

SUBPART D—PROVISIONS COMMON TO OTHER  
SUBPARTS

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**§ 751. Unrealized receivables and inventory items**

**(a) Sale or exchange of interest in partnership**

The amount of any money, or the fair market value of any property, received by a transferor partner in exchange for all or a part of his interest in the partnership attributable to—

- (1) unrealized receivables of the partnership,
- or
- (2) inventory items of the partnership,

shall be considered as an amount realized from the sale or exchange of property other than a capital asset.

**(b) Certain distributions treated as sales or exchanges**

**(1) General rule**

To the extent a partner receives in a distribution—

- (A) partnership property which is—
  - (i) unrealized receivables, or
  - (ii) inventory items which have appreciated substantially in value,

in exchange for all or a part of his interest in other partnership property (including money), or

- (B) partnership property (including money) other than property described in subparagraph (A)(i) or (ii) in exchange for all or a part of his interest in partnership property described in subparagraph (A)(i) or (ii),

such transactions shall, under regulations prescribed by the Secretary, be considered as a sale or exchange of such property between the distributee and the partnership (as constituted after the distribution).

**(2) Exceptions**

Paragraph (1) shall not apply to—

- (A) a distribution of property which the distributee contributed to the partnership,
- or
- (B) payments, described in section 736(a), to a retiring partner or successor in interest of a deceased partner.

**(3) Substantial appreciation**

For purposes of paragraph (1)—

**(A) In general**

Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds 120 percent of the adjusted basis to the partnership of such property.

**(B) Certain property excluded**

For purposes of subparagraph (A), there shall be excluded any inventory property if a principal purpose for acquiring such property was to avoid the provisions of this subsection relating to inventory items.

**(c) Unrealized receivables**

For purposes of this subchapter, the term “unrealized receivables” includes, to the extent not previously includible in income under the method of accounting used by the partnership, any rights (contractual or otherwise) to payment for—

- (1) goods delivered, or to be delivered, to the extent the proceeds therefrom would be treated as amounts received from the sale or exchange of property other than a capital asset, or
- (2) services rendered, or to be rendered.

For purposes of this section and,<sup>1</sup> sections 731, 732, and 741 (but not for purposes of section 736), such term also includes mining property (as defined in section 617(f)(2)), stock in a DISC (as described in section 992(a)), section 1245 property (as defined in section 1245(a)(3)), stock in certain foreign corporations (as described in section 1248), section 1250 property (as defined in section 1250(c)), farm land (as defined in section 1252(a)), franchises, trademarks, or trade names (referred to in section 1253(a)), and an oil, gas, or geothermal property (described in section 1254) but only to the extent of the amount which would be treated as gain to which section 617(d)(1), 995(c), 1245(a), 1248(a), 1250(a), 1252(a), 1253(a), or 1254(a) would apply if (at the time of the transaction described in this section or section 731, 732, or 741, as the case may be) such property had been sold by the partnership at its fair market value. For purposes of this section and,<sup>1</sup> sections 731, 732, and 741 (but not for purposes of section 736), such term also includes any market discount bond (as defined in section 1278) and any short-term obligation (as defined in section 1283) but only to the extent of the amount which would be treated as ordinary income if (at the time of the transaction described in this section or section 731, 732, or 741, as the case may be) such property had been sold by the partnership.

**(d) Inventory items**

For purposes of this subchapter, the term “inventory items” means—

- (1) property of the partnership of the kind described in section 1221(a)(1),
- (2) any other property of the partnership which, on sale or exchange by the partnership, would be considered property other than a capital asset and other than property described in section 1231, and
- (3) any other property held by the partnership which, if held by the selling or distributee partner, would be considered property of the type described in paragraph (1) or (2).

**(e) Limitation on tax attributable to deemed sales of section 1248 stock**

For purposes of applying this section and sections 731 and 741 to any amount resulting from the reference to section 1248(a) in the second sentence of subsection (c), in the case of an individual, the tax attributable to such amount shall be limited in the manner provided by subsection (b) of section 1248 (relating to gain from certain sales or exchanges of stock in certain foreign corporation).

<sup>1</sup> So in original. The comma probably should not appear.

**(f) Special rules in the case of tiered partnerships, etc.**

In determining whether property of a partnership is—

- (1) an unrealized receivable, or
- (2) an inventory item,

such partnership shall be treated as owning its proportionate share of the property of any other partnership in which it is a partner. Under regulations, rules similar to the rules of the preceding sentence shall also apply in the case of interests in trusts.

(Aug. 16, 1954, ch. 736, 68A Stat. 250; Pub. L. 87-834, §§ 13(f)(1), 14(b)(2), Oct. 16, 1962, 76 Stat. 1035, 1041; Pub. L. 88-272, title II, § 231(b)(6), Feb. 26, 1964, 78 Stat. 105; Pub. L. 89-570, § 1(c), Sept. 12, 1966, 80 Stat. 762; Pub. L. 91-172, title II, § 211(b)(6), Dec. 30, 1969, 83 Stat. 570; Pub. L. 94-455, title II, § 205(b), title X, § 1042(c)(2), title XI, § 1101(d)(2), title XIX, §§ 1901(a)(93), 1906(b)(13)(A), title XXI, § 2110(a), Oct. 4, 1976, 90 Stat. 1535, 1637, 1658, 1780, 1834, 1905; Pub. L. 95-600, title VII, § 701(u)(13)(A), Nov. 6, 1978, 92 Stat. 2918; Pub. L. 95-618, title IV, § 402(c)(5), Nov. 9, 1978, 92 Stat. 3202; Pub. L. 97-448, title I, § 102(a)(6), Jan. 12, 1983, 96 Stat. 2368; Pub. L. 98-369, div. A, title I, §§ 43(c)(3), 76(a), title IV, § 492(b)(4), July 18, 1984, 98 Stat. 558, 595, 854; Pub. L. 99-514, title II, § 201(d)(10), title XVIII, § 1899A(19), Oct. 22, 1986, 100 Stat. 2141, 2959; Pub. L. 103-66, title XIII, §§ 13206(e)(1), 13262(b)(1), (2)(A), Aug. 10, 1993, 107 Stat. 467, 541; Pub. L. 105-34, title X, § 1062(a)-(b)(2), Aug. 5, 1997, 111 Stat. 946, 947; Pub. L. 105-206, title VI, § 6010(m), July 22, 1998, 112 Stat. 816; Pub. L. 106-170, title V, § 532(c)(2)(F), Dec. 17, 1999, 113 Stat. 1930; Pub. L. 108-357, title IV, § 413(c)(11), Oct. 22, 2004, 118 Stat. 1507.)

## AMENDMENTS

2004—Subsec. (d)(2) to (4). Pub. L. 108-357 inserted “and” at end of par. (2), redesignated par. (4) as (3) and substituted “paragraph (1) or (2)” for “paragraph (1), (2), or (3)”, and struck out former par. (3) which read as follows: “any other property of the partnership which, if sold or exchanged by the partnership, would result in a gain taxable under subsection (a) of section 1246 (relating to gain on foreign investment company stock), and”.

1999—Subsec. (d)(1). Pub. L. 106-170 substituted “section 1221(a)(1)” for “section 1221(1)”.

1998—Subsec. (c). Pub. L. 105-206 substituted “731, 732,” for “731” wherever appearing in concluding provisions.

1997—Subsec. (a)(2). Pub. L. 105-34, § 1062(a), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “inventory items of the partnership which have appreciated substantially in value.”

Subsec. (b)(1). Pub. L. 105-34, § 1062(b)(1)(A), added subpars. (A) and (B) and struck out former subpars. (A) and (B) which read as follows:

“(A) partnership property described in subsection (a)(1) or (2) in exchange for all or a part of his interest in other partnership property (including money), or

“(B) partnership property (including money) other than property described in subsection (a)(1) or (2) in exchange for all or a part of his interest in partnership property described in subsection (a)(1) or (2).”

Subsec. (b)(3). Pub. L. 105-34, § 1062(b)(1)(B), added par. (3).

Subsec. (d). Pub. L. 105-34, § 1062(b)(2), amended heading and text of subsec. (d) generally. Prior to amendment, subsec. (d) consisted of pars. (1) and (2) relating

to inventory items which have appreciated substantially in value.

1993—Subsec. (c). Pub. L. 103-66, § 13262(b)(1), in concluding provisions, substituted “section 731 or 741” for “section 731, 736, or 741” in two places and “, sections 731 and 741 (but not for purposes of section 736)” for “sections 731, 736, and 741” in two places.

Subsec. (d)(1). Pub. L. 103-66, § 13206(e)(1), amended heading and text of par. (1) generally. Prior to amendment, text read as follows: “Inventory items of the partnership shall be considered to have appreciated substantially in value if their fair market value exceeds—

“(A) 120 percent of the adjusted basis to the partnership of such property, and

“(B) 10 percent of the fair market value of all partnership property, other than money.”

Subsec. (e). Pub. L. 103-66, § 13262(b)(2)(A), substituted “sections 731 and 741” for “sections 731, 736, and 741”.

1986—Subsec. (c). Pub. L. 99-514, § 1899A(19), substituted “section 617(f)(2), stock” for “section 617(f)(2), stock” in second sentence.

Pub. L. 99-514, § 201(d)(10), struck out “section 1245 recovery property (as defined in section 1245(a)(5)),” before “stock in certain foreign corporations” in second sentence.

1984—Subsec. (c). Pub. L. 98-369, § 492(b)(4), struck out “farm recapture property (as defined in section 1251(e)(1)),” before “farm land”, and “1251(c),” after “1250(a),” in second sentence.

Pub. L. 98-369, § 43(c)(3), inserted last sentence.

Subsec. (f). Pub. L. 98-369, § 76(a), added subsec. (f).

1983—Subsec. (c). Pub. L. 97-448 inserted reference to section 1245 recovery property (as defined in section 1245(a)(5)) in second sentence.

1978—Subsec. (c). Pub. L. 95-618 substituted “oil, gas, or geothermal property” for “oil or gas property” in second sentence.

Subsec. (e). Pub. L. 95-600 added subsec. (e).

1976—Subsec. (b)(1). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §§ 205(b), 1042(c)(2), 1101(d)(2), 1901(a)(93), 2110(a), in second sentence, inserted reference to stock in a DISC (as described in section 992(a)), reference to stock in certain foreign corporations (as described in section 1248), and reference to farm land (as defined in section 1252(a)), franchises, trademarks or trade names (referred to in section 1253(a)), and an oil or gas property (described in section 1254), substituted “1252(a), 1253(a), or 1254(a)” for “or 1252(a)”, and inserted “1248(a),” after “1245(a),” and “995(c),” after “617(d)(1).”

1969—Subsec. (c). Pub. L. 91-172, in second sentence, substituted “section 1250 property (as defined in section 1250(c)), farm recapture property (as defined in section 1251(e)(1)), and farm land (as defined in section 1252(a))”, and “1250(a), 1251(c), or 1252(a)”, for “and section 1250 property (as defined in section 1250(c))” and “1250(a)”, respectively.

1966—Subsec. (c). Pub. L. 89-570, in second sentence, inserted reference to mining property (as defined in section 617(f)(2)) and to section 617(d)(1).

1964—Subsec. (c). Pub. L. 88-272, in second sentence, inserted reference to section 1250.

1962—Subsec. (c). Pub. L. 87-834, § 13(f)(1), defined “unrealized receivables” for purposes of this section and section 731, 736, and 741, as including section 1245 property, but only to the extent of the amount which would be treated as gain to which section 1245(a) would apply if (at the time of the transaction described in this section or section 731, 736, or 741, as the case may be) such property had been sold by the partnership at its fair market value.

Subsec. (d)(2). Pub. L. 87-834, § 14(b)(2), added subpar. (C), redesignated former subpar. (C) as (D), and substituted “subparagraph (A), (B), or (C)” for “subparagraph (A) or (B)”.

## 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 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by 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 Pub. L. 105-34 applicable to sales, exchanges, and distributions after Aug. 5, 1997, but not applicable to any sale or exchange pursuant to a written binding contract in effect on June 8, 1997, and at all times thereafter before such sale or exchange, see section 1062(c) of Pub. L. 105-34, set out as a note under section 724 of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13206(e)(2), Aug. 10, 1993, 107 Stat. 467, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to sales, exchanges, and distributions after April 30, 1993."

Amendment by section 13262(b)(1) and (2)(A) of Pub. L. 103-66 applicable in the case of partners retiring or dying on or after Jan. 5, 1993, with a binding contract exception, see section 13262(c) of Pub. L. 103-66, set out as a note under section 736 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 201(d)(10) of Pub. L. 99-514 applicable to property placed in service after Dec. 31, 1986, in taxable years ending after such date, with exceptions, see sections 203 and 204 of Pub. L. 99-514, set out as a note under section 168 of this title.

Amendment by section 201(d)(10) of Pub. L. 99-514 not applicable to any property placed in service before Jan. 1, 1994, if such property placed in service as part of specified rehabilitations, and not applicable to certain additional rehabilitations, see section 251(d)(2), (3) of Pub. L. 99-514, set out as a note under section 46 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 43(c)(3) of Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

Pub. L. 98-369, div. A, title I, §76(b), July 18, 1984, 98 Stat. 595, provided that: "The amendment made by subsection (a) [amending this section] shall apply to distributions, sales, and exchanges made after March 31, 1984, in taxable years ending after such date."

Amendment by section 492(b)(4) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 492(d) of Pub. L. 98-369, set out as a note under section 170 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 1978 AMENDMENTS

Amendment by Pub. L. 95-618 applicable with respect to wells commenced on or after Oct. 1, 1978, in taxable

years ending on or after such date, see section 402(e) of Pub. L. 95-618, set out as a note under section 263 of this title.

Pub. L. 95-600, title VII, §701(u)(13)(C), Nov. 6, 1978, 92 Stat. 2918, provided that: "The amendments made by this paragraph [amending this section and section 736 of this title] shall apply to transfers beginning after October 9, 1975, and to sales, exchanges, and distributions taking place after such date."

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 205(b) of Pub. L. 94-455 effective for taxable years ending after Dec. 31, 1975, see section 205(e) of Pub. L. 94-455, set out as an Effective Date note under section 1254 of this title.

Amendment by section 1042(c)(2) of Pub. L. 94-455 applicable to transfers beginning after Oct. 9, 1975, and to sales, exchanges and distributions taking place after that date, see section 1042(e)(1) of Pub. L. 94-455, set out as a note under section 367 of this title.

Amendment by section 1101(d)(2) of Pub. L. 94-455 applicable to sales, exchanges, or other dispositions after Dec. 31, 1975, in taxable years ending after such date, see section 1101(g)(4) of Pub. L. 94-455, set out as a note under section 995 of this title.

Amendment by section 1901(a)(93) of Pub. L. 94-455 effective for 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.

Pub. L. 94-455, title XXI, §2110(b), Oct. 4, 1976, 90 Stat. 1905, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Subsection (a) [amending this section] shall apply to transactions described in sections 731, 736, 741, or 751 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] which occur after December 31, 1976, in taxable years ending after that date."

#### EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 211(c) of Pub. L. 91-172, set out as a note under section 301 of this title.

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-570 applicable to taxable years ending after Sept. 12, 1966, but only in respect of expenditures paid or incurred after such date see section 3 of Pub. L. 89-570, set out as an Effective Date note under section 617 of this title.

#### EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to dispositions after Dec. 31, 1963, in taxable years ending after such date, see section 231(c) of Pub. L. 88-272, set out as an Effective Date note under section 1250 of this title.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by section 13(f)(1) of Pub. L. 87-834 applicable to taxable years beginning after Dec. 31, 1962, see section 13(g) of Pub. L. 87-834, set out as an Effective Date note under section 1245 of this title.

Amendment by section 14(b)(2) of 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.

#### PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [ §§1101-1147 and 1171-1177 ] or title XVIII [ §§1800-1899A ] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

**§ 752. Treatment of certain liabilities****(a) Increase in partner's liabilities**

Any increase in a partner's share of the liabilities of a partnership, or any increase in a partner's individual liabilities by reason of the assumption by such partner of partnership liabilities, shall be considered as a contribution of money by such partner to the partnership.

**(b) Decrease in partner's liabilities**

Any decrease in a partner's share of the liabilities of a partnership, or any decrease in a partner's individual liabilities by reason of the assumption by the partnership of such individual liabilities, shall be considered as a distribution of money to the partner by the partnership.

**(c) Liability to which property is subject**

For purposes of this section, a liability to which property is subject shall, to the extent of the fair market value of such property, be considered as a liability of the owner of the property.

**(d) Sale or exchange of an interest**

In the case of a sale or exchange of an interest in a partnership, liabilities shall be treated in the same manner as liabilities in connection with the sale or exchange of property not associated with partnerships.

(Aug. 16, 1954, ch. 736, 68A Stat. 251.)

## OVERRULING OF RAPHAN CASE

Pub. L. 98-369, div. A, title I, §79, July 18, 1984, 98 Stat. 597, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) GENERAL RULE.—Section 752 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (and the regulations prescribed thereunder) shall be applied without regard to the result reached in the case of Raphan vs the United States, 3 Cl. Ct. 457 (1983).

“(b) REGULATIONS.—In amending the regulations prescribed under section 752 of such Code to reflect subsection (a), the Secretary of the Treasury or his delegate shall prescribe regulations relating to liabilities, including the treatment of guarantees, assumptions, indemnity agreements, and similar arrangements.”

**§ 753. Partner receiving income in respect of decedent**

The amount includible in the gross income of a successor in interest of a deceased partner under section 736(a) shall be considered income in respect of a decedent under section 691.

(Aug. 16, 1954, ch. 736, 68A Stat. 251.)

**§ 754. Manner of electing optional adjustment to basis of partnership property**

If a partnership files an election, in accordance with regulations prescribed by the Secretary, the basis of partnership property shall be adjusted, in the case of a distribution of property, in the manner provided in section 734 and, in the case of a transfer of a partnership interest, in the manner provided in section 743. Such an election shall apply with respect to all distributions of property by the partnership and to all transfers of interests in the partnership during the taxable year with respect to which such election was filed and all subsequent taxable years. Such election may be revoked by the

partnership, subject to such limitations as may be provided by regulations prescribed by the Secretary.

(Aug. 16, 1954, ch. 736, 68A Stat. 251; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834.)

## AMENDMENTS

1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

**§ 755. Rules for allocation of basis****(a) General rule**

Any increase or decrease in the adjusted basis of partnership property under section 734(b) (relating to the optional adjustment to the basis of undistributed partnership property) or section 743(b) (relating to the optional adjustment to the basis of partnership property in the case of a transfer of an interest in a partnership) shall, except as provided in subsection (b), be allocated—

(1) in a manner which has the effect of reducing the difference between the fair market value and the adjusted basis of partnership properties, or

(2) in any other manner permitted by regulations prescribed by the Secretary.

**(b) Special rule**

In applying the allocation rules provided in subsection (a), increases or decreases in the adjusted basis of partnership property arising from a distribution of, or a transfer of an interest attributable to, property consisting of—

(1) capital assets and property described in section 1231(b), or

(2) any other property of the partnership,

shall be allocated to partnership property of a like character except that the basis of any such partnership property shall not be reduced below zero. If, in the case of a distribution, the adjustment to basis of property described in paragraph (1) or (2) is prevented by the absence of such property or by insufficient adjusted basis for such property, such adjustment shall be applied to subsequently acquired property of a like character in accordance with regulations prescribed by the Secretary.

**(c) No allocation of basis decrease to stock of corporate partner**

In making an allocation under subsection (a) of any decrease in the adjusted basis of partnership property under section 734(b)—

(1) no allocation may be made to stock in a corporation (or any person related (within the meaning of sections 267(b) and 707(b)(1)) to such corporation) which is a partner in the partnership, and

(2) any amount not allocable to stock by reason of paragraph (1) shall be allocated under subsection (a) to other partnership property.

Gain shall be recognized to the partnership to the extent that the amount required to be allocated under paragraph (2) to other partnership property exceeds the aggregate adjusted basis of such other property immediately before the allocation required by paragraph (2).