

(A) the amount of any loss recognized to the distributee partner with respect to such distribution under section 731(a)(2), and

(B) in the case of distributed property to which section 732(b) applies, the excess of the basis of the distributed property to the distributee, as determined under section 732, over the adjusted basis of the distributed property to the partnership immediately before such distribution (as adjusted by section 732(d)).

Paragraph (1)(B) shall not apply to any distributed property which is an interest in another partnership with respect to which the election provided in section 754 is not in effect.

**(c) Allocation of basis**

The allocation of basis among partnership properties where subsection (b) is applicable shall be made in accordance with the rules provided in section 755.

**(d) Substantial basis reduction**

**(1) In general**

For purposes of this section, there is a substantial basis reduction with respect to a distribution if the sum of the amounts described in subparagraphs (A) and (B) of subsection (b)(2) exceeds \$250,000.

**(2) Regulations**

For regulations to carry out this subsection, see section 743(d)(2).

**(e) Exception for securitization partnerships**

For purposes of this section, a securitization partnership (as defined in section 743(f)) shall not be treated as having a substantial basis reduction with respect to any distribution of property to a partner.

(Aug. 16, 1954, ch. 736, 68A Stat. 247; Pub. L. 98-369, div. A, title I, § 78(a), July 18, 1984, 98 Stat. 597; Pub. L. 108-357, title VIII, § 833(c)(1)–(5)(A), Oct. 22, 2004, 118 Stat. 1591, 1592; Pub. L. 109-135, title IV, § 403(bb), Dec. 21, 2005, 119 Stat. 2630.)

AMENDMENTS

2005—Subsec. (a). Pub. L. 109-135, § 403(bb)(1), inserted “with respect to such distribution” before period at end.

Subsec. (b). Pub. L. 109-135, § 403(bb)(2), reenacted heading without change and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “In the case of a distribution of property to a partner, a partnership, with respect to which the election provided in section 754 is in effect or unless there is a substantial basis reduction, shall—”.

2004—Pub. L. 108-357, § 833(c)(5)(A), substituted “Adjustment to basis of undistributed partnership property where section 754 election or substantial basis reduction” for “Optional adjustment to basis of undistributed partnership property” in section catchline.

Subsec. (a). Pub. L. 108-357, § 833(c)(1), inserted “or unless there is a substantial basis reduction” before period at end.

Subsec. (b). Pub. L. 108-357, § 833(c)(2), inserted “or unless there is a substantial basis reduction” after “section 754 is in effect” in introductory provisions.

Subsec. (d). Pub. L. 108-357, § 833(c)(3), added subsec. (d).

Subsec. (e). Pub. L. 108-357, § 833(c)(4), added subsec. (e).

1984—Subsec. (b). Pub. L. 98-369 inserted at end “Paragraph (1)(B) shall not apply to any distributed property which is an interest in another partnership with respect to which the election provided in section 754 is not in effect.”

EFFECTIVE DATE OF 2005 AMENDMENT

Amendment by Pub. L. 109-135 effective as if included in the provision of the American Jobs Creation Act of 2004, Pub. L. 108-357, to which such amendment relates, see section 403(mn) of Pub. L. 109-135, set out as a note under section 26 of this title.

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, § 833(d)(3), Oct. 22, 2004, 118 Stat. 1592, provided that: “The amendments made by subsection (c) [amending this section] shall apply to distributions after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, § 78(b), July 18, 1984, 98 Stat. 597, provided that: “The amendment made by subsection (a) [amending this section] shall apply to distributions after March 1, 1984, in taxable years ending after such date.”

**§ 735. Character of gain or loss on disposition of distributed property**

**(a) Sale or exchange of certain distributed property**

**(1) Unrealized receivables**

Gain or loss on the disposition by a distributee partner of unrealized receivables (as defined in section 751(c)) distributed by a partnership, shall be considered as ordinary income or as ordinary loss, as the case may be.

**(2) Inventory items**

Gain or loss on the sale or exchange by a distributee partner of inventory items (as defined in section 751(d)) distributed by a partnership shall, if sold or exchanged within 5 years from the date of the distribution, be considered as ordinary income or as ordinary loss, as the case may be.

**(b) Holding period for distributed property**

In determining the period for which a partner has held property received in a distribution from a partnership (other than for purposes of subsection (a)(2)), there shall be included the holding period of the partnership, as determined under section 1223, with respect to such property.

**(c) Special rules**

**(1) Waiver of holding periods contained in section 1231**

For purposes of this section, section 751(d) (defining inventory item) shall be applied without regard to any holding period in section 1231(b).

**(2) Substituted basis property**

**(A) In general**

If any property described in subsection (a) is disposed of in a nonrecognition transaction, the tax treatment which applies to such property under such subsection shall also apply to any substituted basis property resulting from such transaction. A similar rule shall also apply in the case of a series of nonrecognition transactions.

**(B) Exception for stock in C corporation**

Subparagraph (A) shall not apply to any stock in a C corporation received in an exchange described in section 351.

(Aug. 16, 1954, ch. 763, 68A Stat. 247; Pub. L. 94-455, title XIX, §1901(b)(3)(D), Oct. 4, 1976, 90 Stat. 1792; Pub. L. 98-369, div. A, title I, §74(b), July 18, 1984, 98 Stat. 593; Pub. L. 105-34, title X, §1062(b)(3), Aug. 5, 1997, 111 Stat. 947.)

## AMENDMENTS

1997—Subsecs. (a)(2), (c)(1). Pub. L. 105-34 substituted “section 751(d)” for “section 751(d)(2)”.

1984—Subsec. (c). Pub. L. 98-369 added subsec. (c).

1976—Subsec. (a)(1), (2). Pub. L. 94-455 substituted “as ordinary income or as ordinary loss, as the case may be” for “gain or loss from the sale or exchange of property other than a capital asset”.

## 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 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §74(d)(2), July 18, 1984, 98 Stat. 594, provided that: “The amendment made by subsection (b) [amending this section] shall apply to property distributed after March 31, 1984, in taxable years ending after such date.”

## EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by 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.

**§ 736. Payments to a retiring partner or a deceased partner's successor in interest****(a) Payments considered as distributive share or guaranteed payment**

Payments made in liquidation of the interest of a retiring partner or a deceased partner shall, except as provided in subsection (b), be considered—

(1) as a distributive share to the recipient of partnership income if the amount thereof is determined with regard to the income of the partnership, or

(2) as a guaranteed payment described in section 707(c) if the amount thereof is determined without regard to the income of the partnership.

**(b) Payments for interest in partnership****(1) General rule**

Payments made in liquidation of the interest of a retiring partner or a deceased partner shall, to the extent such payments (other than payments described in paragraph (2)) are determined, under regulations prescribed by the Secretary, to be made in exchange for the interest of such partner in partnership property, be considered as a distribution by the partnership and not as a distributive share or guaranteed payment under subsection (a).

**(2) Special rules**

For purposes of this subsection, payments in exchange for an interest in partnership property shall not include amounts paid for—

(A) unrealized receivables of the partnership (as defined in section 751(c)), or

(B) good will of the partnership, except to the extent that the partnership agreement provides for a payment with respect to good will.

**(3) Limitation on application of paragraph (2)**

Paragraph (2) shall apply only if—

(A) capital is not a material income-producing factor for the partnership, and

(B) the retiring or deceased partner was a general partner in the partnership.

(Aug. 16, 1954, ch. 736, 68A Stat. 248; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 95-600, title VII, §701(u)(13)(B), Nov. 6, 1978, 92 Stat. 2918; Pub. L. 103-66, title XIII, §13262(a), (b)(2)(B), Aug. 10, 1993, 107 Stat. 541.)

## AMENDMENTS

1993—Subsec. (b)(3). Pub. L. 103-66, §13262(a), added par. (3).

Subsec. (c). Pub. L. 103-66, §13262(b)(2)(B), struck out heading and text of subsec. (c). Text read as follows: “For limitation on the tax attributable to certain gain connected with section 1248 stock, see section 751(e).”

1978—Subsec. (c). Pub. L. 95-600 added subsec. (c).

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

## EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13262(c), Aug. 10, 1993, 107 Stat. 541, provided that:

“(1) IN GENERAL.—The amendments made by this section [amending this section and section 751 of this title] shall apply in the case of partners retiring or dying on or after January 5, 1993.

“(2) BINDING CONTRACT EXCEPTION.—The amendments made by this section shall not apply to any partner retiring on or after January 5, 1993, if a written contract to purchase such partner's interest in the partnership was binding on January 4, 1993, and at all times thereafter before such purchase.”

## EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95-600 applicable to transfers beginning after Oct. 9, 1975, and to sales, exchanges, and distributions taking place after Oct. 9, 1975, see section 701(u)(13)(C) of Pub. L. 95-600, set out as a note under section 751 of this title.

**§ 737. Recognition of precontribution gain in case of certain distributions to contributing partner****(a) General rule**

In the case of any distribution by a partnership to a partner, such partner shall be treated as recognizing gain in an amount equal to the lesser of—

(1) the excess (if any) of (A) the fair market value of property (other than money) received in the distribution over (B) the adjusted basis of such partner's interest in the partnership immediately before the distribution reduced (but not below zero) by the amount of money received in the distribution, or

(2) the net precontribution gain of the partner.

Gain recognized under the preceding sentence shall be in addition to any gain recognized under section 731. The character of such gain shall be determined by reference to the proportionate character of the net precontribution gain.