

§6(a)(1), May 4, 1990, 104 Stat. 160; Pub. L. 101-508, title XI, §11703(a)(1), Nov. 5, 1990, 104 Stat. 1388-516; Pub. L. 109-432, div. A, title IV, §418(a), (b), Dec. 20, 2006, 120 Stat. 2966.)

AMENDMENTS

2006—Subsec. (b)(1)(A). Pub. L. 109-432, §418(a)(1)(A), inserted “, or a judicial officer,” after “executive branch”.

Subsec. (b)(1)(B), (2)(A). Pub. L. 109-432, §418(a)(1)(B), (2)(A), inserted “judicial canon,” after “rule.”

Subsec. (b)(2)(B). Pub. L. 109-432, §418(a)(2)(B), inserted “in the case of executive branch officers or employees, or by the Judicial Conference of the United States (or its designee), in the case of judicial officers,” after “Ethics.”

Subsec. (b)(5)(B). Pub. L. 109-432, §418(a)(3), inserted “judicial canon,” after “rule.”

Subsec. (b)(6). Pub. L. 109-432, §418(b), added par. (6). 1990—Subsec. (a). Pub. L. 101-508 substituted “to the extent not previously taken into account under this subsection” for “reduced by any basis adjustment under subsection (c) attributable to a prior sale”.

Subsec. (b)(5). Pub. L. 101-280 added par. (5).

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §418(c), Dec. 20, 2006, 120 Stat. 2967, provided that: “The amendments made by this section [amending this section] shall apply to sales after the date of enactment of this Act [Dec. 20, 2006].”

EFFECTIVE DATE OF 1990 AMENDMENT

Pub. L. 101-508, title XI, §11703(a)(2), Nov. 5, 1990, 104 Stat. 1388-517, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to sales after November 30, 1989.”

Pub. L. 101-280, §6(a)(3), May 4, 1990, 104 Stat. 160, provided that: “The amendment made by paragraph (1) [amending this section] and the provisions of paragraph (2) [set out below] shall apply to sales after November 30, 1989.”

EFFECTIVE DATE

Section applicable to sales after Nov. 30, 1989, see section 502(c) of Pub. L. 101-194, set out as an Effective Date of 1989 Amendment note under section 1016 of this title.

PROPERTY SOLD BEFORE JUNE 19, 1990

Pub. L. 101-280, §6(a)(2), May 4, 1990, 104 Stat. 160, provided that:

“(A) For purposes of section 1043 of such Code—

“(i) any property sold before June 19, 1990, shall be treated as sold pursuant to a certificate of divestiture (as defined in subsection (b)(2) thereof) if such a certificate is issued with respect to such sale before such date, and

“(ii) in any such case, the 60-day period referred to in subsection (a) thereof shall not expire before the end of the 60-day period beginning on the date on which the certificate of divestiture was issued.

“(B) Notwithstanding subparagraph (A), section 1043 of such Code shall not apply to any sale before April 19, 1990, unless—

“(i) the sale was made in order to comply with an ethics agreement or pursuant to specific direction from the appropriate agency or confirming committee, and

“(ii) the justification for the sale meets the criteria set forth in subsection (b)(2)(A) thereof as implemented by the interim regulations implementing such section 1043, published on April 18, 1990.”

[§ 1044. Repealed. Pub. L. 115-97, title I, § 13313(a), Dec. 22, 2017, 131 Stat. 2133]

Section, added Pub. L. 103-66, title XIII, §13114(a), Aug. 10, 1993, 107 Stat. 430; amended Pub. L. 104-188,

title I, §1703(a), Aug. 20, 1996, 110 Stat. 1875, related to rollover of publicly traded securities gain into specialized small business investment companies.

EFFECTIVE DATE OF REPEAL

Repeal applicable to sales after Dec. 31, 2017, see section 13313(c) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 1016 of this title.

§ 1045. Rollover of gain from qualified small business stock to another qualified small business stock

(a) Nonrecognition of gain

In the case of any sale of qualified small business stock held by a taxpayer other than a corporation for more than 6 months and with respect to which such taxpayer elects the application of this section, gain from such sale shall be recognized only to the extent that the amount realized on such sale exceeds—

(1) the cost of any qualified small business stock purchased by the taxpayer during the 60-day period beginning on the date of such sale, reduced by

(2) any portion of such cost previously taken into account under this section.

This section shall not apply to any gain which is treated as ordinary income for purposes of this title.

(b) Definitions and special rules

For purposes of this section—

(1) Qualified small business stock

The term “qualified small business stock” has the meaning given such term by section 1202(c).

(2) Purchase

A taxpayer shall be treated as having purchased any property if, but for paragraph (3), the unadjusted basis of such property in the hands of the taxpayer would be its cost (within the meaning of section 1012).

(3) Basis adjustments

If gain from any sale is not recognized by reason of subsection (a), such gain shall be applied to reduce (in the order acquired) the basis for determining gain or loss of any qualified small business stock which is purchased by the taxpayer during the 60-day period described in subsection (a).

(4) Holding period

For purposes of determining whether the nonrecognition of gain under subsection (a) applies to stock which is sold—

(A) the taxpayer’s holding period for such stock and the stock referred to in subsection (a)(1) shall be determined without regard to section 1223, and

(B) only the first 6 months of the taxpayer’s holding period for the stock referred to in subsection (a)(1) shall be taken into account for purposes of applying section 1202(c)(2).

(5) Certain rules to apply

Rules similar to the rules of subsections (f), (g), (h), (i), (j), and (k) of section 1202 shall apply.