

transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

[§ 1251. Repealed. Pub. L. 98-369, div. A, title IV, § 492(a), July 18, 1984, 98 Stat. 853]

Section, added Pub. L. 91-172, title II, §211(a), Dec. 30, 1969, 83 Stat. 566; amended Pub. L. 92-178, title III, §305(a), Dec. 10, 1971, 85 Stat. 524; Pub. L. 94-455, title II, §206(a), (b)(1), (2), title XIV, §1402(b)(1)(Z), (2), title XIX, §§1901(b)(3)(K), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1535, 1732, 1793, 1834; Pub. L. 97-354, §5(a)(36), Oct. 19, 1982, 96 Stat. 1695; Pub. L. 98-369, div. A, title X, §1001(b)(23), (e), July 18, 1984, 98 Stat. 1012, related to gain from disposition of property used in farming where farm losses offset nonfarm income.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 1983, see section 492(d) of Pub. L. 98-369, set out as an Effective Date of 1984 Amendment note under section 170 of this title.

§ 1252. Gain from disposition of farm land

(a) General rule

(1) Ordinary income

Except as otherwise provided in this section, if farm land which the taxpayer has held for less than 10 years is disposed of during a taxable year beginning,¹ the lower of—

(A) the applicable percentage of the aggregate of the deductions allowed under sections 175 (relating to soil and water conservation expenditures) and 182² (as in effect on the day before the date of the enactment of the Tax Reform Act of 1986) for expenditures made by the taxpayer with respect to the farm land or

(B) the excess of—

- (i) the amount realized (in the case of a sale, exchange, or involuntary conversion), or the fair market value of the farm land (in the case of any other disposition), over
(ii) the adjusted basis of such land,

shall be treated as ordinary income. Such gain shall be recognized notwithstanding any other provision of this subtitle.

(2) Farm land

For purposes of this section, the term "farm land" means any land with respect to which deductions have been allowed under sections 175 (relating to soil and water conservation expenditures) or 182² (relating to expenditures by farmers for clearing land).

(3) Applicable percentage

For purposes of this section—

Table with 2 columns: 'If the farm land is disposed of—' and 'The applicable percentage is—'. Rows include: 'Within 5 years after the date it was acquired' (100 percent), 'Within the sixth year after it was acquired' (80 percent), 'Within the seventh year after it was acquired' (60 percent).

If the farm land is disposed of—

Table with 2 columns: 'If the farm land is disposed of—' and 'The applicable percentage is—'. Rows include: 'Within the eighth year after it was acquired' (40 percent), 'Within the ninth year after it was acquired' (20 percent), '10 years or more years after it was acquired' (0 percent).

(b) Special rules

Under regulations prescribed by the Secretary, rules similar to the rules of section 1245 shall be applied for purposes of this section.

(Added Pub. L. 91-172, title II, §214(a), Dec. 30, 1969, 83 Stat. 572; amended Pub. L. 94-455, title XIX, §§1901(b)(3)(K), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1793, 1834; Pub. L. 98-369, div. A, title IV, §492(b)(5), July 18, 1984, 98 Stat. 854; Pub. L. 99-514, title IV, §402(b)(2), Oct. 22, 1986, 100 Stat. 2221; Pub. L. 113-295, div. A, title II, §221(a)(85), Dec. 19, 2014, 128 Stat. 4049.)

REFERENCES IN TEXT

Section 182, referred to in subsec. (a), was repealed by Pub. L. 99-514, title IV, §402(a), Oct. 22, 1986, 100 Stat. 2221.

The date of the enactment of the Tax Reform Act of 1986, referred to in subsec. (a)(1)(A), is the date of enactment of Pub. L. 99-514, which was approved Oct. 22, 1986.

AMENDMENTS

2014—Subsec. (a)(1). Pub. L. 113-295, §221(a)(85)(A), struck out "after December 31, 1969" after "beginning" in introductory provisions.

Subsec. (a)(1)(A). Pub. L. 113-295, §221(a)(85)(B), struck out "after December 31, 1969," after "taxpayer".

1986—Subsec. (a)(1)(A). Pub. L. 99-514 substituted "(as in effect on the day before the date of the enactment of the Tax Reform Act of 1986)" for "(relating to expenditures by farmers for clearing land)".

1984—Subsec. (a)(1). Pub. L. 98-369 struck out " , except that this section shall not apply to the extent section 1251 applies to such gain" after "of this subtitle" in last sentence.

1976—Subsec. (a)(1). Pub. L. 94-455, §1901(b)(3)(K), substituted "ordinary income" for "gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231".

Subsec. (b). Pub. L. 94-455, §1906(b)(13)(A), struck out "or his delegate" after "Secretary".

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by Pub. L. 113-295 effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to amounts paid or incurred after Dec. 31, 1985, in taxable years ending after such date, see section 402(c) of Pub. L. 99-514, set out as an Effective Date of Repeal note under former section 182 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by 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 1976 AMENDMENT

Amendment by section 1901(b)(3)(K) 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.

EFFECTIVE DATE

Pub. L. 91-172, title II, §214(c), Dec. 30, 1969, 83 Stat. 573, provided that: "The amendments made by this sec-

¹ So in original.

² See References in Text note below.

tion [enacting this section] shall apply to taxable years beginning after December 31, 1969.”

§ 1253. Transfers of franchises, trademarks, and trade names

(a) General rule

A transfer of a franchise, trademark, or trade name shall not be treated as a sale or exchange of a capital asset if the transferor retains any significant power, right, or continuing interest with respect to the subject matter of the franchise, trademark, or trade name.

(b) Definitions

For purposes of this section—

(1) Franchise

The term “franchise” includes an agreement which gives one of the parties to the agreement the right to distribute, sell, or provide goods, services, or facilities, within a specified area.

(2) Significant power, right, or continuing interest

The term “significant power, right, or continuing interest” includes, but is not limited to, the following rights with respect to the interest transferred:

(A) A right to disapprove any assignment of such interest, or any part thereof.

(B) A right to terminate at will.

(C) A right to prescribe the standards of quality of products used or sold, or of services furnished, and of the equipment and facilities used to promote such products or services.

(D) A right to require that the transferee sell or advertise only products or services of the transferor.

(E) A right to require that the transferee purchase substantially all of his supplies and equipment from the transferor.

(F) A right to payments contingent on the productivity, use, or disposition of the subject matter of the interest transferred, if such payments constitute a substantial element under the transfer agreement.

(3) Transfer

The term “transfer” includes the renewal of a franchise, trademark, or trade name.

(c) Treatment of contingent payments by transferor

Amounts received or accrued on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name which are contingent on the productivity, use, or disposition of the franchise, trademark, or trade name transferred shall be treated as amounts received or accrued from the sale or other disposition of property which is not a capital asset.

(d) Treatment of payments by transferee

(1) Contingent serial payments

(A) In general

Any amount described in subparagraph (B) which is paid or incurred during the taxable year on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name shall be allowed as a deduction

under section 162(a) (relating to trade or business expenses).

(B) Amounts to which paragraph applies

An amount is described in this subparagraph if it—

(i) is contingent on the productivity, use, or disposition of the franchise, trademark, or trade name, and

(ii) is paid as part of a series of payments—

(I) which are payable not less frequently than annually throughout the entire term of the transfer agreement, and

(II) which are substantially equal in amount (or payable under a fixed formula).

(2) Other payments

Any amount paid or incurred on account of a transfer, sale, or other disposition of a franchise, trademark, or trade name to which paragraph (1) does not apply shall be treated as an amount chargeable to capital account.

(3) Renewals, etc.

For purposes of determining the term of a transfer agreement under this section, there shall be taken into account all renewal options (and any other period for which the parties reasonably expect the agreement to be renewed).

(Added Pub. L. 91-172, title V, § 516(c)(1), Dec. 30, 1969, 83 Stat. 647; amended Pub. L. 94-455, title XIX, § 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 101-239, title VII, § 7622(a)-(c), Dec. 19, 1989, 103 Stat. 2377; Pub. L. 101-508, title XI, § 11701(i), Nov. 5, 1990, 104 Stat. 1388-508; Pub. L. 103-66, title XIII, § 13261(c), Aug. 10, 1993, 107 Stat. 539; Pub. L. 104-188, title I, § 1704(t)(47), Aug. 20, 1996, 110 Stat. 1889; Pub. L. 108-357, title VIII, § 886(b)(3), Oct. 22, 2004, 118 Stat. 1641.)

AMENDMENTS

2004—Subsec. (e). Pub. L. 108-357 struck out heading and text of subsec. (e). Text read as follows: “This section shall not apply to the transfer of a franchise to engage in professional football, basketball, baseball, or other professional sport.”

1996—Subsec. (d)(4). Pub. L. 104-188 provided that section 11701(i) of Pub. L. 101-508 shall be applied as if “subsection” appeared instead of “section” in the material proposed to be stricken. See 1990 Amendment note below.

1993—Subsec. (d)(2) to (5). Pub. L. 103-66 added pars. (2) and (3) and struck out former pars. (2) relating to deduction of certain payments for transfer of a franchise, trademark, or trade name not treated as sale or exchange of capital asset, (3) relating to treatment of amounts paid or incurred on account of transfer, sale, or other disposition of a franchise, trademark, or trade name to which pars. (1) and (2) did not apply, (4) relating to renewals for purposes of determining term of transfer agreement under this section or period of amortization under this subtitle, and (5) relating to rules applicable to this subsection.

1990—Subsec. (d)(4). Pub. L. 101-508, § 11701(i), which directed the substitution of “under this section or any period of amortization under this subtitle for any payment described in this section” for “or any period of amortization under this section”, was executed by making the substitution for “or any period of amortization under this subsection”. See 1996 Amendment note above.