

Classification of Capital and Income from Regulated Investment Companies (Money Market Funds and Mutual Funds)

Several inquiries have been made as to whether investments in Regulated Investment Companies (money market funds or mutual funds) should be treated as business or investment capital.

According to Section 208.5 of the Tax Law, "The term 'investment capital' means investments in stocks, bonds, and other securities, corporate and governmental, not held for sale to customers in the regular course of business"

Investments in Regulated Investment Companies (money market funds or mutual funds) should be considered to be shareholder investments rather than loans to the funds. Therefore, the investments should be considered investment capital and any income earned from the investments should be considered investment income.

Since Section 208.9(a)(2) does not distinguish between Qualifying dividends and Non-Qualifying Dividends, all dividends are eligible for the 50% exclusion, regardless of whether or not they are eligible for the 85% exclusion under the Internal Revenue Code.