

§ 1.34-4

investment trust with respect to a taxable year for which such trust is taxable under part II, subchapter M, chapter 1 of the Code.

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6598, 27 FR 4092, Apr. 28, 1962; T.D. 6625, 27 FR 12541, Dec. 19, 1962]

§ 1.34-4 Taxpayers not entitled to credit and exclusion.

(a) The credit or exclusion is not available to nonresident aliens with respect to whom a tax is imposed for the taxable year under section 871(a). If the taxpayer elects under section 6014 to have the Government compute his tax, the credit is not taken into account in such computation although the taxpayer is allowed the exclusion under section 116.

(b) For treatment of dividends received by estates or trusts, and the allocation of such dividends between an estate or trust and the beneficiary thereof, see sections 642, 652, and 662 and the regulations thereunder. 3

(c) For treatment of dividends received by a partnership see section 702 and the regulations thereunder.

(d) For treatment of dividends received by a common trust fund, see section 584 and the regulations thereunder.

§ 1.34-5 Effective date; taxable years ending after July 31, 1954, subject to the Internal Revenue Code of 1939.

Pursuant to section 7851(a)(1)(C), the regulations prescribed in §§ 1.34-1 to 1.34-4, inclusive, shall also apply to taxable years beginning before January 1, 1954, and ending after July 31, 1954, and to taxable years beginning after December 31, 1953, and ending after July 31, 1954, but before August 17, 1954, though such years are subject to the Internal Revenue Code of 1939.

§ 1.34-6 Dividends received after December 31, 1964.

In the case of dividends received after December 31, 1964, section 34 and the regulations issued thereunder do not apply.

[T.D. 6777, 29 FR 17807, Dec. 16, 1964]

26 CFR Ch. I (4-1-02 Edition)

§ 1.35-1 Partially tax-exempt interest received by individuals.

(a) The credit against tax under section 35 shall be allowed only to individuals and if the requirements of both paragraphs (1) and (2) of section 35(a) are met. Where the alternative tax on capital gains is imposed under section 1201(b), the taxable income for such taxable year is the taxable income as defined in section 63, which includes 50 percent of the excess of net long-term capital gain over net short-term capital loss.

(b) For the treatment of partially tax-exempt interest in the case of amounts not allocable to any beneficiary of an estate or trust, see section 642(a)(1), and for treatment of amounts allocable to a beneficiary, see sections 652 and 662. For treatment of partially tax-exempt interest received by a partnership, see section 702(a)(7). For treatment of such interest received by a common trust fund, see section 584(c)(2).

(c) The application of section 35 may be illustrated by the following example:

Example. In his taxable year, 1955, A received \$4,500 of partially tax-exempt interest. A's taxable income is \$4,000 upon which the tax prior to any credits against tax is \$840. His foreign tax credit under section 33 is \$610, and his dividends received credit under section 34 is \$120. A's credit under section 35 for partially tax-exempt interest is \$110, determined as follows:

<i>Section 35(a)</i>	
Partially tax-exempt interest	\$4,500
Credit computed under section 35(a); 3 percent of \$4,500	135
<i>Section 35(b)(1)</i>	
Tax imposed by chapter 1	840
Less:	
Credit allowed under section 33	\$610
Credit allowed under section 34	120
	\$730
Limitation on credit under section 35(b)(1)	110
<i>Section 35(b)(2)</i>	
Taxable income	4,000
Limitation on credit under section 35(b)(2); 3 percent of \$4,000	120

Since of the three figures (\$135, \$110, and \$120), the lesser is \$110, A's credit under section 35 is limited to \$110.