

L. 98-369, set out as an Effective Date note under section 1041 of this title.

Pub. L. 98-369, div. A, title V, §557(b), July 18, 1984, 98 Stat. 899, provided that: "The amendment made by subsection (a) [amending this section] shall apply to sales or exchanges after the date of the enactment of this Act [July 18, 1984] in taxable years ending after such date."

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 applicable to dispositions made after Oct. 19, 1980, in taxable years ending after such date, see section 311(a) of Pub. L. 97-448, set out as a note under section 453 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §701(v)(2), Nov. 6, 1978, 92 Stat. 2920, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendment made by paragraph (1) [amending this section] shall apply as if included in the amendment made to section 1239 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] by section 2129(a) of the Tax Reform Act of 1976 [section 2129(a) of Pub. L. 94-455]."

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XXI, §2129(b), Oct. 4, 1976, 90 Stat. 1922, provided that: "The amendment made by this section [amending this section] shall apply to sales or exchanges after the date of the enactment of this Act [Oct. 4, 1976]. For purposes of the preceding sentence, a sale or exchange is considered to have occurred on or before such date of enactment if such sale or exchange is made pursuant to a binding contract entered into on or before that date."

§ 1240. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(139), Oct. 4, 1976, 90 Stat. 1787]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 332, related to taxability to employee of termination payments.

EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

§ 1241. Cancellation of lease or distributor's agreement

Amounts received by a lessee for the cancellation of a lease, or by a distributor of goods for the cancellation of a distributor's agreement (if the distributor has a substantial capital investment in the distributorship), shall be considered as amounts received in exchange for such lease or agreement.

(Aug. 16, 1954, ch. 736, 68A Stat. 333.)

§ 1242. Losses on small business investment company stock

If—

(1) a loss is on stock in a small business investment company operating under the Small Business Investment Act of 1958, and

(2) such loss would (but for this section) be a loss from the sale or exchange of a capital asset,

then such loss shall be treated as an ordinary loss. For purposes of section 172 (relating to the net operating loss deduction) any amount of loss treated by reason of this section as an ordinary loss shall be treated as attributable to a trade or business of the taxpayer.

(Added Pub. L. 85-866, title I, §57(a), Sept. 2, 1958, 72 Stat. 1645; amended Pub. L. 94-455, title XIX, §1901(b)(3)(F), Oct. 4, 1976, 90 Stat. 1793.)

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in cl. (1), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

AMENDMENTS

1976—Pub. L. 94-455 substituted "an ordinary loss" for "a loss from the sale or exchange of property which is not a capital asset", each time appearing.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to 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.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Sept. 2, 1958, see section 57(d) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 243 of this title.

§ 1243. Loss of small business investment company

In the case of a small business investment company operating under the Small Business Investment Act of 1958, if—

(1) a loss is on stock received pursuant to the conversion privilege of convertible debentures acquired pursuant to section 304 of the Small Business Investment Act of 1958, and

(2) such loss would (but for this section) be a loss from the sale or exchange of a capital asset,

then such loss shall be treated as an ordinary loss.

(Added Pub. L. 85-866, title I, §57(a), Sept. 2, 1958, 72 Stat. 1645; amended Pub. L. 91-172, title IV, §433(b), Dec. 30, 1969, 83 Stat. 624; Pub. L. 94-455, title XIX, §1901(b)(3)(F), Oct. 4, 1976, 90 Stat. 1793.)

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in text, is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. Section 304 of the Small Business Investment Act of 1958, is classified to section 684 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

AMENDMENTS

1976—Pub. L. 94-455 substituted "an ordinary loss" for "a loss from the sale or exchange of property which is not a capital asset".

1969—Par. (1). Pub. L. 91-172 substituted "stock received pursuant to the conversion privilege of convertible debentures" for "convertible debentures (including stock received pursuant to the conversion privilege)".

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to 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.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after July 11, 1969, see section 433(d) of Pub. L. 91-172, set out as a note under section 582 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Sept. 2, 1958, see section 57(d) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 243 of this title.

§ 1244. Losses on small business stock**(a) General rule**

In the case of an individual, a loss on section 1244 stock issued to such individual or to a partnership which would (but for this section) be treated as a loss from the sale or exchange of a capital asset shall, to the extent provided in this section, be treated as an ordinary loss.

(b) Maximum amount for any taxable year

For any taxable year the aggregate amount treated by the taxpayer by reason of this section as an ordinary loss shall not exceed—

- (1) \$50,000, or
- (2) \$100,000, in the case of a husband and wife filing a joint return for such year under section 6013.

(c) Section 1244 stock defined**(1) In general**

For purposes of this section, the term “section 1244 stock” means stock in a domestic corporation if—

- (A) at the time such stock is issued, such corporation was a small business corporation,
- (B) such stock was issued by such corporation for money or other property (other than stock and securities), and
- (C) such corporation, during the period of its 5 most recent taxable years ending before the date the loss on such stock was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

(2) Rules for application of paragraph (1)(C)**(A) Period taken into account with respect to new corporations**

For purposes of paragraph (1)(C), if the corporation has not been in existence for 5 taxable years ending before the date the loss on the stock was sustained, there shall be substituted for such 5-year period—

- (i) the period of the corporation’s taxable years ending before such date, or
- (ii) if the corporation has not been in existence for 1 taxable year ending before such date, the period such corporation has been in existence before such date.

(B) Gross receipts from sales of securities

For purposes of paragraph (1)(C), gross receipts from the sales or exchanges of stock or securities shall be taken into account only to the extent of gains therefrom.

(C) Nonapplication where deductions exceed gross income

Paragraph (1)(C) shall not apply with respect to any corporation if, for the period

taken into account for purposes of paragraph (1)(C), the amount of the deductions allowed by this chapter (other than by sections 172, 243, and 245) exceeds the amount of gross income.

(3) Small business corporation defined**(A) In general**

For purposes of this section, a corporation shall be treated as a small business corporation if the aggregate amount of money and other property received by the corporation for stock, as a contribution to capital, and as paid-in surplus, does not exceed \$1,000,000. The determination under the preceding sentence shall be made as of the time of the issuance of the stock in question but shall include amounts received for such stock and for all stock theretofore issued.

(B) Amount taken into account with respect to property

For purposes of subparagraph (A), the amount taken into account with respect to any property other than money shall be the amount equal to the adjusted basis to the corporation of such property for determining gain, reduced by any liability to which the property was subject or which was assumed by the corporation. The determination under the preceding sentence shall be made as of the time the property was received by the corporation.

(d) Special rules**(1) Limitations on amount of ordinary loss****(A) Contributions of property having basis in excess of value**

If—

- (i) section 1244 stock was issued in exchange for property,
- (ii) the basis of such stock in the hands of the taxpayer is determined by reference to the basis in his hands of such property, and
- (iii) the adjusted basis (for determining loss) of such property immediately before the exchange exceeded its fair market value at such time,

then in computing the amount of the loss on such stock for purposes of this section the basis of such stock shall be reduced by an amount equal to the excess described in clause (iii).

(B) Increases in basis

In computing the amount of the loss on stock for purposes of this section, any increase in the basis of such stock (through contributions to the capital of the corporation, or otherwise) shall be treated as allocable to stock which is not section 1244 stock.

(2) Recapitalizations, changes in name, etc.

To the extent provided in regulations prescribed by the Secretary, stock in a corporation, the basis of which (in the hands of a taxpayer) is determined in whole or in part by reference to the basis in his hands of stock in such corporation which meets the requirements of subsection (c)(1) (other than subpara-