

HOUSE BILL 938

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2000 Regular Session  
0lr2315  
CF 0lr2314

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By: **Delegate Dembrow**

Introduced and read first time: February 11, 2000

Assigned to: Judiciary

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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;

4 (2) A merger, consolidation, reorganization, or other plan by which assets  
5 of the corporation are acquired by another corporation; or

6 (3) A total or partial liquidation of the corporation, including any  
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) (I) Distributions made from ordinary income by a regulated  
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 (II) [All] EXCEPT AS PROVIDED IN SUBPARAGRAPH (III) OF THIS  
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  
27 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].

