

nonwithdrawable capital stock represented by shares, was organized in 1946, and makes its returns on the basis of the calendar year and the reserve method of accounting for bad debts. As of the close of December 31, 1962, X had \$6,900 of earnings and profits accumulated in taxable years beginning after December 31, 1951. X's taxable income for 1963 is \$30,000 (computed prior to the inclusion of any amount in gross income for such year under section 593(f) and during such year X received tax-exempt interest of \$500. X's earnings and profits for 1963 (computed at the close of the taxable year without diminution by reason of any distributions made during the taxable year) is \$20,400. The opening balance of X's reserve for losses on qualifying real property loans as of the close of December 31, 1962 (determined under paragraph (b)(3)(ii)(a) of § 1.593-7) was \$24,500. Pre-1963 reserves of \$24,500 were included in such opening balance, but it is assumed that pre-1963 reserves of only \$4,500 would have been included in the opening balance if the opening balance had been determined under the experience method described in paragraph (b)(3)(ii)(b) of § 1.593-7. The deductible addition to such reserve for 1963 is \$500. It is assumed that the addition to such reserve for 1963 would have been \$100 if such addition had been computed under the experience method described in paragraph (d) of § 1.593-6. As of December 31, 1963, the balance of X's supplemental reserve for losses on loans is \$30,000. On each of four dates during 1963 (January 1, April 1, July 1, and October 1), X made a \$12,000 distribution (which was not a redemption to which section 302(a) or 303 applied or in partial or complete liquidation of X) to its shareholders with respect to its stock.

(ii) *Reserve for losses on qualifying real property loans.* For purposes of paragraph (b)(1)(i) of this section, X's reserve for losses on qualifying real property loans is \$20,400, computed as follows:

Closing balance of reserve for losses on qualifying real property loans after addition for 1963 (\$24,500 opening balance plus \$500 addition)	\$25,000
Minus:	
Amount of pre-1963 reserves which would have been included in opening balance under experience method	\$4,500
Total additions which would have been made under experience method	100
	4,600
	20,400

(iii) *Treatment of distributions.* Of each \$12,000 quarterly distribution, \$5,100 (\$20,400 earnings and profits of the taxable year divided by 4) is out of X's earnings and profits of the taxable year (within the meaning of section 316(a)(2)); the remainder of the January 1 distribution, \$6,900 (\$12,000 minus

\$5,100), is out of X's earnings and profits accumulated in taxable years beginning after December 31, 1951. Since \$20,700 (\$6,900 multiplied by 3) is not out of X's earnings and profits, \$20,400 of such amount shall be treated as made out of X's reserve for losses on qualifying real property loans (as determined under subdivision (ii) of this example) and \$300 (\$20,700 minus \$20,400) shall be treated as made out of X's supplemental reserve for losses on loans.

(iv) *Amount included in gross income.* X's gross income for 1963 is increased by \$43,124, which is the lesser of:

(a) \$50,400 (\$20,400, the reserve for losses on qualifying real property loans, as determined under subdivision (ii) of this example, plus \$30,000, the supplemental reserve for losses on loans), or

(b) \$43,124, *i.e.*, the amount which, when reduced by the amount of income tax attributable to the inclusion of such amount in gross income, \$22,424 (\$43,124 multiplied by a tax rate of 52 percent), is equal to the amount of such distribution, \$20,700.

(v) *Amount charged against reserve for losses on qualifying real property loans and supplemental reserve for losses on loans.* The reserve for losses on qualifying real property loans is charged with \$20,400 (the balance of the reserve as of December 31, 1963, as determined under subdivision (ii) of this example), and the supplemental reserve for losses on loans is charged with \$22,724 (\$43,124, the amount included in gross income under subdivision (iv) of this example, minus \$20,400).

[T.D. 6728, 29 FR 5862, May 5, 1964, as amended by T.D. 549, 43 FR 21457, May 18, 1978]

§ 1.593-11 Qualifying real property loan and nonqualifying loan defined.

(a) *Loan defined.* For purposes of this section, the term *loan* means debt, as the term *debt* is used in section 166 and the regulations thereunder. The term *loan* also includes a redeemable ground rent (as defined in section 1055 (c)) which is owned by the taxpayer, and any property acquired by the taxpayer in a transaction described in section 595(a). For determination of the amount of a loan, see paragraph (d) of this section.

(b) *Qualifying real property loan defined—(1) General rule.* For purposes of §§ 1.593-4 through 1.593-10, the term *qualifying real property loan* means any loan (other than a loan described in subparagraph (5) of this paragraph) which is secured by an interest in qualifying real property. For purposes of this section, the term *real property*

means any property which, under the law of the jurisdiction in which such property is situated, constitutes real property. The term *real property* also includes a mobile unit which is permanently fixed to real property. The determination of whether a mobile unit is permanently fixed to real property shall be made on the basis of facts and circumstances in each particular case. For example, a mobile unit is permanently fixed to real property during a taxable year if, except for a brief period during which the unit is transported to a site, such unit was placed upon a foundation at a site with wheels and axles removed, affixed to the ground by means of straps, and connected to water, sewer, gas, and electric facilities. See paragraph (e) of this section for the treatment of a REMIC interest as a qualifying real property loan.

(2) *Meaning of Secured.* A loan will be considered as *secured* only if the loan is on the security of any instrument (such as a mortgage, deed of trust, or land contract) which makes the interest of the debtor in the property described therein specific security for the payment of the loan, provided that such instrument is of such a nature that, in the event of default, the property could be subjected to the satisfaction of the loan with the same priority as a mortgage or deed of trust in the jurisdiction in which the property is situated.

(3) *Meaning of interest.* The word *interest* means an interest in real property which, under the law of the jurisdiction in which such property is situated, constitutes either (i) an interest in fee in such property, (or in the case of a mobile unit, an ownership interest), (ii) a leasehold interest in such property extending or renewable automatically for a period of at least 30 years, or at least 10 years beyond the date scheduled for the final payment on the loan secured by such interest, (iii) a leasehold interest in improved residential real property consisting of a structure or structures containing, in the aggregate, no more than four family units extending for a period of at least 2 years beyond the date scheduled for the final payment on the loan secured by such interest, or (iv) a leasehold interest in

such property held subject to a redeemable ground rent defined in section 1055(c).

(4) *Meaning of qualifying real property.* The term *qualifying real property* means any real property which is improved real property, or which from the proceeds of the loan will become improved real property. As used in the preceding sentence, the term *improved real property* means:

(i) Land on which is located any building of a permanent nature (such as a house, mobile unit, apartment house, office building, hospital, shopping center, warehouse, garage, or other similar permanent structure), provided that the value of such building is substantial in relation to the value of such land,

(ii) Any building lot or site which, by reason of installations and improvements that have been completed in keeping with applicable governmental requirements and with general practice in the community, is a building lot or site ready for the construction of any building of a permanent nature within the meaning of paragraph (b)(4)(i) of this section.

(iii) Real property which, because of its state of improvement, produces sufficient income to maintain such real property and retire the loan in accordance with the terms thereof, or

(iv) A mobile unit which is permanently fixed to real property.

(5) *Loans not included.* The term *qualifying real property loan* does not include:

(i) Any loan evidenced by a security as defined in section 165(g)(2)(C),

(ii) Any loan (whether or not evidenced by a security as so defined) the primary obligor on which is (a) a government or a political subdivision or instrumentality thereof, (b) a bank (as defined in section 581), or (c) another member of the same affiliated group,

(iii) Any loan to the extent such loan is secured by a deposit in or share of the taxpayer (including a share of nonwithdrawable capital stock), determined as of the close of the taxable year, and

(iv) Any loan which (within a 60-day period beginning in one taxable year of the taxpayer and ending in the next taxable year of such taxpayer) is made

or acquired, and then repaid or disposed of, unless both the transaction by which the loan is made or acquired and the transaction by which the loan is repaid or disposed of are established to the satisfaction of the district director to be for bona fide business purposes.

As used in subdivision (ii)(c) of this subparagraph, the term *affiliated group* shall have the meaning assigned to such term by section 1504(a) (relating to the definition of an affiliated group), except that the phrase *more than 50 percent* shall be substituted for the phrase *at least 80 percent* each place the latter phrase appears in section 1504(a), and all corporations shall be treated as includible corporations (without regard to any of the exclusions provided in section 1504(b)).

(c) *Nonqualifying loan defined.* For purposes of §§ 1.593-4 through 1.593-9, the term *nonqualifying loan* means any loan which is not a qualifying real property loan.

(d) *Amount of loan determined—(1) General rule.* Except as provided in subparagraph (2) of this paragraph, the amount of any qualifying real property loan or nonqualifying loan, for purposes of section 593, is the adjusted basis of such loan as determined under § 1.1011-1. However, the adjusted basis, determined under § 1.1011-1, of any *loan in process* does not include the unadvanced portion of such loan. For the basis of a redeemable ground rent reserved or created by the taxpayer before April 11, 1963, see section 1055(b)(3); and for the basis of a loan represented by property acquired by the taxpayer in a transaction described in section 595(a), see section 595(c).

(2) *Limitation.* If the total amount advanced on any loan exceeds the loan value of any interest in qualifying real property which secures such loan, then the portion of such loan which, as of the close of any taxable year, will be considered as a qualifying real property loan shall be determined under the principles of section 7701(a)(19) and the regulations thereunder.

(e) *Treatment of REMIC interests as qualifying real property loans—(1) In general.* For purposes of section 593 and §§ 1.593-4 through 1.593-10, if, for any calendar quarter, at least 95 percent of

a REMIC's assets (as determined in accordance with § 1.860F-4(e)(1)(ii) or § 1.6049-7(f)(3)) are qualifying real property loans (as defined in paragraph (b) of this section), then, for that calendar quarter, all the regular and residual interests in that REMIC are treated as qualifying real property loans. If less than 95 percent of a REMIC's assets are qualifying real property loans, then a percentage of each regular or residual interest is treated as a qualifying real property loan. The percentage equals the percentage of the REMIC's assets that are qualifying real property loans. See § 1.860F-4(e)(1)(ii)(B) and § 1.6049-7(f)(3) for information required to be provided to regular and residual interest holders if the 95-percent test is not met.

(2) *Treatment of REMIC assets for section 593 purposes—(i) Manufactured housing treated as qualifying real property.* For purposes of paragraph (e)(1) of this section, the term "qualifying real property" includes manufactured housing treated as a single family residence under section 25(e)(10).

(ii) *Status of cash flow investments.* For purposes of paragraph (e)(1) of this section, cash flow investments (as defined in section 860G(a)(6) and § 1.860G-2(g)(1)) are treated as qualifying real property loans.

[T.D. 6728, 29 FR 5864, May 5, 1964, as amended by T.D. 549, 43 FR 21458, May 18, 1978; T.D. 8458, 57 FR 61298, Dec. 24, 1992]

§ 1.594-1 Mutual savings banks conducting life insurance business.

(a) *Scope of application.* Section 594 applies to the case of a mutual savings bank not having capital stock represented by shares which conducts a life insurance business, if:

(1) The conduct of the life insurance business is authorized under State law,

(2) The life insurance business is carried on in a separate department of the bank,

(3) The books of account of the life insurance business are maintained separately from other departments of the bank, and

(4) The life insurance department of the bank would, if it were treated as a separate corporation, qualify as a life insurance company under section 801.