

One Hundred Fourteenth Congress  
of the  
United States of America

AT THE FIRST SESSION

*Begun and held at the City of Washington on Tuesday,  
the sixth day of January, two thousand and fifteen*

An Act

Making appropriations for military construction, the Department of Veterans Affairs, and related agencies for the fiscal year ending September 30, 2016, and for other purposes.

*Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,*

**SECTION 1. SHORT TITLE.**

This Act may be cited as the “Consolidated Appropriations Act, 2016”.

**SEC. 2. TABLE OF CONTENTS.**

The table of contents of this Act is as follows:

- Sec. 1. Short title.
- Sec. 2. Table of contents.
- Sec. 3. References.
- Sec. 4. Explanatory statement.
- Sec. 5. Statement of appropriations.
- Sec. 6. Availability of funds.
- Sec. 7. Technical allowance for estimating differences.
- Sec. 8. Corrections.
- Sec. 9. Adjustments to compensation.

DIVISION A—AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2016

- Title I—Agricultural Programs
- Title II—Conservation Programs
- Title III—Rural Development Programs
- Title IV—Domestic Food Programs
- Title V—Foreign Assistance and Related Programs
- Title VI—Related Agencies and Food and Drug Administration
- Title VII—General Provisions

DIVISION B—COMMERCE, JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2016

- Title I—Department of Commerce
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DIVISION C—DEPARTMENT OF DEFENSE APPROPRIATIONS ACT, 2016

- Title I—Military Personnel
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- Title IX—Overseas Contingency Operations/Global War on Terrorism

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Title II—Department of Housing and Urban Development  
Title III—Related Agencies  
Title IV—General Provisions—This Act

DIVISION M—INTELLIGENCE AUTHORIZATION ACT FOR FISCAL YEAR 2016

DIVISION N—CYBERSECURITY ACT OF 2015

DIVISION O—OTHER MATTERS

DIVISION P—TAX-RELATED PROVISIONS

DIVISION Q—PROTECTING AMERICANS FROM TAX HIKES ACT OF 2015

**SEC. 3. REFERENCES.**

Except as expressly provided otherwise, any reference to “this Act” contained in any division of this Act shall be treated as referring only to the provisions of that division.

**SEC. 4. EXPLANATORY STATEMENT.**

The explanatory statement regarding this Act, printed in the House of Representatives section of the Congressional Record on or about December 17, 2015 by the Chairman of the Committee on Appropriations of the House, shall have the same effect with respect to the allocation of funds and implementation of divisions A through L of this Act as if it were a joint explanatory statement of a committee of conference.

**SEC. 5. STATEMENT OF APPROPRIATIONS.**

The following sums in this Act are appropriated, out of any money in the Treasury not otherwise appropriated, for the fiscal year ending September 30, 2016.

**SEC. 6. AVAILABILITY OF FUNDS.**

Each amount designated in this Act by the Congress for Overseas Contingency Operations/Global War on Terrorism pursuant to section 251(b)(2)(A)(ii) of the Balanced Budget and Emergency Deficit Control Act of 1985 shall be available (or rescinded, if applicable) only if the President subsequently so designates all such amounts and transmits such designations to the Congress.

**SEC. 7. TECHNICAL ALLOWANCE FOR ESTIMATING DIFFERENCES.**

If, for fiscal year 2016, new budget authority provided in appropriations Acts exceeds the discretionary spending limit for any category set forth in section 251(c) of the Balanced Budget and Emergency Deficit Control Act of 1985 due to estimating differences with the Congressional Budget Office, an adjustment to the discretionary spending limit in such category for fiscal year 2016 shall be made by the Director of the Office of Management and Budget in the amount of the excess but the total of all such adjustments shall not exceed 0.2 percent of the sum of the adjusted discretionary spending limits for all categories for that fiscal year.

**SEC. 8. CORRECTIONS.**

The Continuing Appropriations Act, 2016 (Public Law 114–53) is amended—

(1) by changing the long title so as to read: “Making continuing appropriations for the fiscal year ending September 30, 2016, and for other purposes.”;

(2) by inserting after the enacting clause (before section 1) the following: “**DIVISION A—TSA OFFICE OF INSPECTION ACCOUNTABILITY ACT OF 2015**”;

“(3) in the case of property placed in service after December 31, 2020, and before January 1, 2022, 22 percent.”.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect on January 1, 2017.

**SEC. 305. TREATMENT OF TRANSPORTATION COSTS OF INDEPENDENT REFINERS.**

(a) IN GENERAL.—Paragraph (3) of section 199(c) of the Internal Revenue Code of 1986 is amended by adding at the end the following new subparagraph:

“(C) TRANSPORTATION COSTS OF INDEPENDENT REFINERS.—

“(i) IN GENERAL.—In the case of any taxpayer who is in the trade or business of refining crude oil and who is not a major integrated oil company (as defined in section 167(h)(5)(B), determined without regard to clause (iii) thereof) for the taxable year, in computing oil related qualified production activities income under subsection (d)(9)(B), the amount allocated to domestic production gross receipts under paragraph (1)(B) for costs related to the transportation of oil shall be 25 percent of the amount properly allocable under such paragraph (determined without regard to this subparagraph).

“(ii) TERMINATION.—Clause (i) shall not apply to any taxable year beginning after December 31, 2021.”.

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years beginning after December 31, 2015.

**DIVISION Q—PROTECTING AMERICANS FROM TAX HIKES ACT OF 2015**

**SECTION 1. SHORT TITLE, ETC.**

(a) SHORT TITLE.—This division may be cited as the “Protecting Americans from Tax Hikes Act of 2015”.

(b) AMENDMENT OF 1986 CODE.—Except as otherwise expressly provided, whenever in this division an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

(c) TABLE OF CONTENTS.—The table of contents for this division is as follows:

DIVISION Q—PROTECTING AMERICANS FROM TAX HIKES ACT OF 2015

Sec. 1. Short title, etc.

TITLE I—EXTENDERS

Subtitle A—Permanent Extensions

PART 1—TAX RELIEF FOR FAMILIES AND INDIVIDUALS

Sec. 101. Enhanced child tax credit made permanent.

Sec. 102. Enhanced American opportunity tax credit made permanent.

Sec. 103. Enhanced earned income tax credit made permanent.

Sec. 104. Extension and modification of deduction for certain expenses of elementary and secondary school teachers.

Sec. 105. Extension of parity for exclusion from income for employer-provided mass transit and parking benefits.

**SEC. 314. REPEAL OF PREFERENTIAL DIVIDEND RULE FOR PUBLICLY OFFERED REITS.**

(a) **IN GENERAL.**—Section 562(c) is amended by inserting “or a publicly offered REIT” after “a publicly offered regulated investment company (as defined in section 67(c)(2)(B))”.

(b) **PUBLICLY OFFERED REIT.**—Section 562(c), as amended by subsection (a), is amended—

(1) by striking “Except in the case of” and inserting the following:

“(1) **IN GENERAL.**—Except in the case of”, and

(2) by adding at the end the following new paragraph:

“(2) **PUBLICLY OFFERED REIT.**—For purposes of this subsection, the term ‘publicly offered REIT’ means a real estate investment trust which is required to file annual and periodic reports with the Securities and Exchange Commission under the Securities Exchange Act of 1934.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 2014.

**SEC. 315. AUTHORITY FOR ALTERNATIVE REMEDIES TO ADDRESS CERTAIN REIT DISTRIBUTION FAILURES.**

(a) **IN GENERAL.**—Subsection (e) of section 562 is amended—

(1) by striking “In the case of a real estate investment trust” and inserting the following:

“(1) **DETERMINATION OF EARNINGS AND PROFITS FOR PURPOSES OF DIVIDENDS PAID DEDUCTION.**—In the case of a real estate investment trust”, and

(2) by adding at the end the following new paragraph:

“(2) **AUTHORITY TO PROVIDE ALTERNATIVE REMEDIES FOR CERTAIN FAILURES.**—In the case of a failure of a distribution by a real estate investment trust to comply with the requirements of subsection (c), the Secretary may provide an appropriate remedy to cure such failure in lieu of not considering the distribution to be a dividend for purposes of computing the dividends paid deduction if—

“(A) the Secretary determines that such failure is inadvertent or is due to reasonable cause and not due to willful neglect, or

“(B) such failure is of a type of failure which the Secretary has identified for purposes of this paragraph as being described in subparagraph (A).”.

(b) **EFFECTIVE DATE.**—The amendments made by this section shall apply to distributions in taxable years beginning after December 31, 2015.

**SEC. 316. LIMITATIONS ON DESIGNATION OF DIVIDENDS BY REITS.**

(a) **IN GENERAL.**—Section 857 is amended by redesignating subsection (g) as subsection (h) and by inserting after subsection (f) the following new subsection:

“(g) **LIMITATIONS ON DESIGNATION OF DIVIDENDS.**—

“(1) **OVERALL LIMITATION.**—The aggregate amount of dividends designated by a real estate investment trust under subsections (b)(3)(C) and (c)(2)(A) with respect to any taxable year may not exceed the dividends paid by such trust with respect to such year. For purposes of the preceding sentence, dividends

to in subclause (I) if such position were ordinary property,  
any income of such trust from any position referred to in subclause (I) and from any transaction referred to in subclause (III) (including gain from the termination of any such position or transaction) shall not constitute gross income under paragraphs (2) and (3) to the extent that such transaction hedges such position.”.

(b) IDENTIFICATION REQUIREMENTS.—

(1) IN GENERAL.—Subparagraph (G) of section 856(c)(5), as amended by subsection (a), is amended by striking “and” at the end of clause (ii), by striking the period at the end of clause (iii) and inserting “, and”, and by adding at the end the following new clause:

“(iv) clauses (i), (ii), and (iii) shall not apply with respect to any transaction unless such transaction satisfies the identification requirement described in section 1221(a)(7) (determined after taking into account any curative provisions provided under the regulations referred to therein).”.

(2) CONFORMING AMENDMENTS.—Subparagraph (G) of section 856(c)(5) is amended—

(A) by striking “which is clearly identified pursuant to section 1221(a)(7)” in clause (i), and

(B) by striking “, but only if such transaction is clearly identified as such before the close of the day on which it was acquired, originated, or entered into (or such other time as the Secretary may prescribe)” in clause (ii).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2015.

**SEC. 320. MODIFICATION OF REIT EARNINGS AND PROFITS CALCULATION TO AVOID DUPLICATE TAXATION.**

(a) EARNINGS AND PROFITS NOT INCREASED BY AMOUNTS ALLOWED IN COMPUTING TAXABLE INCOME IN PRIOR YEARS.—Section 857(d) is amended—

(1) by amending paragraph (1) to read as follows:

“(1) IN GENERAL.—The earnings and profits of a real estate investment trust for any taxable year (but not its accumulated earnings) shall not be reduced by any amount which—

“(A) is not allowable in computing its taxable income for such taxable year, and

“(B) was not allowable in computing its taxable income for any prior taxable year.”, and

(2) by adding at the end the following new paragraphs:

“(4) REAL ESTATE INVESTMENT TRUST.—For purposes of this subsection, the term ‘real estate investment trust’ includes a domestic corporation, trust, or association which is a real estate investment trust determined without regard to the requirements of subsection (a).

“(5) SPECIAL RULES FOR DETERMINING EARNINGS AND PROFITS FOR PURPOSES OF THE DEDUCTION FOR DIVIDENDS PAID.—For special rules for determining the earnings and profits of a real estate investment trust for purposes of the deduction for dividends paid, see section 562(e)(1).”.

(b) **EXCEPTION FOR PURPOSES OF DETERMINING DIVIDENDS PAID DEDUCTION.**—Section 562(e)(1), as amended by the preceding provisions of this Act, is amended by striking “deduction, the earnings” and all that follows and inserting the following: “deduction—

“(A) the earnings and profits of such trust for any taxable year (but not its accumulated earnings) shall be increased by the amount of gain (if any) on the sale or exchange of real property which is taken into account in determining the taxable income of such trust for such taxable year (and not otherwise taken into account in determining such earnings and profits), and

“(B) section 857(d)(1) shall be applied without regard to subparagraph (B) thereof.”.

(c) **EFFECTIVE DATE.**—The amendments made by this section shall apply to taxable years beginning after December 31, 2015.

**SEC. 321. TREATMENT OF CERTAIN SERVICES PROVIDED BY TAXABLE REIT SUBSIDIARIES.**

(a) **TAXABLE REIT SUBSIDIARIES TREATED IN SAME MANNER AS INDEPENDENT CONTRACTORS FOR CERTAIN PURPOSES.**—

(1) **MARKETING AND DEVELOPMENT EXPENSES UNDER RENTAL PROPERTY SAFE HARBOR.**—Clause (v) of section 857(b)(6)(C) is amended by inserting “or a taxable REIT subsidiary” before the period at the end.

(2) **MARKETING EXPENSES UNDER TIMBER SAFE HARBOR.**—Clause (v) of section 857(b)(6)(D) is amended by striking “, in the case of a sale on or before the termination date,”.

(3) **FORECLOSURE PROPERTY GRACE PERIOD.**—Subparagraph (C) of section 856(e)(4) is amended by inserting “or through a taxable REIT subsidiary” after “receive any income”.

(b) **TAX ON REDETERMINED TRS SERVICE INCOME.**—

(1) **IN GENERAL.**—Subparagraph (A) of section 857(b)(7) is amended by striking “and excess interest” and inserting “excess interest, and redetermined TRS service income”.

(2) **REDETERMINED TRS SERVICE INCOME.**—Paragraph (7) of section 857(b) is amended by redesignating subparagraphs (E) and (F) as subparagraphs (F) and (G), respectively, and inserting after subparagraph (D) the following new subparagraph:

“(E) **REDETERMINED TRS SERVICE INCOME.**—

“(i) **IN GENERAL.**—The term ‘redetermined TRS service income’ means gross income of a taxable REIT subsidiary of a real estate investment trust attributable to services provided to, or on behalf of, such trust (less deductions properly allocable thereto) to the extent the amount of such income (less such deductions) would (but for subparagraph (F)) be increased on distribution, apportionment, or allocation under section 482.

“(ii) **COORDINATION WITH REDETERMINED RENTS.**—Clause (i) shall not apply with respect to gross income attributable to services furnished or rendered to a tenant of the real estate investment trust (or to deductions properly allocable thereto).”.

(3) **CONFORMING AMENDMENTS.**—Subparagraphs (B)(i) and (C) of section 857(b)(7) are each amended by striking “subparagraph (E)” and inserting “subparagraph (F)”.