HR 4337 modernizes tax code treatment of investment firms

By Editor Test *Tue, Dec 21, 2010*

A new white paper from Wolters Kluwer Law & Business details the elements of the law.

The Regulated Investment Company Modernization Act of 2010 this fall, which is now headed to President Obama's desk for an expected signature, will

- Reduce the burden arising from amended year-end tax information statements
- Improve a mutual fund's ability to meet its distribution requirements
- Create remedies for inadvertent mutual fund qualification failures
- Improve the tax treatment of investments in a fund-of-funds structure
- Update the tax treatment of fund capital losses

according to a new white paper from Wolters Kluwer Law & Business, which produces information products under the CCH and Aspen names.

Specifically, the legislation:

§ Creates a special rule allowing unlimited carryovers of the net capital losses of regulated investment companies.

§ Exempts regulated investment companies from loss of tax-preferred status and additional taxes for failure to satisfy the gross income and assets tests if that failure is *de minimis* and is due to reasonable cause and not willful neglect.

§ Revises the definitions of "capital gain dividend" and "exempt-interest dividend" for purposes of the taxation of funds and their shareholders to require that dividends be reported to shareholders in written statements.

§ Allows a qualified fund of funds to pay exempt-interest dividends and allow its shareholders the foreign tax credit without regard to certain requirements that the fund of funds invest in state and local bonds or foreign securities.

§ Modifies rules for dividends paid by funds after the close of a taxable year (so- called spillover dividends).

§ Revises the method for allocating fund earnings and profits to require those earnings and profits to be allocated first to distributions made prior to December 31 of a calendar year.

§ Allows funds with shares that are redeemable on demand to treat distributions in redemption of stock as an exchange for income-tax purposes.

§ Excludes net capital losses of funds from earnings and profits.

§ Prohibits earnings and profits from being reduced by any amount that is not allowable as a deduction in computing taxable income, except with respect to a net capital loss.

§ Repeals preferential dividend rules for funds that are publicly offered

§ Allows funds to elect to treat a post-October capital loss and any late-year ordinary loss as arising on the first day of the following taxable year.

§ Exempts from holding-period requirements regular dividends paid by a fund that declares exempt-interest dividends on a daily basis in an amount equal to at least 90 percent of its net tax-exempt interest and distributes those dividends at least monthly.

§ Extends the exemption from excise tax of failure to distribute taxable income of a fund to other tax-exempt entities with an ownership interest in a fund.

§ Allows specified gains and losses of a fund derived after October 31 to be deferred, for excise-tax purposes, until January 1 of the following calendar year

§ Creates a special rule for estimated excise-tax payments of funds.

§ Increases from 98 percent to 98.2 percent the amount of capital gain net income funds must distribute.