

section is effective with respect to taxable years beginning in 1977.

Pub. L. 94-455, title XIV, §1402(a)(2), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

Amendment by section 1901(a)(136) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 513(c) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 513(d) of Pub. L. 91-172, set out as a note under section 1211 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 230(c) of Pub. L. 88-272, set out as a note under section 1212 of this title.

§ 1223. Holding period of property

For purposes of this subtitle—

(1) In determining the period for which the taxpayer has held property received in an exchange, there shall be included the period for which he held the property exchanged if, under this chapter, the property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged, and, in the case of such exchanges the property exchanged at the time of such exchange was a capital asset as defined in section 1221 or property described in section 1231. For purposes of this paragraph—

(A) an involuntary conversion described in section 1033 shall be considered an exchange of the property converted for the property acquired, and

(B) a distribution to which section 355 (or so much of section 356 as relates to section 355) applies shall be treated as an exchange.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under this chapter such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 1091 relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(4) In determining the period for which the taxpayer has held stock or rights to acquire stock received on a distribution, if the basis of such stock or rights is determined under section 307, there shall (under regulations prescribed by the Secretary) be included the period for which he held the stock in the distrib-

uting corporation before the receipt of such stock or rights upon such distribution.

(5) In determining the period for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire such stock or securities, there shall be included only the period beginning with the date on which the right to acquire was exercised.

[(6) Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(80)(C), Dec. 19, 2014, 128 Stat. 4049.]

(7) In determining the period for which the taxpayer has held a commodity acquired in satisfaction of a commodity futures contract (other than a commodity futures contract to which section 1256 applies) there shall be included the period for which he held the commodity futures contract if such commodity futures contract was a capital asset in his hands.

[(8) Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(80)(C), Dec. 19, 2014, 128 Stat. 4049.]

(9) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of section 1014(b)), if—

(A) the basis of such property in the hands of such person is determined under section 1014, and

(B) such property is sold or otherwise disposed of by such person within 1 year after the decedent's death,

then such person shall be considered to have held such property for more than 1 year.

(10) If—

(A) property is acquired by any person in a transfer to which section 1040 applies,

(B) such property is sold or otherwise disposed of by such person within 1 year after the decedent's death, and

(C) such sale or disposition is to a person who is a qualified heir (as defined in section 2032A(e)(1)) with respect to the decedent,

then the person making such sale or other disposition shall be considered to have held such property for more than 1 year.

(11) In determining the period for which the taxpayer has held qualified replacement property (within the meaning of section 1042(b)) the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale of qualified securities (within the meaning of section 1042(b)), there shall be included the period for which such qualified securities had been held by the taxpayer.

(12) In determining the period for which the taxpayer has held property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property had been held as of the date of such sale.

(13) Except for purposes of sections 1202(a)(2), 1202(c)(2)(A), 1400B(b), and 1400F(b), in determining the period for which the taxpayer has held property the acquisition of which resulted under section 1045 or 1397B in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property has been held as of the date of such sale.

(14) If the security to which a securities futures contract (as defined in section 1234B) relates (other than a contract to which section 1256 applies) is acquired in satisfaction of such contract, in determining the period for which the taxpayer has held such security, there shall be included the period for which the taxpayer held such contract if such contract was a capital asset in the hands of the taxpayer.

(15) CROSS REFERENCE.—

For special holding period provision relating to certain partnership distributions, see section 735(b).

(Aug. 16, 1954, ch. 736, 68A Stat. 323; Pub. L. 87-834, §14(b)(3), Oct. 16, 1962, 76 Stat. 1041; Pub. L. 91-614, title I, §101(g), Dec. 31, 1970, 84 Stat. 1838; Pub. L. 94-455, title XIV, §1402(b)(1)(Q), (2), title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1732, 1834; Pub. L. 95-600, title VII, §702(c)(5), Nov. 6, 1978, 92 Stat. 2927; Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299; Pub. L. 97-448, title I, §§104(b)(3)(C), 105(c)(4), Jan. 12, 1983, 96 Stat. 2382, 2385; Pub. L. 98-369, div. A, title I, §54(c), title V, §541(b)(1), title X, §1001(b)(14), (e), July 18, 1984, 98 Stat. 569, 890, 1011, 1012; Pub. L. 100-647, title I, §1006(e)(17), Nov. 10, 1988, 102 Stat. 3403; Pub. L. 101-194, title V, §502(b)(1), Nov. 30, 1989, 103 Stat. 1754; Pub. L. 105-34, title III, §§312(d)(9), 313(b)(2), Aug. 5, 1997, 111 Stat. 840, 842; Pub. L. 105-206, title V, §5001(a)(5), title VI, §6005(d)(4), July 22, 1998, 112 Stat. 788, 805; Pub. L. 106-554, §1(a)(7) [title I, §116(b)(2), title IV, §401(h)(1)], Dec. 21, 2000, 114 Stat. 2763, 2763A-603, 2763A-650; Pub. L. 108-357, title IV, §413(c)(21), Oct. 22, 2004, 118 Stat. 1509; Pub. L. 109-135, title IV, §402(a)(2), Dec. 21, 2005, 119 Stat. 2610; Pub. L. 113-295, div. A, title II, §221(a)(80), Dec. 19, 2014, 128 Stat. 4049.)

AMENDMENTS

2014—Par. (1). Pub. L. 113-295, §221(a)(80)(A), struck out “after March 1, 1954,” after “such exchanges” in introductory provisions.

Par. (4). Pub. L. 113-295, §221(a)(80)(B), struck out “(or under so much of section 1052(c) as refers to section 113(a)(23) of the Internal Revenue Code of 1939)” after “section 307”. Amendment was executed to reflect the probable intent of Congress notwithstanding a second set of quotation marks around the text directed to be stricken.

Par. (6). Pub. L. 113-295, §221(a)(80)(C), struck out par. (6) which read as follows: “In determining the period for which the taxpayer has held a residence, the acquisition of which resulted under section 1034 (as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997) in the nonrecognition of any part of the gain realized on the sale or exchange of another residence, there shall be included the period for which such other residence had been held as of the date of such sale or exchange. For purposes of this paragraph, the term ‘sale or exchange’ includes an involuntary conversion occurring after December 31, 1950, and before January 1, 1954.”

Par. (8). Pub. L. 113-295, §221(a)(80)(C), struck out par. (8) which read as follows: “Any reference in this section to a provision of this title shall, where applicable, be deemed a reference to the corresponding provision of the Internal Revenue Code of 1939, or prior internal revenue laws.”

2005—Pars. (3) to (16). Pub. L. 109-135 redesignated pars. (4) to (16) as (3) to (15), respectively, and struck out former par. (3) which read as follows: “In determining the period for which the taxpayer has held stock or securities received upon a distribution where no gain was recognized to the distributee under section 1081(c) (or under section 112(g) of the Revenue Act of 1928, 45

Stat. 818, or the Revenue Act of 1932, 48 Stat. 705), there shall be included the period for which he held the stock or securities in the distributing corporation before the receipt of the stock or securities on such distribution.”

2004—Pars. (10) to (17). Pub. L. 108-357 redesignated pars. (11) to (17) as (10) to (16), respectively, and struck out former par. (10) which read as follows: “In determining the period for which the taxpayer has held trust certificates of a trust to which subsection (d) of section 1246 applies, or the period for which the taxpayer has held stock in a corporation to which subsection (d) of section 1246 applies, there shall be included the period for which the trust or corporation (as the case may be) held the stock of foreign investment companies.”

2000—Par. (15). Pub. L. 106-554, §1(a)(7) [title I, §116(b)(2)], amended par. (15) generally. Prior to amendment, par. (15) read as follows: “In determining the period for which the taxpayer has held property the acquisition of which resulted under section 1045 in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property has been held as of the date of such sale.”

Pars. (16), (17). Pub. L. 106-554, §1(a)(7) [title IV, §401(h)(1)], added par. (16) and redesignated former par. (16) as (17).

1998—Pars. (11), (12). Pub. L. 105-206, §6005(d)(4), substituted “18 months” for “1 year” in subpar. (B) and concluding provisions.

Pub. L. 105-206, §5001(a)(5), substituted “1 year” for “18 months” in subpar. (B) and concluding provisions.

1997—Par. (7). Pub. L. 105-34, §312(d)(9), inserted “(as in effect on the day before the date of the enactment of the Taxpayer Relief Act of 1997)” after “section 1034”.

Pars. (15), (16). Pub. L. 105-34, §313(b)(2), added par. (15) and redesignated former par. (15) as (16).

1989—Pars. (14), (15). Pub. L. 101-194 added par. (14) and redesignated former par. (14) as (15).

1988—Par. (14). Pub. L. 100-647 amended par. (14) generally, substituting “reference” for “references” in heading, striking out “(A)” before “For special holding”, and striking out subpar. (B) which related to distributions of appreciated property to corporations.

1984—Pars. (11), (12). Pub. L. 98-369, §1001(b)(14), (e), substituted “6 months” for “1 year”, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

Par. (13). Pub. L. 98-369, §541(b)(1), added par. (13). Former par. (13) redesignated (14).

Par. (14). Pub. L. 98-369, §541(b)(1), redesignated former par. (13) as (14).

Pub. L. 98-369, §54(c), designated existing cross reference as subpar. (A) and added subpar. (B).

1983—Par. (8). Pub. L. 97-448, §105(c)(4), inserted “(other than a commodity futures contract to which section 1256 applies)” after “acquired in satisfaction of a commodity futures contract”.

Pars. (12), (13). Pub. L. 97-448, §104(b)(3)(C), added par. (12) and redesignated former par. (12) as (13).

1980—Par. (11)(A). Pub. L. 96-223 repealed the amendment made by Pub. L. 95-600. See 1978 Amendment note below.

1978—Par. (11)(A). Pub. L. 95-600 inserted reference to determination of basis of property under section 1023. See Repeals note below.

1976—Par. (5). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Par. (11). Pub. L. 94-455, §1402(b)(2), provided that “9 months” would be changed to “1 year”.

Pub. L. 94-455, §1402(b)(1)(Q), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977.

1970—Pars. (11), (12). Pub. L. 91-614 added par. (11) and redesignated former par. (11) as (12).

1962—Pars. (10), (11). Pub. L. 87-834 added par. (10) and redesignated former par. (10) as (11).

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provisions of the Energy Policy Act of 2005, Pub. L. 109-58, to which it relates, but not applicable with respect to any transaction ordered in compliance with the Public Utility Holding Company Act of 1935 (15 U.S.C. 79 et seq.) before its repeal, see section 402(m) of Pub. L. 109-135, set out as an Effective and Termination Dates of 2005 Amendments note under section 23 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to taxable years of foreign corporations beginning after Dec. 31, 2004, and to taxable years of United States shareholders with or within which such taxable years of foreign corporations end, see section 413(d)(1) of Pub. L. 108-357, set out as an Effective and Termination Dates of 2004 Amendments note under section 1 of this title.

EFFECTIVE DATE OF 2000 AMENDMENT

Amendment by section 1(a)(7) [title I, §116(b)(2)] of Pub. L. 106-554 applicable to qualified empowerment zone assets acquired after Dec. 21, 2000, see section 1(a)(7) [title I, §116(c)] of Pub. L. 106-554, set out as a note under section 1016 of this title.

Amendment by section 1(a)(7) [title IV, §401(h)(1)] of Pub. L. 106-554 effective Dec. 21, 2000, see section 1(a)(7) [title IV, §401(j)] of Pub. L. 106-554, set out as a note under section 1032 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by section 5001(a)(5) of Pub. L. 105-206 effective Jan. 1, 1998, see section 5001(b)(2) of Pub. L. 105-206, set out as a note under section 1 of this title.

Amendment by section 6005(d)(4) of Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(9) of Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

Amendment by section 313(b)(2) of Pub. L. 105-34 applicable to sales after Aug. 5, 1997, see section 313(c) of Pub. L. 105-34, set out as a note under section 1016 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-194 applicable to sales after Nov. 30, 1989, see section 502(c) of Pub. L. 101-194, set out as a note under section 1016 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 541(b)(1) of Pub. L. 98-369 applicable to sales of securities in taxable years beginning after July 18, 1984, see section 541(c) of Pub. L. 98-369, set out as an Effective Date note under section 1042 of this title.

Amendment by section 1001(b)(14) of Pub. L. 98-369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98-369, set out as a note under section 166 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the

provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT AND REVIVAL OF PRIOR LAW

Amendment by Pub. L. 96-223 (repealing section 702(c)(5) of Pub. L. 95-600 and the amendments made thereby, which had amended this section) applicable in respect of decedents dying after Dec. 31, 1976, and except for certain elections, this title to be applied and administered as if those repealed provisions had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as a note under section 1023 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 to take effect as if included in the amendments and additions made by, and the appropriate provisions of Pub. L. 94-455, see section 702(c)(10) of Pub. L. 95-600, set out as a note under section 1014 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIV, §1402(b)(1), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by that section is effective with respect to taxable years beginning in 1977.

Pub. L. 94-455, title XIV, §1402(b)(2), Oct. 4, 1976, 90 Stat. 1732, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable with respect to taxable years beginning after Dec. 31, 1962, see section 14(c) of Pub. L. 87-834, set out as a note under section 312 of this title.

REPEALS

Pub. L. 95-600, §702(c)(5), cited as a credit to this section, and the amendments made thereby, were repealed by Pub. L. 96-223, title IV, §401(a), 94 Stat. 299, resulting in the text of this section reading as it read prior to enactment of section 702(c)(5). See Effective Date of 1980 Amendment and Revival of Prior Law note set out above.

PART IV—SPECIAL RULES FOR DETERMINING CAPITAL GAINS AND LOSSES

Sec.

1231. Property used in the trade or business and involuntary conversions.

[1232 to 1232B. Repealed.]

1233. Gains and losses from short sales.

1234. Options to buy or sell.

1234A. Gains or losses from certain terminations.

1234B. Gains or losses from securities futures contracts.

1235. Sale or exchange of patents.

1236. Dealers in securities.

1237. Real property subdivided for sale.

[1238. Repealed.]

1239. Gain from sale of certain property between spouses or between an individual and a controlled corporation.¹

[1240. Repealed.]

1241. Cancellation of lease or distributor's agreement.

¹ So in original. Does not conform to section catchline.