

501(a) and to which section 511 does not apply for the taxable year, claim for refund of the tax deemed to have been paid by such shareholder on an amount of undistributed capital gains for such year shall be made on Form 843 and copy B of Form 2439 furnished to such shareholder shall be attached to its claim. For other rules applicable to the filing of claims for credit or refund of an overpayment of tax, see §301.6402-2 of this chapter (Regulations on Procedure and Administration), relating to claims for credit or refund, and §301.6402-3 of this chapter, relating to special rules applicable to income tax.

(3) *Records.* The shareholder is required to keep copy C of the Form 2439 furnished for the regulated investment company's taxable years ending after December 31, 1969, and beginning before January 1, 1975, as part of his records to show increases in the adjusted basis of his shares in such company.

(d) *Penalties.* For criminal penalties for willful failure to file a return, supply information, or pay tax, and for filing a false or fraudulent return, statement, or other document, see sections 7203, 7206, and 7207.

[T.D. 6500, 25 FR 11710, Nov. 26, 1960, as amended by T.D. 6921, 32 FR 8755, June 20, 1967; T.D. 7012, 34 FR 7688, May 15, 1969; T.D. 7187, 37 FR 13256, July 6, 1972; T.D. 7332, 39 FR 44217, Dec. 23, 1974; T.D. 7337, 39 FR 44973, Dec. 30, 1974; T.D. 8989, 67 FR 20031, Apr. 24, 2002; T.D. 9040, 68 FR 4921, Jan. 31, 2003]

**§ 1.852-10 Distributions in redemption of interests in unit investment trusts.**

(a) *In general.* In computing that part of the excess of its net long-term capital gain over net short-term capital loss on which it must pay a capital gains tax, a regulated investment company is allowed under section 852(b)(3)(A)(ii) a deduction for dividends paid (as defined in section 561) determined with reference to capital gains dividends only. Section 561(b) provides that in determining the deduction for dividends paid, the rules provided in section 562 are applicable. Section 562(c) (relating to preferential dividends) provides that the amount of any distribution shall not be considered as a dividend unless such distribution is pro-rata, with no preference to any share of stock as compared with

other shares of the same class except to the extent that the former is entitled to such preference.

(b) *Redemption distributions made by unit investment trust—(1) In general.* Where a unit investment trust (as defined in paragraph (c) of this section) liquidates part of its portfolio represented by shares in a management company in order to make a distribution to a holder of an interest in the trust in redemption of part or all of such interest, and by so doing, the trust realizes net long-term capital gain, that portion of the distribution by the trust which is equal to the amount of the net long-term capital gain realized by the trust on the liquidation of the shares in the management company will not be considered a preferential dividend under section 562(c). For example, where the entire amount of net long-term capital gain realized by the trust on such a liquidation is distributed to the redeeming interest holder, the trust will be allowed the entire amount of net long-term capital gain so realized in determining the deduction under section 852(b)(3)(A)(ii) for dividends paid determined with reference to capital gains dividends only. This paragraph and section 852(d) shall apply only with respect to the capital gain net income (net capital gain for taxable years beginning before January 1, 1977) realized by the trust which is attributable to a redemption by a holder of an interest in such trust. Such dividend may be designated as a capital gain dividend by a written notice to the certificate holder. Such designation should clearly indicate to the holder that the holder's gain or loss on the redemption of the certificate may differ from such designated amount, depending upon the holder's basis for the redeemed certificate, and that the holder's own records are to be used in computing the holder's gain or loss on the redemption of the certificate.

(2) *Example.* The application of the provisions of this paragraph may be illustrated by the following example:

*Example.* B entered into a periodic payment plan contract with X as custodian and Z as plan sponsor under which he purchased a plan certificate of X. Under this contract,

