

## EFFECTIVE DATE OF REPEAL

Repeal 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 that Act's 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.

## PART VII—WASH SALES; STRADDLES

Sec.	
1091.	Loss from wash sales of stock or securities.
1092.	Straddles.

## AMENDMENTS

1981—Pub. L. 97-34, title V, §501(d)(1), (2), Aug. 13, 1981, 95 Stat. 326, 327, substituted as part heading “WASH SALES; STRADDLES” for “WASH SALES OF STOCK OR SECURITIES” and added item 1092.

**§ 1091. Loss from wash sales of stock or securities****(a) Disallowance of loss deduction**

In the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange on which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction shall be allowed under section 165 unless the taxpayer is a dealer in stock or securities and the loss is sustained in a transaction made in the ordinary course of such business. For purposes of this section, the term “stock or securities” shall, except as provided in regulations, include contracts or options to acquire or sell stock or securities.

**(b) Stock acquired less than stock sold**

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the loss from the sale or other disposition of which is not deductible shall be determined under regulations prescribed by the Secretary.

**(c) Stock acquired not less than stock sold**

If the amount of stock or securities acquired (or covered by the contract or option to acquire) is not less than the amount of stock or securities sold or otherwise disposed of, then the particular shares of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility of the loss shall be determined under regulations prescribed by the Secretary.

**(d) Unadjusted basis in case of wash sale of stock**

If the property consists of stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under this section or corresponding provisions of prior internal revenue laws) of the loss from the sale or other disposition of substantially identical stock or securities, then the basis shall be the basis of the stock or secu-

rities so sold or disposed of, increased or decreased, as the case may be, by the difference, if any, between the price at which the property was acquired and the price at which such substantially identical stock or securities were sold or otherwise disposed of.

**(e) Certain short sales of stock or securities and securities futures contracts to sell**

Rules similar to the rules of subsection (a) shall apply to any loss realized on the closing of a short sale of (or the sale, exchange, or termination of a securities futures contract to sell) stock or securities if, within a period beginning 30 days before the date of such closing and ending 30 days after such date—

(1) substantially identical stock or securities were sold, or

(2) another short sale of (or securities futures contracts to sell) substantially identical stock or securities was entered into.

For purposes of this subsection, the term “securities futures contract” has the meaning provided by section 1234B(c).

**(f) Cash settlement**

This section shall not fail to apply to a contract or option to acquire or sell stock or securities solely by reason of the fact that the contract or option settles in (or could be settled in) cash or property other than such stock or securities.

(Aug. 16, 1954, ch. 736, 68A Stat. 319; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title I, §106(a), (b), July 18, 1984, 98 Stat. 629; Pub. L. 100-647, title V, §5075(a), Nov. 10, 1988, 102 Stat. 3682; Pub. L. 106-554, §1(a)(7) [title IV, §401(d)], Dec. 21, 2000, 114 Stat. 2763, 2763A-649; Pub. L. 107-147, title IV, §412(d)(2), Mar. 9, 2002, 116 Stat. 53.)

## AMENDMENTS

2002—Subsec. (e). Pub. L. 107-147 substituted “securities and securities futures contracts to sell” for “securities” in heading, inserted “(or the sale, exchange, or termination of a securities futures contract to sell)” after “closing of a short sale of” in introductory provisions and “(or securities futures contracts to sell)” after “short sale of” in par. (2), and inserted concluding provisions.

2000—Subsec. (f). Pub. L. 106-554 added subsec. (f).

1988—Subsec. (a). Pub. L. 100-647 inserted sentence at end defining “stock or securities”.

1984—Subsec. (a). Pub. L. 98-369, §106(b), substituted “no deduction shall be allowed under section 165 unless the taxpayer is a dealer in stock or securities and the loss is sustained in a transaction made in the ordinary course of such business” for “no deduction for the loss shall be allowed under section 165(c)(2); nor shall such deduction be allowed a corporation under section 165(a) unless it is a dealer in stocks or securities, and the loss is sustained in a transaction made in the ordinary course of business”.

Subsec. (e). Pub. L. 98-369, §106(a), added subsec. (e). 1976—Pub. L. 94-455 struck out “or his delegate” after “Secretary” wherever appearing.

## EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-147 effective as if included in the provisions of the Community Renewal Tax Relief Act of 2000 [H.R. 5662, as enacted by Pub. L. 106-554], to which such amendment relates, see section 412(e) of Pub. L. 107-147, set out as a note under section 151 of this title.