

“(a) GENERAL RULE.—For purposes of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], in the case of any disposition of 1 or more positions—

“(1) which were entered into before 1982 and form part of a straddle, and

“(2) to which the amendments made by title V of the Economic Recovery Tax Act of 1981 [Pub. L. 97-34, see Effective Date note above] do not apply, any loss from such disposition shall be allowed for the taxable year of the disposition if such loss is incurred in a trade or business, or if such loss is incurred in a transaction entered into for profit though not connected with a trade or business.

“(b) LOSS INCURRED IN A TRADE OR BUSINESS.—For purposes of subsection (a), any loss incurred by a commodities dealer in the trading of commodities shall be treated as a loss incurred in a trade or business.

“(c) NET LOSS ALLOWED.—If any loss with respect to a position described in paragraphs (1) and (2) of subsection (a) is not allowable as a deduction (after applying subsections (a) and (b)), such loss shall be allowed in determining the gain or loss from dispositions of other positions in the straddle to the extent required to accurately reflect the taxpayer’s net gain or loss from all positions in such straddle.

“(d) OTHER RULES.—Except as otherwise provided in subsections (a) and (c) and in sections 1233 and 1234 of such Code, the determination of whether there is recognized gain or loss with respect to a position, and the amount and timing of such gain or loss, and the treatment of such gain or loss as long-term or short-term shall be made without regard to whether such position constitutes part of a straddle.

“(e) STRADDLE.—For purposes of this section, the term ‘straddle’ has the meaning given to such term by section 1092(c) of the Internal Revenue Code of 1986 as in effect on the day after the date of the enactment of the Economic Recovery Tax Act of 1981 [Aug. 13, 1981], and shall include a straddle all the positions of which are regulated futures contracts.

“(f) COMMODITIES DEALER.—For purposes of this section, the term ‘commodities dealer’ means any taxpayer who—

“(1) at any time before January 1, 1982, was an individual described in section 1402(i)(2)(B) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this subtitle), or

“(2) was a member of the family (within the meaning of section 704(e)(3) of such Code) of an individual described in paragraph (1) to the extent such member engaged in commodities trading through an organization the members of which consisted solely of—

“(A) 1 or more individuals described in paragraph (1), and

“(B) 1 or more members of the families (as so defined) of such individuals.

“(g) REGULATED FUTURES CONTRACTS.—For purposes of this section, the term ‘regulated futures contracts’ has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1986 (as in effect before the date of enactment of this Act [July 18, 1984]).

“(h) SYNDICATES.—For purposes of this section, any loss incurred by a person (other than a commodities dealer) with respect to an interest in a syndicate (within the meaning of section 1256(e)(3)(B) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) shall not be considered to be a loss incurred in a trade or business.”

#### [PART VIII—REPEALED]

### [[§§ 1101 to 1103. Repealed. Pub. L. 101-508, title XI, § 11801(a)(34), Nov. 5, 1990, 104 Stat. 1388-521]

Section 1101, added May 9, 1956, ch. 240, § 10(a), 70 Stat. 139; amended Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1503; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834; Oct. 19, 1982, Pub. L. 97-354, § 5(a)(34), 96 Stat. 1695, related to distributions of property pursuant to Bank Holding Company Act.

Section 1102, added May 9, 1956, ch. 240, § 10(a), 70 Stat. 143; amended Dec. 27, 1967, Pub. L. 90-225, § 1, 81 Stat. 730; Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1508; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834, related to basis of property acquired in distributions, periods of limitation, allocation of earnings and profits, and itemization of property.

Section 1103, added May 9, 1956, ch. 240, § 10(a), 70 Stat. 144; amended Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1509; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834, related to definitions for this part.

#### SAVINGS PROVISION

For provisions that nothing in repeal by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

#### [PART IX—REPEALED]

### [[§ 1111. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(134), Oct. 4, 1976, 90 Stat. 1786]

Section, added Pub. L. 87-403, § 1(a), Feb. 2, 1962, 76 Stat. 4, related to distribution of stock pursuant to order enforcing antitrust laws.

#### Subchapter P—Capital Gains and Losses

Part

- I. Treatment of capital gains.
- II. Treatment of capital losses.
- III. General rules for determining capital gains and losses.
- IV. Special rules for determining capital gains and losses.
- V. Special rules for bonds and other debt instruments.
- VI. Treatment of certain passive foreign investment companies.

#### AMENDMENTS

1986—Pub. L. 99-514, title XII, § 1235(g), Oct. 22, 1986, 100 Stat. 2576, added item for part VI.

1984—Pub. L. 98-369, div. A, title I, § 42(b)(1), July 18, 1984, 98 Stat. 557, added item for part V.

#### PART I—TREATMENT OF CAPITAL GAINS

Sec.

- 1201. Alternative tax for corporations.
- 1202. Partial exclusion for gain from certain small business stock.

#### AMENDMENTS

2000—Pub. L. 106-554, § 1(a)(7) [title I, § 117(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-604, substituted “Partial” for “50-percent” in item 1202.

1993—Pub. L. 103-66, title XIII, § 13113(d)(6), Aug. 10, 1993, 107 Stat. 430, added item 1202.

1986—Pub. L. 99-514, title III, § 301(b)(13), Oct. 22, 1986, 100 Stat. 2218, struck out item 1202 “Deduction for capital gains”.

1978—Pub. L. 95-600, title IV, § 401(b)(6), Nov. 6, 1978, 92 Stat. 2867, substituted “Alternative tax for corporations” for “Alternative tax” in item 1201.

### § 1201. Alternative tax for corporations

#### (a) General rule

If for any taxable year a corporation has a net capital gain and any rate of tax imposed by section 11, 511, or 831(a) or (b) (whichever is applicable) exceeds 35 percent (determined without re-