

§ 1.596-1 Limitation on dividends received deduction.

(a) *In general.* For taxable years beginning after July 11, 1969, in the case of mutual savings banks, domestic building and loan associations, and cooperative banks, if the addition to the reserve for losses on qualifying real property loans for the taxable year is determined under section 593(b)(2) (relating to the percentage of taxable income method), the total amount allowed as a deduction with respect to dividends received under part VIII, subchapter B, chapter 1, subtitle A of the Code (section 241 *et seq.*) (determined without regard to section 596 and this section) for such taxable year is reduced as provided by this section. In such case, the dividends received deduction otherwise determined under part VIII, subchapter B, chapter 1, subtitle A of the Code, is reduced by an amount equal to the applicable percentage for such year (determined solely under subparagraphs (A) and (B) of section 593(b)(2) and the regulations thereunder) of such total amount. For the rule under which a mutual savings bank, domestic building and loan association, or cooperative bank is deemed to have determined the addition to its reserve for losses on qualifying real property loans for the taxable year under section 593(b)(2), see § 1.593-6A(a)(2).

(b) *Example.* The provisions of this section may be illustrated by the following example:

Example. X Corporation, a domestic building and loan association, determines the addition to its reserve for losses on qualifying real property loans under section 593(b)(2) for its taxable year beginning in 1971. During that taxable year, X Corporation received a total of \$100,000 as dividends from domestic corporations subject to tax under chapter 1 of the Code. X Corporation received no other dividends during the taxable year. Under part VIII, subchapter B, chapter 1, subtitle A of the Code, a deduction, determined without regard to section 596 and this section, of \$85,000 would be allowed with respect to the dividends. For the taxable year, the applicable percentage, determined under subparagraphs (A) and (B) of section 593(b)(2), is 54 percent. Under section 596 and this section, the amount allowed as a deduction under section 243 and the regulations thereunder is reduced by \$45,900 (54 percent of \$85,000) to \$39,100 (\$85,000 less \$45,900).

(c) *Dividends received by members of a controlled group.* If a thrift institution that computes a deduction under section 593(b)(2) is a member of a controlled group of corporations (within the meaning of section 1563(a), determined by substituting 50 percent for 80 percent each place it appears therein) and if the thrift institution, without a bona fide business purpose, transfers stock, directly or indirectly, to another member of the group, the Commissioner may allocate any dividends with respect to the stock to the thrift institution. If the Commissioner allocates a dividend to a thrifty institution under this paragraph (c), the Commissioner will also make appropriate correlative adjustments to the income of any other member of the group involved in the allocation, at a time and in a manner consistent with the procedures of § 1.482-1(d)(2). This paragraph (c) applies to taxable years ending on or after August 30, 1975.

[T.D. 7149, 36 FR 20944, Nov. 2, 1971, as amended by T.D. 7631, 44 FR 40496, July 11, 1979]

§ 1.597-1 Definitions.

For purposes of the regulations under section 597—

(a) Unless the context otherwise requires, the terms *consolidated group*, *member* and *subsidiary* have the meanings provided in § 1.1502-1; and

(b) The following terms have the meanings provided below—

Acquiring. The term *Acquiring* means a corporation that is a transferee in a Taxable Transfer, other than a deemed transferee in a Taxable Transfer described in § 1.597-5(b).

Agency. The term *Agency* means the Resolution Trust Corporation, the Federal Deposit Insurance Corporation, any similar instrumentality of the United States government, and any predecessor or successor of the foregoing (including the Federal Savings and Loan Insurance Corporation).

Agency Control. An Institution or entity is under *Agency Control* if Agency is conservator or receiver of the Institution or entity, or if Agency has the right to appoint any of the Institution's or entity's directors.

Agency Obligation. The term *Agency Obligation* means a debt instrument that Agency issues to an Institution or

to a direct or indirect owner of an Institution.

Bridge Bank. The term *Bridge Bank* means an Institution that is organized by Agency to hold assets and liabilities of another Institution and that continues the operation of the other Institution's business pending its acquisition or liquidation, and that is any of the following—

(1) A national bank chartered by the Comptroller of the Currency under section 11(n) of the Federal Deposit Insurance Act (12 U.S.C. 1821(n)) or section 21A(b)(10)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(A)) or any successor sections;

(2) A Federal savings association chartered by the Director of the Office of Thrift Supervision under section 21A(b)(10)(A) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(10)(A)) or any successor section; or

(3) A similar Institution chartered under any other statutory provisions.

Consolidated Subsidiary. The term *Consolidated Subsidiary* means a member of the consolidated group of which an Institution is a member that bears the same relationship to the Institution that the members of a consolidated group bear to their common parent under section 1504(a)(1).

Continuing Equity. An Institution has *Continuing Equity* for any taxable year if, on the last day of the taxable year, the Institution is not (1) a Bridge Bank, (2) in Agency receivership, or (3) treated as a New Entity.

Controlled Entity. The term *Controlled Entity* means an entity under Agency Control.

Federal Financial Assistance (FFA). The term *Federal Financial Assistance* (FFA), as defined by section 597(c), means any money or property provided by Agency to an Institution or to a direct or indirect owner of stock in an Institution under section 406(f) of the National Housing Act (12 U.S.C. 1729(f)), section 21A(b)(4) of the Federal Home Loan Bank Act (12 U.S.C. 1441a(b)(4)), section 11(f) or 13(c) of the Federal Deposit Insurance Act (12 U.S.C. 1821(f), 1823(c)), or under any similar provision of law. Any such money or property is FFA, regardless of whether the Institution or any of its affiliates issues Agency a note or other

obligation, stock, warrants, or other rights to acquire stock in connection with Agency's provision of the money or property. FFA includes Net Worth Assistance, Loss Guarantee payments, yield maintenance payments, cost to carry or cost of funds reimbursement payments, expense reimbursement or indemnity payments, and interest (including original issue discount) on an Agency Obligation.

Institution. The term *Institution* means an entity that is, or immediately before being placed under Agency Control was, a bank or domestic building and loan association within the meaning of section 597 (including a Bridge Bank). Except as otherwise provided in the regulations under section 597, the term *Institution* includes a New Entity or Acquiring that is a bank or domestic building and loan association within the meaning of section 597.

Loss Guarantee. The term *Loss Guarantee* means an agreement pursuant to which Agency or a Controlled Entity guarantees or agrees to pay an Institution a specified amount upon the disposition or charge-off (in whole or in part) of specific assets, an agreement pursuant to which an Institution has a right to put assets to Agency or a Controlled Entity at a specified price, or a similar arrangement.

Net Worth Assistance. The term *Net Worth Assistance* means money or property (including an Agency Obligation to the extent it has a fixed principal amount) that Agency provides as an integral part of a Taxable Transfer, other than FFA that accrues after the date of the Taxable Transfer. For example, Net Worth Assistance does not include Loss Guarantee payments, yield maintenance payments, cost to carry or cost of funds reimbursement payments, or expense reimbursement or indemnity payments. An Agency Obligation is considered to have a fixed principal amount notwithstanding an agreement providing for its adjustment after issuance to reflect a more accurate determination of the condition of the Institution at the time of the acquisition.

New Entity. The term *New Entity* means the new corporation that is treated as purchasing all of the assets

of an Old Entity in a Taxable Transfer described in § 1.597-5(b).

Old Entity. The term *Old Entity* means the Institution or Consolidated Subsidiary that is treated as selling all of its assets in a Taxable Transfer described in § 1.597-5(b).

Residual Entity. The term *Residual Entity* means the entity that remains after an Institution transfers deposit liabilities to a Bridge Bank.

Taxable Transfer. The term *Taxable Transfer* has the meaning provided in § 1.597-5(a)(1).

[T.D.8641, 60 FR 66094, Dec. 21, 1995]

§ 1.597-2 Taxation of Federal financial assistance.

(a) *Inclusion in income*—(1) *In general.* Except as otherwise provided in the regulations under section 597, all FFA is includible as ordinary income to the recipient at the time the FFA is received or accrued in accordance with the recipient's method of accounting. The amount of FFA received or accrued is the amount of any money, the fair market value of any property (other than an Agency Obligation), and the issue price of any Agency Obligation (determined under § 1.597-3(c)(2)). An Institution (and not the nominal recipient) is treated as receiving directly any FFA that Agency provides in a taxable year to a direct or indirect shareholder of the Institution, to the extent money or property is transferred to the Institution pursuant to an agreement with Agency.

(2) *Cross references.* See paragraph (c) of this section for rules regarding the timing of inclusion of certain FFA. See paragraph (d) of this section for additional rules regarding the treatment of FFA received in connection with transfers of money or property to Agency or a Controlled Entity, or paid pursuant to a Loss Guarantee. See § 1.597-5(c)(1) for additional rules regarding the inclusion of Net Worth Assistance in the income of an Institution.

(b) *Basis of property that is FFA.* If FFA consists of property, the Institution's basis in the property equals the fair market value of the property (other than an Agency Obligation) or the issue price of the Agency Obligation, as determined under § 1.597-3(c)(2).

(c) *Timing of inclusion of certain FFA*—(1) *Scope.* This paragraph (c) limits the amount of FFA an Institution must include in income currently under certain circumstances and provides rules for the deferred inclusion in income of amounts in excess of those limits. This paragraph (c) does not apply to a New Entity or Acquiring.

(2) *Amount currently included in income by an Institution without Continuing Equity.* The amount of FFA an Institution without Continuing Equity must include in income in a taxable year under paragraph (a)(1) of this section is limited to the sum of—

(i) The excess at the beginning of the taxable year of the Institution's liabilities over the adjusted bases of the Institution's assets; and

(ii) The amount by which the excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) over its gross income (determined without regard to FFA) is greater than the excess at the beginning of the taxable year of the adjusted bases of the Institution's assets over the Institution's liabilities.

(3) *Amount currently included in income by an Institution with Continuing Equity.* The amount of FFA an Institution with Continuing Equity must include in income in a taxable year under paragraph (a)(1) of this section is limited to the sum of—

(i) The excess at the beginning of the taxable year of the Institution's liabilities over the adjusted bases of the Institution's assets;

(ii) The greater of—

(A) The excess for the taxable year of the Institution's deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) over its gross income (determined without regard to FFA); or

(B) The excess for the taxable year of the deductions allowed by chapter 1 of the Internal Revenue Code (other than net operating and capital loss carryovers) of the consolidated group of which the Institution is a member on the last day of the Institution's taxable year over the group's gross income (determined without regard to FFA); and