

EFFECTIVE DATE OF 1958 AMENDMENT

Amendment by Pub. L. 85-866 applicable to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 1(c)(1) of Pub. L. 85-866, set out as a note under section 165 of this title.

§ 1234A. Gains or losses from certain terminations

Gain or loss attributable to the cancellation, lapse, expiration, or other termination of—

(1) a right or obligation (other than a securities futures contract, as defined in section 1234B) with respect to property which is (or on acquisition would be) a capital asset in the hands of the taxpayer, or

(2) a section 1256 contract (as defined in section 1256) not described in paragraph (1) which is a capital asset in the hands of the taxpayer,

shall be treated as gain or loss from the sale of a capital asset. The preceding sentence shall not apply to the retirement of any debt instrument (whether or not through a trust or other participation arrangement).

(Added Pub. L. 97-34, title V, §507(a), Aug. 13, 1981, 95 Stat. 333; amended Pub. L. 97-448, title I, §105(e), Jan. 12, 1983, 96 Stat. 2387; Pub. L. 98-369, div. A, title I, §102(e)(4), (9), July 18, 1984, 98 Stat. 624, 625; Pub. L. 105-34, title X, §1003(a)(1), Aug. 5, 1997, 111 Stat. 909; Pub. L. 106-554, §1(a)(7) [title IV, §401(b)], Dec. 21, 2000, 114 Stat. 2763, 2763A-648; Pub. L. 107-147, title IV, §412(d)(1)(A), Mar. 9, 2002, 116 Stat. 53.)

AMENDMENTS

2002—Pars. (1) to (3). Pub. L. 107-147 inserted “or” at end of par. (1), struck out “or” at end of par. (2), and struck out par. (3) which read as follows: “a securities futures contract (as so defined) which is a capital asset in the hands of the taxpayer.”

2000—Par. (1). Pub. L. 106-554, §1(a)(7) [title IV, §401(b)(1)], inserted “(other than a securities futures contract, as defined in section 1234B)” after “right or obligation”.

Par. (3). Pub. L. 106-554, §1(a)(7) [title IV, §401(b)(2)-(4)], added par. (3).

1997—Par. (1). Pub. L. 105-34 substituted “property” for “personal property (as defined in section 1092(d)(1))”.

1984—Pub. L. 98-369, §102(e)(9), inserted at end “The preceding sentence shall not apply to the retirement of any debt instrument (whether or not through a trust or other participation arrangement).”

Par. (2). Pub. L. 98-369, §102(e)(4), substituted “a section 1256 contract” for “a regulated futures contract”.

1983—Pub. L. 97-448 inserted reference to a regulated futures contract (as defined in section 1256) not described in paragraph (1) which is a capital asset in the hands of the taxpayer.

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.

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title X, §1003(a)(2), Aug. 5, 1997, 111 Stat. 910, provided that: “The amendment made by paragraph (1) [amending this section] shall apply to terminations more than 30 days after the date of the enactment of this Act [Aug. 5, 1997].”

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 102(e)(4) of Pub. L. 98-369 applicable to positions established after July 18, 1984, in taxable years ending after that date, except as otherwise provided, and amendment by section 102(e)(9) of Pub. L. 98-369, applicable as if included in the amendment made by section 507(a) of Pub. L. 97-34, as amended by section 105(e) of Pub. L. 97-448, see section 102(f), (g) of Pub. L. 98-369, set out as a note under section 1256 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

EFFECTIVE DATE

Section applicable to property acquired and positions established by the taxpayer after June 23, 1981, in taxable years ending after such date, and applicable when so elected with respect to property held on June 23, 1981, see section 508 of Pub. L. 97-34, set out as a note under section 1092 of this title.

§ 1234B. Gains or losses from securities futures contracts**(a) Treatment of gain or loss****(1) In general**

Gain or loss attributable to the sale, exchange, or termination of a securities futures contract shall be considered gain or loss from the sale or exchange of property which has the same character as the property to which the contract relates has in the hands of the taxpayer (or would have in the hands of the taxpayer if acquired by the taxpayer).

(2) Nonapplication of subsection

This subsection shall not apply to—

(A) a contract which constitutes property described in paragraph (1) or (7) of section 1221(a), and

(B) any income derived in connection with a contract which, without regard to this subsection, is treated as other than gain from the sale or exchange of a capital asset.

(b) Short-term gains and losses

Except as provided in the regulations under section 1092(b) or this section, or in section 1233, if gain or loss on the sale, exchange, or termination of a securities futures contract to sell property is considered as gain or loss from the sale or exchange of a capital asset, such gain or loss shall be treated as short-term capital gain or loss.

(c) Securities futures contract

For purposes of this section, the term “securities futures contract” means any security future (as defined in section 3(a)(55)(A) of the Securities Exchange Act of 1934, as in effect on the date of the enactment of this section). The Secretary may prescribe regulations regarding the status of contracts the values of which are determined directly or indirectly by reference to any index which becomes (or ceases to be) a narrow-based security index (as defined for purposes of section 1256(g)(6)).