Unofficial Copy N2 2000 Regular Session 0lr2315 CF 0lr2314

By: Delegate Dembrow
Introduced and read first time: February 11, 2000
Assigned to: Judiciary

A BILL ENTITLED

1 AN ACT concerning

2 Trusts - Allocation of Capital Gains Distributions by Investment Funds

- 3 FOR the purpose of authorizing trustees to elect to allocate to income certain
- 4 distributions by certain investment funds of realized capital gains; and
- 5 generally relating to determining income and principal of a trust.
- 6 BY repealing and reenacting, with amendments,
- 7 Article Estates and Trusts
- 8 Section 14-205
- 9 Annotated Code of Maryland
- 10 (1991 Replacement Volume and 1999 Supplement)
- 11 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
- 12 MARYLAND, That the Laws of Maryland read as follows:
- 13 Article Estates and Trusts
- 14 14-205.
- 15 (a) The following are principal:
- 16 (1) A corporate distribution of shares of the distributing corporation
- 17 (whether or not of the same class), including distributions in the form of a stock split
- 18 or stock dividend, but the provisions of this subsection shall not apply to successive
- 19 estates or interests in existence prior to June 1, 1965, in which the life tenant is
- 20 entitled to stock dividends representing earnings during the life tenancy;
- 21 (2) A right to subscribe to shares or other securities issued by the
- 22 distributing corporation accruing to stockholders on account of their stock ownership
- 23 and the proceeds of any sale of the right; and
- 24 (3) A stock distribution or spin-off of shares of stock of a corporation that
- 25 had been owned or acquired by the distributing corporation.
- 26 (b) Except to the extent that the corporation indicates that some part of a
- 27 corporate distribution is a settlement of preferred or guaranteed dividends accrued

1 since the trustee became a stockholder or is in lieu of an ordinary cash dividend, a 2 corporate distribution is principal if the distribution is pursuant to: 3 (1) A call of shares; (2) A merger, consolidation, reorganization, or other plan by which assets 5 of the corporation are acquired by another corporation; or A total or partial liquidation of the corporation, including any 6 7 distribution which the corporation indicates is a distribution in total or partial 8 liquidation or any distribution of assets, other than cash, pursuant to a court decree 9 or final administrative order by a government agency ordering distribution of the 10 particular assets. 11 (c) (1) (I) IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE 12 MEANINGS INDICATED. 13 (II)"INVESTMENT FUND" MEANS AN ENTITY THAT IS TREATED AS A 14 PARTNERSHIP FOR FEDERAL INCOME TAX PURPOSES, HAS 50 OR MORE INVESTORS, 15 AND MORE THAN HALF THE ASSETS OF WHICH CONSIST OF CASH AND MARKETABLE 16 SECURITIES, INCLUDING ITS PROPORTIONATE SHARE OF THESE ASSETS OWNED BY 17 ANY ENTITY IN WHICH IT OWNS AN INTEREST. 18 (III)"UNIT" MEANS AN EQUITY INTEREST IN AN INVESTMENT FUND. 19 (2)Distributions made from ordinary income by a regulated (I) 20 investment company [or by], a trust qualifying and electing to be taxed under federal 21 law as a real estate investment trust, OR AN INVESTMENT FUND are income. 22 [All] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS (II)23 PARAGRAPH, ALL other distributions made by the REGULATED INVESTMENT 24 company [or], REAL ESTATE INVESTMENT trust, OR INVESTMENT FUND including 25 distributions from capital gains, depreciation, or depletion, whether in the form of 26 cash or an option to take new stock or units or cash or an option to purchase additional shares OR UNITS, are principal[; except that distributions]. 28 (III)1. DISTRIBUTIONS per share OR UNIT, made in any calendar 29 year, by a regulated investment company OR AN INVESTMENT FUND from realized 30 capital gains are income to the extent required in order for the sum of the 31 distributions per share OR UNIT from ordinary income and from realized capital gains 32 to equal an amount determined by multiplying the net asset value of a share OR UNIT 33 of the regulated investment company OR INVESTMENT FUND on January 1 of such 34 calendar year (or on such later date of acquisition by a trustee during such calendar 35 year) by the annual federal mid-term rate applicable to January 1 of such calendar 36 year (or to such later date of acquisition) established by the Secretary of the Treasury 37 under § 1274(d)(1) of the Internal Revenue Code of 1986, adjusted to reflect the 38 proportion of the calendar year in which the share has been held by a trustee[, 39 provided that].

25

26 October 1, 2000.

HOUSE BILL 938

	2. THIS SUBPARAGRAPH APPLIES IF the trustee makes an irrevocable written election to so treat such distributions on the first year-end accounting of the trust's principal and income stated [(1) after]:
4 5	A. AFTER June 30, 1989, if such share OF A REGULATED INVESTMENT COMPANY is owned on June 30, 1989[, or (2) after];
6 7	B. AFTER such share OF A REGULATED INVESTMENT COMPANY is acquired, if such share is acquired on or after July 1, 1989;
8 9	C. AFTER SEPTEMBER 30, 2000, IF A UNIT OF AN INVESTMENT FUND IS OWNED ON SEPTEMBER 30, 2000; OR
10 11	D. AFTER A UNIT OF AN INVESTMENT FUND IS ACQUIRED, IF THE UNIT IS ACQUIRED ON OR AFTER OCTOBER 1, 2000.
	3. AN ELECTION BY A TRUSTEE IN ACCORDANCE WITH SUB-SUBPARAGRAPH 2 OF THIS SUBPARAGRAPH IS PRESUMED TO BE FAIR AND REASONABLE TO ALL OF THE BENEFICIARIES.
17 18 19 20	(d) Except as provided in subsections (a), (b), and (c), all corporate distributions are income, including cash dividends, distributions of or rights to subscribe to shares or securities or obligations of corporations other than the distributing corporation, and the proceeds of the rights or property distributions. Except as provided in subsections (b) and (c), if the distributing corporation gives a stockholder an option to receive a distribution either in cash or in its own shares, the distribution chosen is income.
	(e) The trustee may rely upon any statement of the distributing corporation as to any fact relevant under any provision of this subtitle concerning the source or character of dividends or distributions of corporate assets.

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect