

31, 1983, see section 711(c)(2)(A)(v) of Pub. L. 98-369, set out as a note under section 165 of this title.

Amendment by section 1001(b)(15) 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 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to property acquired and positions established by the taxpayer after June 23, 1981, in taxable years ending after such date, and applicable when so elected with respect to property held on June 23, 1981, see section 508 of Pub. L. 97-34, set out as an Effective Date note under section 1092 of this title.

#### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §701(ee)(2), Nov. 6, 1978, 92 Stat. 2924, provided that: "The amendment made by paragraph (1) [amending this section] shall apply with respect to sales, exchanges, and contributions made after October 4, 1976."

#### 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 1969 AMENDMENT

Pub. L. 91-172, title II, §212(b)(2), Dec. 30, 1969, 83 Stat. 571, provided that: "The amendments made by paragraph (1) [amending this section] shall apply to livestock acquired after December 31, 1969."

Amendment by section 514(b)(2) of Pub. L. 91-172 applicable to sales and other dispositions occurring after July 25, 1969, see section 514(c) of Pub. L. 91-172, set out as a note under section 1221 of this title.

Amendment by section 516(b) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 516(d)(2) of Pub. L. 91-172, set out as a note under section 1001 of this title.

#### EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable with respect to amounts received or accrued in taxable years beginning after Dec. 31, 1963, attributable to iron ore mined in such years, see section 227(c) of Pub. L. 88-272, set out as a note under section 272 of this title.

#### EFFECTIVE DATE OF 1958 AMENDMENT

Pub. L. 85-866, title I, §49(b), Sept. 2, 1958, 72 Stat. 1642, provided that: "The amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1957."

### **[§§ 1232 to 1232B. Repealed. Pub. L. 98-369, div. A, title I, § 42(a)(1), July 18, 1984, 98 Stat. 556]**

Section 1232, acts Aug. 16, 1954, ch. 736, 68A Stat. 326; Sept. 2, 1958, Pub. L. 85-866, title I, §§50(a), 51, 72 Stat. 1642, 1643; June 25, 1959, Pub. L. 86-69, §3(e), 73 Stat. 140; Sept. 2, 1964, Pub. L. 88-563, §5, 78 Stat. 845; Dec. 30, 1969, Pub. L. 91-172, title IV, §413(a), (b), 83 Stat. 609, 611; Oct. 4, 1976, Pub. L. 94-455, title XIV, §1402(b)(1)(S), (2), title XIX, §§1901(b)(3)(I), (14)(D), 1904(b)(10)(C), 90 Stat. 1732, 1793, 1796, 1817; Aug. 13, 1981, Pub. L. 97-34, title V, §505(b), 95 Stat. 331; Sept. 3, 1982, Pub. L. 97-248, title II, §§231(c), 232(b), title III, §310(b)(6), 96 Stat. 499, 501, 599; Jan. 12, 1983, Pub. L. 97-448, title III, §306(a)(9)(B), (C)(i), (ii), 96 Stat. 2403, 2404; July 18, 1984, Pub. L. 98-369, div. A, title X, §1001(b)(16), (d), (e), 98 Stat. 1012, related to bonds and other evidences of indebtedness. See section 1271 et seq. of this title.

Section 1232A, added Pub. L. 97-248, title II, §231(a), Sept. 3, 1982, 96 Stat. 496; amended Pub. L. 98-369, div. A, title II, §211(b)(17), July 18, 1984, 98 Stat. 756, related to original issue discount. See section 1271 et seq. of this title.

Section 1232B, added Pub. L. 97-248, title II, §232(a), Sept. 3, 1982, 96 Stat. 499, related to stripped bonds. See section 1286 of this title.

#### EFFECTIVE DATE OF REPEAL

Repeal 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.

### **§ 1233. Gains and losses from short sales**

#### **(a) Capital assets**

For purposes of this subtitle, gain or loss from the short sale of property shall be considered as gain or loss from the sale or exchange of a capital asset to the extent that the property, including a commodity future, used to close the short sale constitutes a capital asset in the hands of the taxpayer.

#### **(b) Short-term gains and holding periods**

If gain or loss from a short sale is considered as gain or loss from the sale or exchange of a capital asset under subsection (a) and if on the date of such short sale substantially identical property has been held by the taxpayer for not more than 1 year (determined without regard to the effect, under paragraph (2) of this subsection, of such short sale on the holding period), or if substantially identical property is acquired by the taxpayer after such short sale and on or before the date of the closing thereof—

(1) any gain on the closing of such short sale shall be considered as a gain on the sale or exchange of a capital asset held for not more than 1 year (notwithstanding the period of time any property used to close such short sale has been held); and

(2) the holding period of such substantially identical property shall be considered to begin (notwithstanding section 1223, relating to the holding period of property) on the date of the closing of the short sale, or on the date of a sale, gift, or other disposition of such property, whichever date occurs first. This paragraph shall apply to such substantially identical property in the order of the dates of the acquisition of such property, but only to so much of such property as does not exceed the quantity sold short.

For purposes of this subsection, the acquisition of an option to sell property at a fixed price shall be considered as a short sale, and the exercise or failure to exercise such option shall be considered as a closing of such short sale.

#### **(c) Certain options to sell**

Subsection (b) shall not include an option to sell property at a fixed price acquired on the same day on which the property identified as intended to be used in exercising such option is acquired and which, if exercised, is exercised through the sale of the property so identified. If the option is not exercised, the cost of the option shall be added to the basis of the property with which the option is identified. This subsection shall apply only to options acquired after August 16, 1954.