

## 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.<sup>1</sup>

[1240. Repealed.]

1241. Cancellation of lease or distributor's agreement.

<sup>1</sup> So in original. Does not conform to section catchline.

1242. Losses on small business investment company stock.
1243. Loss of small business investment company.
1244. Losses on small business stock.
1245. Gain from dispositions of certain depreciable property.
- [1246, 1247. Repealed.]
1248. Gain from certain sales or exchanges of stock in certain foreign corporations.
1249. Gain from certain sales or exchanges of patents, etc., to foreign corporations.
1250. Gain from dispositions of certain depreciable realty.
- [1251. Repealed.]
1252. Gain from the disposition of farm land.<sup>1</sup>
1253. Transfers of franchises, trademarks, and trade names.
1254. Gain from disposition of interest in oil, gas, geothermal, or other mineral properties.
1255. Gain from disposition of section 126 property.
1256. Section 1256 contracts marked to market.
1257. Disposition of converted wetlands or highly erodible croplands.
1258. Recharacterization of gain from certain financial transactions.
1259. Constructive sales treatment for appreciated financial positions.
1260. Gains from constructive ownership transactions.

## AMENDMENTS

2004—Pub. L. 108-357, title IV, § 413(c)(32), Oct. 22, 2004, 118 Stat. 1510, struck out items 1246 “Gain on foreign investment company stock” and 1247 “Election by foreign investment companies to distribute income currently”.

Pub. L. 108-311, title IV, § 408(a)(18), Oct. 4, 2004, 118 Stat. 1192, substituted “Gains or losses from securities futures contracts” for “Securities futures contracts” in item 1234B.

2000—Pub. L. 106-554, § 1(a)(7) [title IV, § 401(h)(2)], Dec. 21, 2000, 114 Stat. 2763, 2763A-650, which directed the amendment of the table of sections of subpart IV of subchapter P of chapter 1 by adding item 1234B, was executed by adding item 1234B to the table of sections for this part which is part IV of subchapter P of chapter 1 to reflect the probable intent of Congress.

1999—Pub. L. 106-170, title V, § 534(b), Dec. 17, 1999, 113 Stat. 1934, added item 1260.

1997—Pub. L. 105-34, title X, § 1001(c), Aug. 5, 1997, 111 Stat. 907, added item 1259.

1993—Pub. L. 103-66, title XIII, § 13206(a)(2), Aug. 10, 1993, 107 Stat. 465, added item 1258.

1990—Pub. L. 101-508, title XI, § 11801(b)(10), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 1238 “Amortization in excess of depreciation”.

1988—Pub. L. 100-647, title I, § 1018(u)(24), Nov. 10, 1988, 102 Stat. 3591, substituted “geothermal, or other mineral properties” for “or geothermal property” in item 1254.

1986—Pub. L. 99-514, title IV, § 403(b), Oct. 22, 1986, 100 Stat. 2222, added item 1257.

1984—Pub. L. 98-369, div. A, title I, §§ 42(b)(2), 102(e)(6), title IV, § 492(c), July 18, 1984, 98 Stat. 557, 624, 854, struck out items 1232 “Bonds and other evidence of indebtedness”, 1232A “Original issue discount”, 1232B “Tax treatment of stripped bonds”, 1251 “Gain from disposition of property used in farming where farm losses offset nonfarm income”, and substituted “Section 1256 contracts” for “Regulated futures contracts” in item 1256.

1982—Pub. L. 97-248, title II, §§ 231(d), 232(c), Sept. 3, 1982, 96 Stat. 499, 501, added items 1232A and 1232B.

1981—Pub. L. 97-34, title V, §§ 503(b), 507(b), Aug. 13, 1981, 95 Stat. 330, 333, added items 1234A and 1256.

1978—Pub. L. 95-618, title IV, § 402(c)(4), Nov. 9, 1978, 92 Stat. 3202, substituted “oil, gas, or geothermal” for “oil or gas” in item 1254.

Pub. L. 95-600, title V, § 543(c)(2), Nov. 6, 1978, 92 Stat. 2890, added item 1255.

1976—Pub. L. 94-455, title II, § 205(d), title XIX, § 1901(b)(34), Oct. 4, 1976, 90 Stat. 1535, 1802, added item 1254 and struck out item 1240 “Taxability to employee of termination payments”.

1969—Pub. L. 91-172, title II, §§ 211(b)(7), 214(b), title V, § 516(c)(2)(C), Dec. 30, 1969, 83 Stat. 570, 573, 648, added items 1251 to 1253.

1964—Pub. L. 88-272, title II, § 231(b)(7), Feb. 26, 1964, 78 Stat. 105, added item 1250.

1962—Pub. L. 87-834, §§ 13(a)(2), 14(a)(2), 15(b), 16(b), Oct. 16, 1962, 76 Stat. 1033, 1040, 1044, 1045, added items 1245-1249.

1958—Pub. L. 85-866, title I, § 57(c)(3), title II, § 202(c), Sept. 2, 1958, 72 Stat. 1646, 1678, added items 1242-1244.

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

### (a) General rule

#### (1) Gains exceed losses

If—

(A) the section 1231 gains for any taxable year, exceed

(B) the section 1231 losses for such taxable year,

such gains and losses shall be treated as long-term capital gains or long-term capital losses, as the case may be.

#### (2) Gains do not exceed losses

If—

(A) the section 1231 gains for any taxable year, do not exceed

(B) the section 1231 losses for such taxable year,

such gains and losses shall not be treated as gains and losses from sales or exchanges of capital assets.

#### (3) Section 1231 gains and losses

For purposes of this subsection—

##### (A) Section 1231 gain

The term “section 1231 gain” means—

(i) any recognized gain on the sale or exchange of property used in the trade or business, and

(ii) any recognized gain from the compulsory or involuntary conversion (as a result of destruction in whole or in part, theft or seizure, or an exercise of the power of requisition or condemnation or the threat or imminence thereof) into other property or money of—

(I) property used in the trade or business, or

(II) any capital asset which is held for more than 1 year and is held in connection with a trade or business or a transaction entered into for profit.

##### (B) Section 1231 loss

The term “section 1231 loss” means any recognized loss from a sale or exchange or conversion described in subparagraph (A).

#### (4) Special rules

For purposes of this subsection—

(A) In determining under this subsection whether gains exceed losses—

(i) the section 1231 gains shall be included only if and to the extent taken into account in computing gross income, and