for such  
25 quarter shall nevertheless be considered to have



1 satisfied the requirements of such subsection  
2 for such quarter if—

3 “(i) such failure is due to the owner-  
4 ship of assets the total value of which does  
5 not exceed the lesser of—

6 “(I) 1 percent of the total value  
7 of the corporation’s assets at the end  
8 of the quarter for which such meas-  
9 urement is done, or

10 “(II) \$10,000,000, and

11 “(ii)(I) the corporation, following the  
12 identification of such failure, disposes of  
13 assets in order to meet the requirements of  
14 such subsection within 6 months after the  
15 last day of the quarter in which the cor-  
16 poration’s identification of the failure to  
17 satisfy the requirements of such subsection  
18 occurred or such other time period pre-  
19 scribed by the Secretary and in the manner  
20 prescribed by the Secretary, or

21 “(II) the requirements of such sub-  
22 section are otherwise met within the time  
23 period specified in subclause (I).

24 “(C) TAX.—

1           “(i) TAX IMPOSED.—If subparagraph  
2           (A) applies to a corporation for any quar-  
3           ter, there is hereby imposed on such cor-  
4           poration a tax in an amount equal to the  
5           greater of—

6                     “(I) \$50,000, or

7                     “(II) the amount determined  
8                     (pursuant to regulations promulgated  
9                     by the Secretary) by multiplying the  
10                    net income generated by the assets  
11                    described in the schedule specified in  
12                    subparagraph (A)(i) for the period  
13                    specified in clause (ii) by the highest  
14                    rate of tax specified in section 11.

15           “(ii) PERIOD.—For purposes of clause  
16           (i)(II), the period described in this clause  
17           is the period beginning on the first date  
18           that the failure to satisfy the requirements  
19           of subsection (b)(3) occurs as a result of  
20           the ownership of such assets and ending on  
21           the earlier of the date on which the cor-  
22           poration disposes of such assets or the end  
23           of the first quarter when there is no longer  
24           a failure to satisfy such subsection.

1                   “(iii) ADMINISTRATIVE PROVISIONS.—  
2                   For purposes of subtitle F, a tax imposed  
3                   by this subparagraph shall be treated as  
4                   an excise tax with respect to which the de-  
5                   ficiency procedures of such subtitle  
6                   apply.”.

7           (b) GROSS INCOME TEST.—Section 851 is amended  
8 by adding at the end the following new subsection:

9           “(i) FAILURE TO SATISFY GROSS INCOME TEST.—

10                   “(1) DISCLOSURE REQUIREMENT.—A corpora-  
11                   tion that fails to meet the requirement of paragraph  
12                   (2) of subsection (b) for any taxable year shall nev-  
13                   ertheless be considered to have satisfied the require-  
14                   ment of such paragraph for such taxable year if—

15                           “(A) following the corporation’s identifica-  
16                           tion of the failure to meet such requirement for  
17                           such taxable year, a description of each item of  
18                           its gross income described in such paragraph is  
19                           set forth in a schedule for such taxable year  
20                           filed in the manner provided by the Secretary,  
21                           and

22                           “(B) the failure to meet such requirement  
23                           is due to reasonable cause and not due to will-  
24                           ful neglect.

1           “(2) IMPOSITION OF TAX ON FAILURES.—If  
2           paragraph (1) applies to a regulated investment  
3           company for any taxable year, there is hereby im-  
4           posed on such company a tax in an amount equal to  
5           the excess of—

6                   “(A) the gross income of such company  
7                   which is not derived from sources referred to in  
8                   subsection (b)(2), over

9                   “(B)  $\frac{1}{9}$  of the gross income of such com-  
10                  pany which is derived from such sources.”.

11           (c) DEDUCTION OF TAXES PAID FROM INVESTMENT  
12           COMPANY TAXABLE INCOME.—Paragraph (2) of section  
13           852(b) is amended by adding at the end the following new  
14           subparagraph:

15                   “(G) There shall be deducted an amount  
16                   equal to the tax imposed by subsections (d)(2)  
17                   and (i) of section 851 for the taxable year.”.

18           (d) EFFECTIVE DATE.—The amendments made by  
19           this section shall apply to taxable years with respect to  
20           which the due date (determined with regard to any exten-  
21           sions) of the return of tax for such taxable year is after  
22           the date of the enactment of this Act.

1 **TITLE III—MODIFICATION OF**  
2 **RULES RELATED TO DIVI-**  
3 **DENDS AND OTHER DIS-**  
4 **TRIBUTIONS**

5 **SEC. 301. MODIFICATION OF DIVIDEND DESIGNATION RE-**  
6 **QUIREMENTS AND ALLOCATION RULES FOR**  
7 **REGULATED INVESTMENT COMPANIES.**

8 (a) CAPITAL GAIN DIVIDENDS.—

9 (1) IN GENERAL.—Subparagraph (C) of section  
10 852(b)(3) is amended to read as follows:

11 “(C) DEFINITION OF CAPITAL GAIN DIVI-  
12 DEND.—For purposes of this part—

13 “(i) IN GENERAL.—Except as pro-  
14 vided in clause (ii), a capital gain dividend  
15 is any dividend, or part thereof, which is  
16 reported by the company as a capital gain  
17 dividend in written statements furnished to  
18 its shareholders.

19 “(ii) EXCESS REPORTED AMOUNTS.—  
20 If the aggregate reported amount with re-  
21 spect to the company for any taxable year  
22 exceeds the net capital gain of the com-  
23 pany for such taxable year, a capital gain  
24 dividend is the excess of—

1           “(I) the reported capital gain div-  
2           idend amount, over

3           “(II) the excess reported amount  
4           which is allocable to such reported  
5           capital gain dividend amount.

6           “(iii) ALLOCATION OF EXCESS RE-  
7           PORTED AMOUNT.—

8           “(I) IN GENERAL.—Except as  
9           provided in subclause (II), the excess  
10          reported amount (if any) which is al-  
11          locable to the reported capital gain  
12          dividend amount is that portion of the  
13          excess reported amount which bears  
14          the same ratio to the excess reported  
15          amount as the reported capital gain  
16          dividend amount bears to the aggre-  
17          gate reported amount.

18          “(II) SPECIAL RULE FOR NON-  
19          CALENDAR YEAR TAXPAYERS.—In the  
20          case of any taxable year which does  
21          not begin and end in the same cal-  
22          endar year, if the post-December re-  
23          ported amount equals or exceeds the  
24          excess reported amount for such tax-  
25          able year, subclause (I) shall be ap-

1           plied by substituting ‘post-December  
2           reported amount’ for ‘aggregate re-  
3           ported amount’ and no excess re-  
4           ported amount shall be allocated to  
5           any dividend paid on or before De-  
6           cember 31 of such taxable year.

7           “(iv) DEFINITIONS.—For purposes of  
8           this subparagraph—

9                   “(I) REPORTED CAPITAL GAIN  
10                   DIVIDEND AMOUNT.—The term ‘re-  
11                   ported capital gain dividend amount’  
12                   means the amount reported to its  
13                   shareholders under clause (i) as a  
14                   capital gain dividend.

15                   “(II) EXCESS REPORTED  
16                   AMOUNT.—The term ‘excess reported  
17                   amount’ means the excess of the ag-  
18                   gregate reported amount over the net  
19                   capital gain of the company for the  
20                   taxable year.

21                   “(III) AGGREGATE REPORTED  
22                   AMOUNT.—The term ‘aggregate re-  
23                   ported amount’ means the aggregate  
24                   amount of dividends reported by the  
25                   company under clause (i) as capital

1 gain dividends for the taxable year  
2 (including capital gain dividends paid  
3 after the close of the taxable year de-  
4 scribed in section 855).

5 “(IV) POST-DECEMBER RE-  
6 PORTED AMOUNT.—The term ‘post-  
7 December reported amount’ means  
8 the aggregate reported amount deter-  
9 mined by taking into account only  
10 dividends paid after December 31 of  
11 the taxable year.

12 “(v) ADJUSTMENT FOR DETERMINA-  
13 TIONS.—If there is an increase in the ex-  
14 cess described in subparagraph (A) for the  
15 taxable year which results from a deter-  
16 mination (as defined in section 860(e)),  
17 the company may, subject to the limita-  
18 tions of this subparagraph, increase the  
19 amount of capital gain dividends reported  
20 under clause (i).

21 “(vi) SPECIAL RULE FOR LOSSES  
22 LATE IN THE CALENDAR YEAR.—For spe-  
23 cial rule for certain losses after October  
24 31, see paragraph (8).”.



1           (2) CONFORMING AMENDMENT.—Subparagraph  
2           (B) of section 860(f)(2) is amended by inserting “or  
3           reported (as the case may be)” after “designated”.

4           (b) EXEMPT-INTEREST DIVIDENDS.—Subparagraph  
5 (A) of section 852(b)(5) is amended to read as follows:

6                   “(A) DEFINITION OF EXEMPT-INTEREST  
7                   DIVIDEND.—

8                           “(i) IN GENERAL.—Except as pro-  
9                           vided in clause (ii), an exempt-interest divi-  
10                           dend is any dividend or part thereof (other  
11                           than a capital gain dividend) paid by a  
12                           regulated investment company and re-  
13                           ported by the company as an exempt-inter-  
14                           est dividend in written statements fur-  
15                           nished to its shareholders.

16                           “(ii) EXCESS REPORTED AMOUNTS.—  
17                           If the aggregate reported amount with re-  
18                           spect to the company for any taxable year  
19                           exceeds the exempt interest of the company  
20                           for such taxable year, an exempt-interest  
21                           dividend is the excess of—

22                                   “(I) the reported exempt-interest  
23                                   dividend amount, over

1           “(II) the excess reported amount  
2           which is allocable to such reported ex-  
3           empt-interest dividend amount.

4           “(iii) ALLOCATION OF EXCESS RE-  
5           PORTED AMOUNT.—

6           “(I) IN GENERAL.—Except as  
7           provided in subclause (II), the excess  
8           reported amount (if any) which is al-  
9           locable to the reported exempt-interest  
10          dividend amount is that portion of the  
11          excess reported amount which bears  
12          the same ratio to the excess reported  
13          amount as the reported exempt-inter-  
14          est dividend amount bears to the ag-  
15          gregate reported amount.

16          “(II) SPECIAL RULE FOR NON-  
17          CALENDAR YEAR TAXPAYERS.—In the  
18          case of any taxable year which does  
19          not begin and end in the same cal-  
20          endar year, if the post-December re-  
21          ported amount equals or exceeds the  
22          excess reported amount for such tax-  
23          able year, subclause (I) shall be ap-  
24          plied by substituting ‘post-December  
25          reported amount’ for ‘aggregate re-

1 reported amount' and no excess re-  
2 ported amount shall be allocated to  
3 any dividend paid on or before De-  
4 cember 31 of such taxable year.

5 “(iv) DEFINITIONS.—For purposes of  
6 this subparagraph—

7 “(I) REPORTED EXEMPT-INTER-  
8 EST DIVIDEND AMOUNT.—The term  
9 ‘reported exempt-interest dividend  
10 amount’ means the amount reported  
11 to its shareholders under clause (i) as  
12 an exempt-interest dividend.

13 “(II) EXCESS REPORTED  
14 AMOUNT.—The term ‘excess reported  
15 amount’ means the excess of the ag-  
16 gregate reported amount over the ex-  
17 empt interest of the company for the  
18 taxable year.

19 “(III) AGGREGATE REPORTED  
20 AMOUNT.—The term ‘aggregate re-  
21 ported amount’ means the aggregate  
22 amount of dividends reported by the  
23 company under clause (i) as exempt-  
24 interest dividends for the taxable year  
25 (including exempt-interest dividends

1                   paid after the close of the taxable year  
2                   described in section 855).

3                   “(IV) POST-DECEMBER RE-  
4                   PORTED AMOUNT.—The term ‘post-  
5                   December reported amount’ means  
6                   the aggregate reported amount deter-  
7                   mined by taking into account only  
8                   dividends paid after December 31 of  
9                   the taxable year.

10                  “(V) EXEMPT INTEREST.—The  
11                  term ‘exempt interest’ means, with re-  
12                  spect to any regulated investment  
13                  company, the excess of the amount of  
14                  interest excludable from gross income  
15                  under section 103(a) over the  
16                  amounts disallowed as deductions  
17                  under sections 265 and 171(a)(2).”.

18                  (c) FOREIGN TAX CREDITS.—

19                   (1) IN GENERAL.—Subsection (c) of section  
20                   853 is amended—

21                   (A) by striking “so designated by the com-  
22                   pany in a written notice mailed to its share-  
23                   holders not later than 60 days after the close  
24                   of the taxable year” and inserting “so reported

1 by the company in a written statement fur-  
2 nished to such shareholder”, and

3 (B) by striking “NOTICE” in the heading  
4 and inserting “STATEMENTS”.

5 (2) CONFORMING AMENDMENTS.—Subsection  
6 (d) of section 853 is amended—

7 (A) by striking “and the notice to share-  
8 holders required by subsection (e)” in the text  
9 thereof, and

10 (B) by striking “AND NOTIFYING SHARE-  
11 HOLDERS” in the heading thereof.

12 (d) CREDITS FOR TAX CREDIT BONDS.—

13 (1) IN GENERAL.—Subsection (c) of section  
14 853A is amended—

15 (A) by striking “so designated by the regu-  
16 lated investment company in a written notice  
17 mailed to its shareholders not later than 60  
18 days after the close of its taxable year” and in-  
19 serting “so reported by the regulated invest-  
20 ment company in a written statement furnished  
21 to such shareholder”, and

22 (B) by striking “NOTICE” in the heading  
23 and inserting “STATEMENTS”.

24 (2) CONFORMING AMENDMENTS.—Subsection  
25 (d) of section 853A is amended—

1 (A) by striking “and the notice to share-  
2 holders required by subsection (e)” in the text  
3 thereof, and

4 (B) by striking “AND NOTIFYING SHARE-  
5 HOLDERS” in the heading thereof.

6 (e) DIVIDEND RECEIVED DEDUCTION, ETC.—

7 (1) IN GENERAL.—Paragraph (1) of section  
8 854(b) is amended—

9 (A) by striking “designated under this sub-  
10 paragraph by the regulated investment com-  
11 pany” in subparagraph (A) and inserting “re-  
12 ported by the regulated investment company as  
13 eligible for such deduction in written statements  
14 furnished to its shareholders”,

15 (B) by striking “designated by the regu-  
16 lated investment company” in subparagraph  
17 (B)(i) and inserting “reported by the regulated  
18 investment company as qualified dividend in-  
19 come in written statements furnished to its  
20 shareholders”,

21 (C) by striking “designated” in subpara-  
22 graph (C)(i) and inserting “reported”, and

23 (D) by striking “designated” in subpara-  
24 graph (C)(ii) and inserting “reported”.

1           (2) CONFORMING AMENDMENTS.—Subsection  
2           (b) of section 854 is amended by striking paragraph  
3           (2) and by redesignating paragraphs (3), (4), and  
4           (5), as paragraphs (2), (3), and (4), respectively.

5           (f) DIVIDENDS PAID TO CERTAIN FOREIGN PER-  
6           SONS.—

7           (1) INTEREST-RELATED DIVIDENDS.—Subpara-  
8           graph (C) of section 871(k)(1) is amended by strik-  
9           ing all that precedes “any taxable year of the com-  
10          pany beginning” and inserting the following:

11                   “(C) INTEREST-RELATED DIVIDEND.—For  
12                   purposes of this paragraph—

13                           “(i) IN GENERAL.—Except as pro-  
14                           vided in clause (ii), an interest related divi-  
15                           dend is any dividend, or part thereof,  
16                           which is reported by the company as an in-  
17                           terest related dividend in written state-  
18                           ments furnished to its shareholders.

19                           “(ii) EXCESS REPORTED AMOUNTS.—  
20                           If the aggregate reported amount with re-  
21                           spect to the company for any taxable year  
22                           exceeds the qualified net interest income of  
23                           the company for such taxable year, an in-  
24                           terest related dividend is the excess of—

1           “(I) the reported interest related  
2           dividend amount, over

3           “(II) the excess reported amount  
4           which is allocable to such reported in-  
5           terest related dividend amount.

6           “(iii) ALLOCATION OF EXCESS RE-  
7           PORTED AMOUNT.—

8           “(I) IN GENERAL.—Except as  
9           provided in subclause (II), the excess  
10          reported amount (if any) which is al-  
11          locable to the reported interest related  
12          dividend amount is that portion of the  
13          excess reported amount which bears  
14          the same ratio to the excess reported  
15          amount as the reported interest re-  
16          lated dividend amount bears to the  
17          aggregate reported amount.

18          “(II) SPECIAL RULE FOR NON-  
19          CALENDAR YEAR TAXPAYERS.—In the  
20          case of any taxable year which does  
21          not begin and end in the same cal-  
22          endar year, if the post-December re-  
23          ported amount equals or exceeds the  
24          excess reported amount for such tax-  
25          able year, subclause (I) shall be ap-



1           plied by substituting ‘post-December  
2           reported amount’ for ‘aggregate re-  
3           ported amount’ and no excess re-  
4           ported amount shall be allocated to  
5           any dividend paid on or before De-  
6           cember 31 of such taxable year.

7           “(iv) DEFINITIONS.—For purposes of  
8           this subparagraph—

9                   “(I) REPORTED INTEREST RE-  
10                   LATED DIVIDEND AMOUNT.—The  
11                   term ‘reported interest related divi-  
12                   dend amount’ means the amount re-  
13                   ported to its shareholders under  
14                   clause (i) as an interest related divi-  
15                   dend.

16                   “(II) EXCESS REPORTED  
17                   AMOUNT.—The term ‘excess reported  
18                   amount’ means the excess of the ag-  
19                   gregate reported amount over the  
20                   qualified net interest income of the  
21                   company for the taxable year.

22                   “(III) AGGREGATE REPORTED  
23                   AMOUNT.—The term ‘aggregate re-  
24                   ported amount’ means the aggregate  
25                   amount of dividends reported by the

1                   company under clause (i) as interest  
2                   related dividends for the taxable year  
3                   (including interest related dividends  
4                   paid after the close of the taxable year  
5                   described in section 855).

6                   “(IV) POST-DECEMBER RE-  
7                   PORTED AMOUNT.—The term ‘post-  
8                   December reported amount’ means  
9                   the aggregate reported amount deter-  
10                  mined by taking into account only  
11                  dividends paid after December 31 of  
12                  the taxable year.

13                  “(v) TERMINATION.—The term ‘inter-  
14                  est related dividend’ shall not include any  
15                  dividend with respect to”.

16                  (2) SHORT-TERM CAPITAL GAIN DIVIDENDS.—  
17                  Subparagraph (C) of section 871(k)(2) is amended  
18                  by striking all that precedes “any taxable year of the  
19                  company beginning” and inserting the following:

20                  “(C) SHORT-TERM CAPITAL GAIN DIVI-  
21                  DEND.—For purposes of this paragraph—

22                  “(i) IN GENERAL.—Except as pro-  
23                  vided in clause (ii), the term ‘short-term  
24                  capital gain dividend’ means any dividend,  
25                  or part thereof, which is reported by the

1 company as a short-term capital gain divi-  
2 dend in written statements furnished to its  
3 shareholders.

4 “(ii) EXCESS REPORTED AMOUNTS.—

5 If the aggregate reported amount with re-  
6 spect to the company for any taxable year  
7 exceeds the qualified short-term gain of the  
8 company for such taxable year, the term  
9 ‘short-term capital gain dividend’ means  
10 the excess of—

11 “(I) the reported short-term cap-  
12 ital gain dividend amount, over

13 “(II) the excess reported amount  
14 which is allocable to such reported  
15 short-term capital gain dividend  
16 amount.

17 “(iii) ALLOCATION OF EXCESS RE-  
18 PORTED AMOUNT.—

19 “(I) IN GENERAL.—Except as  
20 provided in subclause (II), the excess  
21 reported amount (if any) which is al-  
22 locable to the reported short-term cap-  
23 ital gain dividend amount is that por-  
24 tion of the excess reported amount  
25 which bears the same ratio to the ex-

1           cess reported amount as the reported  
2           short-term capital gain dividend  
3           amount bears to the aggregate re-  
4           ported amount.

5           “(II) SPECIAL RULE FOR NON-  
6           CALENDAR YEAR TAXPAYERS.—In the  
7           case of any taxable year which does  
8           not begin and end in the same cal-  
9           endar year, if the post-December re-  
10          ported amount equals or exceeds the  
11          excess reported amount for such tax-  
12          able year, subclause (I) shall be ap-  
13          plied by substituting ‘post-December  
14          reported amount’ for ‘aggregate re-  
15          ported amount’ and no excess re-  
16          ported amount shall be allocated to  
17          any dividend paid on or before De-  
18          cember 31 of such taxable year.

19          “(iv) DEFINITIONS.—For purposes of  
20          this subparagraph—

21                 “(I) REPORTED SHORT-TERM  
22                 CAPITAL GAIN DIVIDEND AMOUNT.—  
23                 The term ‘reported short-term capital  
24                 gain dividend amount’ means the  
25                 amount reported to its shareholders

1 under clause (i) as a short-term cap-  
2 ital gain dividend.

3 “(II) EXCESS REPORTED  
4 AMOUNT.—The term ‘excess reported  
5 amount’ means the excess of the ag-  
6 gregate reported amount over the  
7 qualified short-term gain of the com-  
8 pany for the taxable year.

9 “(III) AGGREGATE REPORTED  
10 AMOUNT.—The term ‘aggregate re-  
11 ported amount’ means the aggregate  
12 amount of dividends reported by the  
13 company under clause (i) as short-  
14 term capital gain dividends for the  
15 taxable year (including short-term  
16 capital gain dividends paid after the  
17 close of the taxable year described in  
18 section 855).

19 “(IV) POST-DECEMBER RE-  
20 PORTED AMOUNT.—The term ‘post-  
21 December reported amount’ means  
22 the aggregate reported amount deter-  
23 mined by taking into account only  
24 dividends paid after December 31 of  
25 the taxable year.

1                   “(v) TERMINATION.—The term ‘short-  
2                   term capital gain dividend’ shall not in-  
3                   clude any dividend with respect to”.

4           (g) CONFORMING AMENDMENTS.—Section 855 is  
5 amended—

6                   (1) by striking subsection (c) and redesignating  
7                   subsection (d) as subsection (c), and

8                   (2) by striking “, (c) and (d)” in subsection (a)  
9                   and inserting “and (c)”.

10          (h) EFFECTIVE DATE.—The amendments made by  
11 this section shall apply to taxable years beginning after  
12 the date of the enactment of this Act.

13          (i) APPLICATION OF JGTRRA SUNSET.—Section  
14 303 of the Jobs and Growth Tax Relief Reconciliation Act  
15 of 2003 shall apply to the amendments made by subpara-  
16 graphs (B) and (D) of subsection (e)(1) to the same extent  
17 and in the same manner as section 303 of such Act applies  
18 to the amendments made by section 302 of such Act.

19 **SEC. 302. EARNINGS AND PROFITS OF REGULATED INVEST-**  
20 **MENT COMPANIES.**

21          (a) IN GENERAL.—Paragraph (1) of section 852(c)  
22 is amended to read as follows:

23                   “(1) TREATMENT OF NONDEDUCTIBLE  
24                   ITEMS.—

1           “(A) NET CAPITAL LOSS.—If a regulated  
2 investment company has a net capital loss for  
3 any taxable year—

4           “(i) such net capital loss shall not be  
5 taken into account for purposes of deter-  
6 mining the company’s earnings and profits,  
7 and

8           “(ii) any capital loss arising on the  
9 first day of the next taxable year by reason  
10 of clause (ii) or (iii) of section  
11 1212(a)(3)(A) shall be treated as so aris-  
12 ing for purposes of determining earnings  
13 and profits.

14           “(B) OTHER NONDEDUCTIBLE ITEMS.—

15           “(i) IN GENERAL.—The earnings and  
16 profits of a regulated investment company  
17 for any taxable year (but not its accumu-  
18 lated earnings and profits) shall not be re-  
19 duced by any amount which is not allow-  
20 able as a deduction (other than by reason  
21 of section 265 or 171(a)(2)) in computing  
22 its taxable income for such taxable year.

23           “(ii) COORDINATION WITH TREAT-  
24 MENT OF NET CAPITAL LOSSES.—Clause

1 (i) shall not apply to a net capital loss to  
2 which subparagraph (A) applies.”.

3 (b) CONFORMING AMENDMENTS.—

4 (1) Subsection (c) of section 852 is amended by  
5 adding at the end the following new paragraph:

6 “(4) REGULATED INVESTMENT COMPANY.—For  
7 purposes of this subsection, the term ‘regulated in-  
8 vestment company’ includes a domestic corporation  
9 which is a regulated investment company determined  
10 without regard to the requirements of subsection  
11 (a).”.

12 (2) Paragraphs (1)(A) and (2)(A) of section  
13 871(k) are each amended by inserting “which meets  
14 the requirements of section 852(a) for the taxable  
15 year with respect to which the dividend is paid” be-  
16 fore the period at the end.

17 (c) EFFECTIVE DATE.—The amendments made by  
18 this section shall apply to taxable years beginning after  
19 the date of the enactment of this Act.

20 **SEC. 303. PASS-THRU OF EXEMPT-INTEREST DIVIDENDS**  
21 **AND FOREIGN TAX CREDITS IN FUND OF**  
22 **FUNDS STRUCTURE.**

23 (a) IN GENERAL.—Section 852 is amended by adding  
24 at the end the following new subsection:

25 “(g) SPECIAL RULES FOR FUND OF FUNDS.—



1           “(1) IN GENERAL.—In the case of a qualified  
2 fund of funds—

3           “(A) such fund shall be qualified to pay  
4 exempt-interest dividends to its shareholders  
5 without regard to whether such fund satisfies  
6 the requirements of the first sentence of sub-  
7 section (b)(5), and

8           “(B) such fund may elect the application  
9 of section 853 (relating to foreign tax credit al-  
10 lowed to shareholders) without regard to the re-  
11 quirement of subsection (a)(1) thereof.

12           “(2) QUALIFIED FUND OF FUNDS.—For pur-  
13 poses of this subsection, the term ‘qualified fund of  
14 funds’ means a regulated investment company if (at  
15 the close of each quarter of the taxable year) at least  
16 50 percent of the value of its total assets is rep-  
17 resented by interests in other regulated investment  
18 companies.”.

19           (b) EFFECTIVE DATE.—The amendment made by  
20 this section shall apply to taxable years beginning after  
21 the date of the enactment of this Act.

1 **SEC. 304. MODIFICATION OF RULES FOR SPILLOVER DIVI-**  
2 **DENDS OF REGULATED INVESTMENT COMPA-**  
3 **NIES.**

4 (a) DEADLINE FOR DECLARATION OF DIVIDEND.—  
5 Paragraph (1) of section 855(a) is amended to read as  
6 follows:

7 “(1) declares a dividend before the later of—

8 “(A) the 15th day of the 9th month fol-  
9 lowing the close of the taxable year, or

10 “(B) in the case of an extension of time  
11 for filing the company’s return for the taxable  
12 year, the due date for filing such return taking  
13 into account such extension, and”.

14 (b) DEADLINE FOR DISTRIBUTION OF DIVIDEND.—  
15 Paragraph (2) of section 855(a) is amended by striking  
16 “the first regular dividend payment” and inserting “the  
17 first dividend payment of the same type of dividend”.

18 (c) SHORT-TERM CAPITAL GAIN.—Subsection (a) of  
19 section 855 is amended by adding at the end the following:  
20 “For purposes of paragraph (2), a dividend attributable  
21 to any short-term capital gain with respect to which a no-  
22 tice is required under the Investment Company Act of  
23 1940 shall be treated as the same type of dividend as a  
24 capital gain dividend.”.

1 (d) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to distributions in taxable years  
3 beginning after the date of the enactment of this Act.

4 **SEC. 305. RETURN OF CAPITAL DISTRIBUTIONS OF REGU-**  
5 **LATED INVESTMENT COMPANIES.**

6 (a) IN GENERAL.—Subsection (b) of section 316 is  
7 amended by adding at the end the following new para-  
8 graph:

9 “(4) CERTAIN DISTRIBUTIONS BY REGULATED  
10 INVESTMENT COMPANIES IN EXCESS OF EARNINGS  
11 AND PROFITS.—In the case of a regulated invest-  
12 ment company that has a taxable year other than a  
13 calendar year, if the distributions by the company  
14 with respect to any class of stock of such company  
15 for the taxable year exceed the company’s current  
16 and accumulated earnings and profits which may be  
17 used for the payment of dividends on such class of  
18 stock, the company’s current earnings and profits  
19 shall, for purposes of subsection (a), be allocated  
20 first to distributions with respect to such class of  
21 stock made during the portion of the taxable year  
22 which precedes January 1.”

23 (b) EFFECTIVE DATE.—The amendment made by  
24 this section shall apply to distributions made in taxable

1 years beginning after the date of the enactment of this  
2 Act.

3 **SEC. 306. DISTRIBUTIONS IN REDEMPTION OF STOCK OF A**  
4 **REGULATED INVESTMENT COMPANY.**

5 (a) REDEMPTIONS TREATED AS EXCHANGES.—

6 (1) IN GENERAL.—Subsection (b) of section  
7 302 is amended by redesignating paragraph (5) as  
8 paragraph (6) and by inserting after paragraph (4)  
9 the following new paragraph:

10 “(5) REDEMPTIONS BY CERTAIN REGULATED  
11 INVESTMENT COMPANIES.—Except to the extent  
12 provided in regulations prescribed by the Secretary,  
13 subsection (a) shall apply to any distribution in re-  
14 demption of stock of a publicly offered regulated in-  
15 vestment company (within the meaning of section  
16 67(c)(2)(B)) if—

17 “(A) such redemption is upon the demand  
18 of the stockholder, and

19 “(B) such company issues only stock which  
20 is redeemable upon the demand of the stock-  
21 holder.”.

22 (2) CONFORMING AMENDMENT.—Subsection (a)  
23 of section 302 is amended by striking “or (4)” and  
24 inserting “(4), or (5)”.

1 (b) LOSSES ON REDEMPTIONS NOT DISALLOWED  
 2 FOR FUND-OF-FUNDS REGULATED INVESTMENT COMPA-  
 3 NIES.—Paragraph (3) of section 267(f) is amended by  
 4 adding at the end the following new subparagraph:

5 “(D) REDEMPTIONS BY FUND-OF-FUNDS  
 6 REGULATED INVESTMENT COMPANIES.—Except  
 7 to the extent provided in regulations prescribed  
 8 by the Secretary, subsection (a)(1) shall not  
 9 apply to any distribution in redemption of stock  
 10 of a regulated investment company if—

11 “(i) such company issues only stock  
 12 which is redeemable upon the demand of  
 13 the stockholder, and

14 “(ii) such redemption is upon the de-  
 15 mand of another regulated investment  
 16 company.”.

17 (c) EFFECTIVE DATE.—The amendments made by  
 18 this section shall apply to distributions after the date of  
 19 the enactment of this Act.

20 **SEC. 307. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR**  
 21 **PUBLICLY OFFERED REGULATED INVEST-**  
 22 **MENT COMPANIES.**

23 (a) IN GENERAL.—Subsection (c) of section 562 is  
 24 amended by striking “The amount” and inserting “Except

1 in the case of a publicly offered regulated investment com-  
 2 pany (as defined in section 67(c)(2)(B)), the amount”.

3 (b) CONFORMING AMENDMENT.—Section 562(c) is  
 4 amended by inserting “(other than a publicly offered regu-  
 5 lated investment company (as so defined))” after “regu-  
 6 lated investment company” in the second sentence thereof.

7 (c) EFFECTIVE DATE.—The amendments made by  
 8 this section shall apply to distributions in taxable years  
 9 beginning after the date of the enactment of this Act.

10 **SEC. 308. ELECTIVE DEFERRAL OF CERTAIN LATE-YEAR**

11 **LOSSES OF REGULATED INVESTMENT COM-**

12 **PANIES.**

13 (a) IN GENERAL.—Paragraph (8) of section 852(b)  
 14 is amended to read as follows:

15 “(8) ELECTIVE DEFERRAL OF CERTAIN LATE-  
 16 YEAR LOSSES.—

17 “(A) IN GENERAL.—Except as otherwise  
 18 provided by the Secretary, a regulated invest-  
 19 ment company may elect for any taxable year to  
 20 treat any portion of any qualified late-year loss  
 21 for such taxable year as arising on the first day  
 22 of the following taxable year for purposes of  
 23 this title.

1           “(B) QUALIFIED LATE-YEAR LOSS.—For  
2 purposes of this paragraph, the term ‘qualified  
3 late-year loss’ means—

4           “(i) any post-October capital loss, and  
5           “(ii) any late-year ordinary loss.

6           “(C) POST-OCTOBER CAPITAL LOSS.—For  
7 purposes of this paragraph, the term ‘post-October  
8 capital loss’ means the greatest of—

9           “(i) the net capital loss attributable to  
10 the portion of the taxable year after October  
11 31,

12           “(ii) the net long-term capital loss at-  
13 tributable to such portion of the taxable  
14 year, or

15           “(iii) the net short-term capital loss  
16 attributable to such portion of the taxable  
17 year.

18           “(D) LATE-YEAR ORDINARY LOSS.—For  
19 purposes of this paragraph, the term ‘late-year  
20 ordinary loss’ means the excess (if any) of—

21           “(i) the sum of—

22           “(I) the specified losses (as de-  
23 fined in section 4982(e)(5)(B)(ii)) at-  
24 tributable to the portion of the taxable  
25 year after October 31, plus

1 “(II) the ordinary losses not de-  
2 scribed in subclause (I) attributable to  
3 the portion of the taxable year after  
4 December 31, over

5 “(ii) the sum of—

6 “(I) the specified gains (as de-  
7 fined in section 4982(e)(5)(B)(i)) at-  
8 tributable to the portion of the taxable  
9 year after October 31, plus

10 “(II) the ordinary income not de-  
11 scribed in subclause (I) attributable to  
12 the portion of the taxable year after  
13 December 31.

14 “(E) SPECIAL RULE FOR COMPANIES DE-  
15 TERMINING REQUIRED CAPITAL GAIN DISTRIBU-  
16 TIONS ON TAXABLE YEAR BASIS.—In the case  
17 of a company to which an election under section  
18 4982(e)(4) applies—

19 “(i) if such company’s taxable year  
20 ends with the month of November, the  
21 amount of qualified late-year losses (if  
22 any) shall be computed without regard to  
23 any income, gain, or loss described in sub-  
24 paragraphs (C), (D)(i)(I), and (D)(ii)(I),  
25 and



1                   “(ii) if such company’s taxable year  
2                   ends with the month of December, sub-  
3                   paragraph (A) shall not apply.”.

4           (b) CONFORMING AMENDMENTS.—

5                   (1) Subsection (b) of section 852 is amended by  
6                   striking paragraph (10).

7                   (2) Paragraph (2) of section 852(c) is amended  
8                   by striking the first sentence and inserting the fol-  
9                   lowing: “For purposes of applying this chapter to  
10                  distributions made by a regulated investment com-  
11                  pany with respect to any calendar year, the earnings  
12                  and profits of such company shall be determined  
13                  without regard to any net capital loss attributable to  
14                  the portion of the taxable year after October 31 and  
15                  without regard to any late-year ordinary loss (as de-  
16                  fined in subsection (b)(8)(D)).”

17                  (3) Subparagraph (D) of section 871(k)(2) is  
18                  amended by striking the last two sentences and in-  
19                  serting the following: “For purposes of this subpara-  
20                  graph, the net short-term capital gain of the regu-  
21                  lated investment company shall be computed by  
22                  treating any short-term capital gain dividend includ-  
23                  ible in gross income with respect to stock of another  
24                  regulated investment company as a short-term cap-  
25                  ital gain.”.

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 309. EXCEPTION TO HOLDING PERIOD REQUIREMENT**  
5 **FOR CERTAIN REGULARLY DECLARED EX-**  
6 **EMPT-INTEREST DIVIDENDS.**

7 (a) IN GENERAL.—Subparagraph (E) of section  
8 852(b)(4) is amended by striking all that precedes “In the  
9 case of a regulated investment company” and inserting the  
10 following:

11 “(E) EXCEPTION TO HOLDING PERIOD RE-  
12 QUIREMENT FOR CERTAIN REGULARLY DE-  
13 CLARED EXEMPT-INTEREST DIVIDENDS.—

14 “(i) DAILY DIVIDEND COMPANIES.—  
15 Except as otherwise provided by regula-  
16 tions, subparagraph (B) shall not apply  
17 with respect to a regular dividend paid by  
18 a regulated investment company which de-  
19 clares exempt-interest dividends on a daily  
20 basis in an amount equal to at least 90  
21 percent of its net tax-exempt interest and  
22 distributes such dividends on a monthly or  
23 more frequent basis.

1                   “(ii) AUTHORITY TO SHORTEN RE-  
2                   REQUIRED HOLDING PERIOD WITH RESPECT  
3                   TO OTHER COMPANIES.—”.

4           (b) CONFORMING AMENDMENT.—Clause (ii) of sec-  
5 tion 852(b)(4)(E), as amended by subsection (a), is  
6 amended by inserting “(other than a company described  
7 in clause (i))” after “regulated investment company”.

8           (c) EFFECTIVE DATE.—The amendments made by  
9 this section shall apply to losses incurred on shares of  
10 stock for which the taxpayer’s holding period begins after  
11 the date of the enactment of this Act.

12 **TITLE IV—MODIFICATIONS RE-**  
13 **LATED TO EXCISE TAX APPLI-**  
14 **CABLE TO REGULATED IN-**  
15 **VESTMENT COMPANIES**

16 **SEC. 401. EXCISE TAX EXEMPTION FOR CERTAIN REGU-**  
17 **LATED INVESTMENT COMPANIES OWNED BY**  
18 **TAX EXEMPT ENTITIES.**

19           (a) IN GENERAL.—Subsection (f) of section 4982 is  
20 amended—

21                   (1) by striking “either” in the matter preceding  
22 paragraph (1),

23                   (2) by striking “or” at the end of paragraph  
24 (1),

1           (3) by striking the period at the end of para-  
2           graph (2), and

3           (4) by inserting after paragraph (2) the fol-  
4           lowing new paragraphs:

5           “(3) any other tax-exempt entity whose owner-  
6           ship of beneficial interests in the company would not  
7           preclude the application of section 817(h)(4), or

8           “(4) another regulated investment company de-  
9           scribed in this subsection.”.

10          (b) EFFECTIVE DATE.—The amendment made by  
11 this section shall apply to calendar years beginning after  
12 the date of the enactment of this Act.

13 **SEC. 402. DEFERRAL OF CERTAIN GAINS AND LOSSES OF**  
14                                   **REGULATED INVESTMENT COMPANIES FOR**  
15                                   **EXCISE TAX PURPOSES.**

16          (a) IN GENERAL.—Subsection (e) of section 4982 is  
17 amended by striking paragraphs (5) and (6) and inserting  
18 the following new paragraphs:

19           “(5) TREATMENT OF SPECIFIED GAINS AND  
20           LOSSES AFTER OCTOBER 31 OF CALENDAR YEAR.—

21           “(A) IN GENERAL.—Any specified gain or  
22           specified loss which (but for this paragraph)  
23           would be properly taken into account for the  
24           portion of the calendar year after October 31

1 shall be treated as arising on January 1 of the  
2 following calendar year.

3 “(B) SPECIFIED GAINS AND LOSSES.—For  
4 purposes of this paragraph—

5 “(i) SPECIFIED GAIN.—The term  
6 ‘specified gain’ means ordinary gain from  
7 the sale, exchange, or other disposition of  
8 property (including the termination of a  
9 position with respect to such property).  
10 Such term shall include any foreign cur-  
11 rency gain attributable to a section 988  
12 transaction (within the meaning of section  
13 988) and any amount includible in gross  
14 income under section 1296(a)(1).

15 “(ii) SPECIFIED LOSS.—The term  
16 ‘specified loss’ means ordinary loss from  
17 the sale, exchange, or other disposition of  
18 property (including the termination of a  
19 position with respect to such property).  
20 Such term shall include any foreign cur-  
21 rency loss attributable to a section 988  
22 transaction (within the meaning of section  
23 988) and any amount allowable as a de-  
24 duction under section 1296(a)(2).

1           “(C) SPECIAL RULE FOR COMPANIES  
2 ELECTING TO USE THE TAXABLE YEAR.—In the  
3 case of any company making an election under  
4 paragraph (4), subparagraph (A) shall be ap-  
5 plied by substituting the last day of the com-  
6 pany’s taxable year for October 31.

7           “(6) TREATMENT OF MARK TO MARKET  
8 GAIN.—

9           “(A) IN GENERAL.—For purposes of deter-  
10 mining a regulated investment company’s ordi-  
11 nary income, notwithstanding paragraph (1)(C),  
12 each specified mark to market provision shall be  
13 applied as if such company’s taxable year ended  
14 on October 31. In the case of a company mak-  
15 ing an election under paragraph (4), the pre-  
16 ceding sentence shall be applied by substituting  
17 the last day of the company’s taxable year for  
18 October 31.

19           “(B) SPECIFIED MARK TO MARKET PROVI-  
20 SION.—For purposes of this paragraph, the  
21 term ‘specified mark to market provision’  
22 means sections 1256 and 1296 and any other  
23 provision of this title (or regulations there-  
24 under) which treats property as disposed of on  
25 the last day of the taxable year.

1           “(7) ELECTIVE DEFERRAL OF CERTAIN ORDINARY LOSSES.—Except as provided in regulations  
2           prescribed by the Secretary, in the case of a regulated investment company which has a taxable year  
3           other than the calendar year—  
4           other than the calendar year—  
5           other than the calendar year—

6                   “(A) such company may elect to determine  
7                   its ordinary income for the calendar year without regard to any net ordinary loss (determined  
8                   without regard to specified gains and losses  
9                   taken into account under paragraph (5)) which  
10                  is attributable to the portion of such calendar  
11                  year which is after the beginning of the taxable  
12                  year which begins in such calendar year, and  
13                  year which begins in such calendar year, and

14                   “(B) any amount of net ordinary loss not  
15                   taken into account for a calendar year by reason of subparagraph (A) shall be treated as  
16                   arising on the 1st day of the following calendar  
17                   year.”.  
18                   year.”.

19           (b) EFFECTIVE DATE.—The amendments made by  
20           this section shall apply to calendar years beginning after  
21           the date of the enactment of this Act.

1 **SEC. 403. DISTRIBUTED AMOUNT FOR EXCISE TAX PUR-**  
2 **POSES DETERMINED ON BASIS OF TAXES**  
3 **PAID BY REGULATED INVESTMENT COM-**  
4 **PANY.**

5 (a) IN GENERAL.—Subsection (c) of section 4982 is  
6 amended by adding at the end the following new para-  
7 graph:

8 “(4) SPECIAL RULE FOR ESTIMATED TAX PAY-  
9 MENTS.—

10 “(A) IN GENERAL.—In the case of a regu-  
11 lated investment company which elects the ap-  
12 plication of this paragraph for any calendar  
13 year—

14 “(i) the distributed amount with re-  
15 spect to such company for such calendar  
16 year shall be increased by the amount on  
17 which qualified estimated tax payments are  
18 made by such company during such cal-  
19 endar year, and

20 “(ii) the distributed amount with re-  
21 spect to such company for the following  
22 calendar year shall be reduced by the  
23 amount of such increase.

24 “(B) QUALIFIED ESTIMATED TAX PAY-  
25 MENTS.—For purposes of this paragraph, the  
26 term ‘qualified estimated tax payments’ means,



1 with respect to any calendar year, payments of  
2 estimated tax of a tax described in paragraph  
3 (1)(B) for any taxable year which begins (but  
4 does not end) in such calendar year.”.

5 (b) EFFECTIVE DATE.—The amendment made by  
6 this section shall apply to calendar years beginning after  
7 the date of the enactment of this Act.

8 **SEC. 404. INCREASE IN REQUIRED DISTRIBUTION OF CAP-**  
9 **ITAL GAIN NET INCOME.**

10 (a) IN GENERAL.—Subparagraph (B) of section  
11 4982(b)(1) is amended by striking “98 percent” and in-  
12 serting “98.2 percent”.

13 (b) EFFECTIVE DATE.—The amendments made by  
14 this section shall apply to calendar years beginning after  
15 the date of the enactment of this Act.

16 **TITLE V—OTHER PROVISIONS**

17 **SEC. 501. REPEAL OF ASSESSABLE PENALTY WITH RE-**  
18 **SPECT TO LIABILITY FOR TAX OF REGU-**  
19 **LATED INVESTMENT COMPANIES.**

20 (a) IN GENERAL.—Part I of subchapter B of chapter  
21 68 is amended by striking section 6697 (and by striking  
22 the item relating to such section in the table of sections  
23 of such part).

24 (b) CONFORMING AMENDMENT.—Section 860 is  
25 amended by striking subsection (j).

1 (c) EFFECTIVE DATE.—The amendments made by  
2 this section shall apply to taxable years beginning after  
3 the date of the enactment of this Act.

4 **SEC. 502. MODIFICATION OF SALES LOAD BASIS DEFERRAL**  
5 **RULE FOR REGULATED INVESTMENT COMPA-**  
6 **NIES.**

7 (a) IN GENERAL.—Subparagraph (C) of section  
8 852(f)(1) is amended by striking “subsequently acquires”  
9 and inserting “acquires, during the period beginning on  
10 the date of the disposition referred to in subparagraph (B)  
11 and ending on January 31 of the calendar year following  
12 the calendar year that includes the date of such dispo-  
13 sition,”.

14 (b) EFFECTIVE DATE.—The amendment made by  
15 this section shall apply to charges incurred in taxable  
16 years beginning after the date of the enactment of this  
17 Act.

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