

subsection (a) [amending this section] shall apply to options acquired or lapsed after the date of the enactment of this Act [July 18, 1984] in taxable years ending after such date.”

§ 1033. Involuntary conversions

(a) General rule

If property (as a result of its destruction in whole or in part, theft, seizure, or requisition or condemnation or threat or imminence thereof) is compulsorily or involuntarily converted—

(1) Conversion into similar property

Into property similar or related in service or use to the property so converted, no gain shall be recognized.

(2) Conversion into money

Into money or into property not similar or related in service or use to the converted property, the gain (if any) shall be recognized except to the extent hereinafter provided in this paragraph:

(A) Nonrecognition of gain

If the taxpayer during the period specified in subparagraph (B), for the purpose of replacing the property so converted, purchases other property similar or related in service or use to the property so converted, or purchases stock in the acquisition of control of a corporation owning such other property, at the election of the taxpayer the gain shall be recognized only to the extent that the amount realized upon such conversion (regardless of whether such amount is received in one or more taxable years) exceeds the cost of such other property or such stock. Such election shall be made at such time and in such manner as the Secretary may by regulations prescribe. For purposes of this paragraph—

(i) no property or stock acquired before the disposition of the converted property shall be considered to have been acquired for the purpose of replacing such converted property unless held by the taxpayer on the date of such disposition; and

(ii) the taxpayer shall be considered to have purchased property or stock only if, but for the provisions of subsection (b) of this section, the unadjusted basis of such property or stock would be its cost within the meaning of section 1012.

(B) Period within which property must be replaced

The period referred to in subparagraph (A) shall be the period beginning with the date of the disposition of the converted property, or the earliest date of the threat or imminence of requisition or condemnation of the converted property, whichever is the earlier, and ending—

(i) 2 years after the close of the first taxable year in which any part of the gain upon the conversion is realized, or

(ii) subject to such terms and conditions as may be specified by the Secretary, at the close of such later date as the Secretary may designate on application by the taxpayer. Such application shall be

made at such time and in such manner as the Secretary may by regulations prescribe.

(C) Time for assessment of deficiency attributable to gain upon conversion

If a taxpayer has made the election provided in subparagraph (A), then—

(i) the statutory period for the assessment of any deficiency, for any taxable year in which any part of the gain on such conversion is realized, attributable to such gain shall not expire prior to the expiration of 3 years from the date the Secretary is notified by the taxpayer (in such manner as the Secretary may by regulations prescribe) of the replacement of the converted property or of an intention not to replace, and

(ii) such deficiency may be assessed before the expiration of such 3-year period notwithstanding the provisions of section 6212(c) or the provisions of any other law or rule of law which would otherwise prevent such assessment.

(D) Time for assessment of other deficiencies attributable to election

If the election provided in subparagraph (A) is made by the taxpayer and such other property or such stock was purchased before the beginning of the last taxable year in which any part of the gain upon such conversion is realized, any deficiency, to the extent resulting from such election, for any taxable year ending before such last taxable year may be assessed (notwithstanding the provisions of section 6212(c) or 6501 or the provisions of any other law or rule of law which would otherwise prevent such assessment) at any time before the expiration of the period within which a deficiency for such last taxable year may be assessed.

(E) Definitions

For purposes of this paragraph—

(i) Control

The term “control” means the ownership of stock possessing at least 80 percent of the total combined voting power of all classes of stock entitled to vote and at least 80 percent of the total number of shares of all other classes of stock of the corporation.

(ii) Disposition of the converted property

The term “disposition of the converted property” means the destruction, theft, seizure, requisition, or condemnation of the converted property, or the sale or exchange of such property under threat or imminence of requisition or condemnation.

(b) Basis of property acquired through involuntary conversion

(1) Conversions described in subsection (a)(1)

If the property was acquired as the result of a compulsory or involuntary conversion described in subsection (a)(1), the basis shall be the same as in the case of the property so converted—

(A) decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and

(B) increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made.

(2) Conversions described in subsection (a)(2)

In the case of property purchased by the taxpayer in a transaction described in subsection (a)(2) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than 1 piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.

(3) Property held by corporation the stock of which is replacement property

(A) In general

If the basis of stock in a corporation is decreased under paragraph (2), an amount equal to such decrease shall also be applied to reduce the basis of property held by the corporation at the time the taxpayer acquired control (as defined in subsection (a)(2)(E)) of such corporation.

(B) Limitation

Subparagraph (A) shall not apply to the extent that it would (but for this subparagraph) require a reduction in the aggregate adjusted bases of the property of the corporation below the taxpayer's adjusted basis of the stock in the corporation (determined immediately after such basis is decreased under paragraph (2)).

(C) Allocation of basis reduction

The decrease required under subparagraph (A) shall be allocated—

- (i) first to property which is similar or related in service or use to the converted property,
- (ii) second to depreciable property (as defined in section 1017(b)(3)(B)) not described in clause (i), and
- (iii) then to other property.

(D) Special rules

(i) Reduction not to exceed adjusted basis of property

No reduction in the basis of any property under this paragraph shall exceed the adjusted basis of such property (determined without regard to such reduction).

(ii) Allocation of reduction among properties

If more than 1 property is described in a clause of subparagraph (C), the reduction under this paragraph shall be allocated

among such property in proportion to the adjusted bases of such property (as so determined).

(c) Property sold pursuant to reclamation laws

For purposes of this subtitle, if property lying within an irrigation project is sold or otherwise disposed of in order to conform to the acreage limitation provisions of Federal reclamation laws, such sale or disposition shall be treated as an involuntary conversion to which this section applies.

(d) Livestock destroyed by disease

For purposes of this subtitle, if livestock are destroyed by or on account of disease, or are sold or exchanged because of disease, such destruction or such sale or exchange shall be treated as an involuntary conversion to which this section applies.

(e) Livestock sold on account of drought, flood, or other weather-related conditions

(1) In general

For purposes of this subtitle, the sale or exchange of livestock (other than poultry) held by a taxpayer for draft, breeding, or dairy purposes in excess of the number the taxpayer would sell if he followed his usual business practices shall be treated as an involuntary conversion to which this section applies if such livestock are sold or exchanged by the taxpayer solely on account of drought, flood, or other weather-related conditions.

(2) Extension of replacement period

(A) In general

In the case of drought, flood, or other weather-related conditions described in paragraph (1) which result in the area being designated as eligible for assistance by the Federal Government, subsection (a)(2)(B) shall be applied with respect to any converted property by substituting "4 years" for "2 years".

(B) Further extension by Secretary

The Secretary may extend on a regional basis the period for replacement under this section (after the application of subparagraph (A)) for such additional time as the Secretary determines appropriate if the weather-related conditions which resulted in such application continue for more than 3 years.

(f) Replacement of livestock with other farm property in certain cases

For purposes of subsection (a), if, because of drought, flood, or other weather-related conditions, or soil contamination or other environmental contamination, it is not feasible for the taxpayer to reinvest the proceeds from compulsorily or involuntarily converted livestock in property similar or related in use to the livestock so converted, other property (including real property in the case of soil contamination or other environmental contamination) used for farming purposes shall be treated as property similar or related in service or use to the livestock so converted.

(g) Condemnation of real property held for productive use in trade or business or for investment

(1) Special rule

For purposes of subsection (a), if real property (not including stock in trade or other property held primarily for sale) held for productive use in trade or business or for investment is (as the result of its seizure, requisition, or condemnation, or threat or imminence thereof) compulsorily or involuntarily converted, property of a like kind to be held either for productive use in trade or business or for investment shall be treated as property similar or related in service or use to the property so converted.

(2) Limitations

Paragraph (1) shall not apply to the purchase of stock in the acquisition of control of a corporation described in subsection (a)(2)(A).

(3) Election to treat outdoor advertising displays as real property

(A) In general

A taxpayer may elect, at such time and in such manner as the Secretary may prescribe, to treat property which constitutes an outdoor advertising display as real property for purposes of this chapter. The election provided by this subparagraph may not be made with respect to any property with respect to which an election under section 179(a) (relating to election to expense certain depreciable business assets) is in effect.

(B) Election

An election made under subparagraph (A) may not be revoked without the consent of the Secretary.

(C) Outdoor advertising display

For purposes of this paragraph, the term “outdoor advertising display” means a rigidly assembled sign, display, or device permanently affixed to the ground or permanently attached to a building or other inherently permanent structure constituting, or used for the display of, a commercial or other advertisement to the public.

(D) Character of replacement property

For purposes of this subsection, an interest in real property purchased as replacement property for a compulsorily or involuntarily converted outdoor advertising display defined in subparagraph (C) (and treated by the taxpayer as real property) shall be considered property of a like kind as the property converted without regard to whether the taxpayer’s interest in the replacement property is the same kind of interest the taxpayer held in the converted property.

(4) Special rule

In the case of a compulsory or involuntary conversion described in paragraph (1), subsection (a)(2)(B)(i) shall be applied by substituting “3 years” for “2 years”.

(h) Special rules for property damaged by federally declared disasters

(1) Principal residences

If the taxpayer’s principal residence or any of its contents is located in a disaster area and

is compulsorily or involuntarily converted as a result of a federally declared disaster—

(A) Treatment of insurance proceeds

(i) Exclusion for unscheduled personal property

No gain shall be recognized by reason of the receipt of any insurance proceeds for personal property which was part of such contents and which was not scheduled property for purposes of such insurance.

(ii) Other proceeds treated as common fund

In the case of any insurance proceeds (not described in clause (i)) for such residence or contents—

(I) such proceeds shall be treated as received for the conversion of a single item of property, and

(II) any property which is similar or related in service or use to the residence so converted (or contents thereof) shall be treated for purposes of subsection (a)(2) as property similar or related in service or use to such single item of property.

(B) Extension of replacement period

Subsection (a)(2)(B) shall be applied with respect to any property so converted by substituting “4 years” for “2 years”.

(2) Trade or business and investment property

If a taxpayer’s property held for productive use in a trade or business or for investment is located in a disaster area and is compulsorily or involuntarily converted as a result of a federally declared disaster, tangible property of a type held for productive use in a trade or business shall be treated for purposes of subsection (a) as property similar or related in service or use to the property so converted.

(3) Federally declared disaster; disaster area

The terms “federally declared disaster” and “disaster area” shall have the respective meaning given such terms by section 165(i)(5).

(4) Principal residence

For purposes of this subsection, the term “principal residence” has the same meaning as when used in section 121, except that such term shall include a residence not treated as a principal residence solely because the taxpayer does not own the residence.

(i) Replacement property must be acquired from unrelated person in certain cases

(1) In general

If the property which is involuntarily converted is held by a taxpayer to which this subsection applies, subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period applicable under subsection (a)(2)(B).

(2) Taxpayers to which subsection applies

This subsection shall apply to—

(A) a C corporation,

(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion, and

(C) any other taxpayer if, with respect to property which is involuntarily converted during the taxable year, the aggregate of the amount of realized gain on such property on which there is realized gain exceeds \$100,000.

In the case of a partnership, subparagraph (C) shall apply with respect to the partnership and with respect to each partner. A similar rule shall apply in the case of an S corporation and its shareholders.

(3) Related person

For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).

(j) Sales or exchanges under certain hazard mitigation programs

For purposes of this subtitle, if property is sold or otherwise transferred to the Federal Government, a State or local government, or an Indian tribal government to implement hazard mitigation under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (as in effect on the date of the enactment of this subsection) or the National Flood Insurance Act (as in effect on such date), such sale or transfer shall be treated as an involuntary conversion to which this section applies.

(k) Cross references

(1) For determination of the period for which the taxpayer has held property involuntarily converted, see section 1223.

(2) For treatment of gains from involuntary conversions as capital gains in certain cases, see section 1231(a).

(3) For exclusion from gross income of gain from involuntary conversion of principal residence, see section 121.

(Aug. 16, 1954, ch. 736, 68A Stat. 303; June 29, 1956, ch. 464, §5(a), 70 Stat. 407; Pub. L. 85-866, title I, §§45, 46(a), Sept. 2, 1958, 72 Stat. 1641; Pub. L. 88-272, title II, §206(b)(3), Feb. 26, 1964, 78 Stat. 40; Pub. L. 91-172, title IX, §915(a), Dec. 30, 1969, 83 Stat. 723; Pub. L. 94-455, title XIX, §§1901(a)(128), 1906(b)(13)(A), title XXI, §§2127(a), 2140(a), Oct. 4, 1976, 90 Stat. 1785, 1834, 1920, 1932; Pub. L. 95-600, title IV, §404(c)(4), title V, §542(a), title VII, §703(j)(5), Nov. 6, 1978, 92 Stat. 2870, 2888, 2941; Pub. L. 97-34, title II, §202(d)(2), Aug. 13, 1981, 95 Stat. 221; Pub. L. 98-369, div. A, title IV, §474(r)(24), July 18, 1984, 98 Stat. 844; Pub. L. 101-508, title XI, §11813(b)(20), Nov. 5, 1990, 104 Stat. 1388-555; Pub. L. 103-66, title XIII, §13431(a), Aug. 10, 1993, 107 Stat. 567; Pub. L. 104-7, §3(a)(1), (b)(1), Apr. 11, 1995, 109 Stat. 94, 95; Pub. L. 104-188, title I, §§1119(a), (b), 1610(a), Aug. 20, 1996, 110 Stat. 1765, 1844; Pub. L. 105-34, title III, §312(d)(1), (7), title IX, §913(b), title X, §1087(a), Aug. 5, 1997, 111 Stat. 839, 840, 878, 959; Pub. L. 108-311, title IV, §408(a)(7)(C), Oct. 4, 2004, 118 Stat. 1191; Pub. L. 108-357, title III, §311(a), (b), Oct. 22, 2004, 118 Stat. 1466, 1467; Pub.

L. 109-7, §1(b), Apr. 15, 2005, 119 Stat. 22; Pub. L. 110-343, div. C, title VII, §706(a)(2)(D)(i)-(iii), Oct. 3, 2008, 122 Stat. 3922; Pub. L. 113-295, div. A, title II, §§211(c)(1)(A), 221(a)(27)(D), (77), Dec. 19, 2014, 128 Stat. 4033, 4041, 4049; Pub. L. 115-141, div. U, title IV, §401(a)(167), Mar. 23, 2018, 132 Stat. 1192.)

REFERENCES IN TEXT

The Robert T. Stafford Disaster Relief and Emergency Assistance Act, referred to in subsec. (j), is Pub. L. 93-288, May 22, 1974, 88 Stat. 143, which is classified principally to chapter 68 (§5121 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 5121 of Title 42 and Tables.

The date of the enactment of this subsection, referred to in subsec. (j), is the date of enactment of Pub. L. 109-7, which was approved Apr. 15, 2005.

The National Flood Insurance Act, referred to in subsec. (j), probably means the National Flood Insurance Act of 1968, title XIII of Pub. L. 90-448, Aug. 1, 1968, 82 Stat. 572, which is classified principally to chapter 50 (§4001 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see Short Title note set out under section 4001 of Title 42 and Tables.

AMENDMENTS

2018—Subsec. (h)(2). Pub. L. 115-141 inserted “is” before “located”.

2014—Subsec. (h)(2). Pub. L. 113-295, §211(c)(1)(A), inserted “is” before “compulsorily”.

Subsec. (h)(3). Pub. L. 113-295, §221(a)(27)(D), substituted “section 165(i)(5)” for “section 165(h)(3)(C)”.

Subsecs. (j) to (l). Pub. L. 113-295, §221(a)(77), redesignated subsecs. (k) and (l) as (j) and (k), respectively, and struck out former subsec. (j) which related to sales or exchanges to implement microwave relocation policy.

2008—Subsec. (h). Pub. L. 110-343, §706(a)(2)(D)(i), amended heading generally. Prior to amendment, heading read as follows: “Special rules for property damaged by Presidentially declared disasters”.

Subsec. (h)(1). Pub. L. 110-343, §706(a)(2)(D)(i), reenacted heading without change and amended introductory provisions generally. Prior to amendment, introductory provisions read as follows: “If the taxpayer’s principal residence or any of its contents is compulsorily or involuntarily converted as a result of a Presidentially declared disaster—”.

Subsec. (h)(2). Pub. L. 110-343, §706(a)(2)(D)(ii), substituted “investment located in a disaster area and compulsorily or involuntarily converted as a result of a federally declared disaster” for “investment is compulsorily or involuntarily converted as a result of a Presidentially declared disaster”.

Subsec. (h)(3). Pub. L. 110-343, §706(a)(2)(D)(iii), amended par. (3) generally. Prior to amendment, par. (3) defined “Presidentially declared disaster” for purposes of subsec. (h).

2005—Subsecs. (k), (l). Pub. L. 109-7 added subsec. (k) and redesignated former subsec. (k) as (l).

2004—Subsec. (e). Pub. L. 108-357, §311(b), designated existing provisions as par. (1), inserted heading, and added par. (2).

Subsec. (f). Pub. L. 108-357, §311(a), in heading, substituted “in certain cases” for “where there has been environmental contamination” and, in text, inserted “drought, flood, or other weather-related conditions, or” after “because of” and “in the case of soil contamination or other environmental contamination” after “including real property”.

Subsec. (h)(3). Pub. L. 108-311 inserted “Robert T. Stafford” before “Disaster Relief and Emergency Assistance Act”.

1997—Subsec. (e). Pub. L. 105-34, §913(b), inserted “, flood, or other weather-related conditions” after “drought” in heading and “, flood, or other weather-related conditions” before period at end of text.

Subsec. (h)(4). Pub. L. 105-34, §312(d)(1), substituted “section 121” for “section 1034”.

Subsec. (i). Pub. L. 105-34, §1087(a), amended heading and text of subsec. (i) generally. Prior to amendment, text read as follows:

“(1) IN GENERAL.—In the case of—

“(A) a C corporation, or

“(B) a partnership in which 1 or more C corporations own, directly or indirectly (determined in accordance with section 707(b)(3)), more than 50 percent of the capital interest, or profits interest, in such partnership at the time of the involuntary conversion,

subsection (a) shall not apply if the replacement property or stock is acquired from a related person. The preceding sentence shall not apply to the extent that the related person acquired the replacement property or stock from an unrelated person during the period described in subsection (a)(2)(B).

“(2) RELATED PERSON.—For purposes of this subsection, a person is related to another person if the person bears a relationship to the other person described in section 267(b) or 707(b)(1).”

Subsec. (k)(3). Pub. L. 105-34, §312(d)(7), amended par. (3) generally. Prior to amendment, par. (3) read as follows: “For one-time exclusion from gross income of gain from involuntary conversion of principal residence by individual who has attained age 55, see section 121.”

1996—Subsec. (b). Pub. L. 104-188, §1610(a), reenacted heading without change and amended text generally. Prior to amendment, text read as follows: “If the property was acquired, after February 28, 1913, as the result of a compulsory or involuntary conversion described in subsection (a)(1) or section 112(f)(2) of the Internal Revenue Code of 1939, the basis shall be the same as in the case of the property so converted, decreased in the amount of any money received by the taxpayer which was not expended in accordance with the provisions of law (applicable to the year in which such conversion was made) determining the taxable status of the gain or loss upon such conversion, and increased in the amount of gain or decreased in the amount of loss to the taxpayer recognized upon such conversion under the law applicable to the year in which such conversion was made. This subsection shall not apply in respect of property acquired as a result of a compulsory or involuntary conversion of property used by the taxpayer as his principal residence if the destruction, theft, seizure, requisition, or condemnation of such residence, or the sale or exchange of such residence under threat or imminence thereof, occurred after December 31, 1950, and before January 1, 1954. In the case of property purchased by the taxpayer in a transaction described in subsection (a)(3) which resulted in the nonrecognition of any part of the gain realized as the result of a compulsory or involuntary conversion, the basis shall be the cost of such property decreased in the amount of the gain not so recognized; and if the property purchased consists of more than one piece of property, the basis determined under this sentence shall be allocated to the purchased properties in proportion to their respective costs.”

Subsec. (h). Pub. L. 104-188, §1119(b)(2), substituted “property” for “principal residences” in heading.

Subsec. (h)(1). Pub. L. 104-188, §1119(b)(3), substituted “Principal residences” for “In general” in heading.

Subsec. (h)(2). Pub. L. 104-188, §1119(a), added par. (2). Former par. (2) redesignated (3).

Subsec. (h)(3). Pub. L. 104-188, §1119(a), (b)(1), redesignated par. (2) as (3) and substituted “property” for “residence” before “is located”. Former par. (3) redesignated (4).

Subsec. (h)(4). Pub. L. 104-188, §1119(a), redesignated par. (3) as (4).

1995—Subsec. (i). Pub. L. 104-7, §3(a)(1), added subsec. (i). Former subsec. (i) redesignated (j).

Subsec. (j). Pub. L. 104-7, §3(b)(1), added subsec. (j). Former subsec. (j) redesignated (k).

Pub. L. 104-7, §3(a)(1), redesignated subsec. (i) as (j). Subsec. (k). Pub. L. 104-7, §3(b)(1), redesignated subsec. (j) as (k).

1993—Subsecs. (h), (i). Pub. L. 103-66 added subsec. (h) and redesignated former subsec. (h) as (i).

1990—Subsec. (g)(3)(A). Pub. L. 101-508 struck out “with respect to which the investment credit determined under section 46(a) is or has been claimed or” after “to any property”.

1984—Subsec. (g)(3)(A). Pub. L. 98-369 substituted “the investment credit determined under section 46(a)” for “the credit allowed by section 38 (relating to investment in certain depreciable property)”.

1981—Subsec. (g)(3)(A). Pub. L. 97-34 substituted “(relating to election to expense certain depreciable business assets)” for “(relating to additional first-year depreciation allowance for small business)”.

1978—Subsec. (a)(2)(A)(ii). Pub. L. 95-600, §703(j)(5), substituted “subsection (b)” for “subsection (c)”.

Subsecs. (f), (g). Pub. L. 95-600, §542(a), added subsec. (f) and redesignated former subsecs. (f) and (g) as (g) and (h), respectively.

Subsec. (h). Pub. L. 95-600, §§404(c)(4), 542(a), redesignated subsec. (g) as (h) and substituted in par. (3) “one-time exclusion” for “exclusion” and “age 55” for “age 65”.

1976—Subsec. (a)(2), (3). Pub. L. 94-455, §§1901(a)(128)(A), (B), 1906(b)(13)(A), redesignated par. (3) as (2), struck out in heading “where disposition occurred after 1950” after “Conversion into money”, in provisions preceding subpar. (A) “and the disposition of the converted property (as defined in paragraph (2)) occurred after December 31, 1950,” after “use to the converted property,” and in subpar. (B)(ii) “or his delegate” after “Secretary” wherever appearing, and added subpar. (E). Former par. (2), which related to involuntary conversions into money where dispositions occurred prior to 1951, was struck out.

Subsec. (b). Pub. L. 94-455, §1901(a)(128)(C), (D), redesignated subsec. (c) as (b) and substituted “or section 112(f)(2) of the Internal Revenue Code of 1939” for “or (2)”. Former subsec. (b), which related to application of subsec. (a) in the case of property used by taxpayer as his principal residence, if the destruction, theft, etc., occurred after 1950 and before 1954, was struck out.

Subsecs. (c) to (e). Pub. L. 94-455, §1901(a)(128)(C), redesignated subsecs. (d) to (f) as (c) to (e), respectively. Former subsec. (c) redesignated (b).

Subsec. (f). Pub. L. 94-455, §§1901(a)(128)(C), (E), (F), 2127(a), 2140(a), redesignated subsec. (g) as (f), in par. (2) struck out provisions relating to conversion of real property before Jan. 1, 1958, and substituted reference to subsection (a)(2)(A) for reference to subsection (a)(3)(A), and added pars. (3) and (4). Former subsec. (f) redesignated (e).

Subsecs. (g), (h). Pub. L. 94-455, §1901(a)(128)(C), redesignated subsec. (h) as (g). Former subsec. (g) redesignated (f).

1969—Subsec. (a)(3)(B). Pub. L. 91-172 substituted “2 years” for “one year”.

1964—Subsec. (h)(3). Pub. L. 88-272 added par. (3).

1958—Subsec. (a)(2). Pub. L. 85-866, §45, inserted provision defining “control”.

Subsecs. (g), (h). Pub. L. 85-866, §46(a), added subsec. (g) and redesignated former subsec. (g) as (h).

1956—Subsecs. (f), (g). Act June 29, 1956, added subsec. (f) and redesignated former subsec. (f) as (g).

EFFECTIVE DATE OF 2014 AMENDMENT

Amendment by section 211(c)(1)(A) of Pub. L. 113-295 effective as if included in the provisions of the Tax Extenders and Alternative Minimum Tax Relief Act of 2008, Pub. L. 110-343, div. C, to which such amendment relates, see section 211(d) of Pub. L. 113-295, set out as a note under section 143 of this title.

Amendment by section 221(a)(27)(D), (77) of 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 2008 AMENDMENT

Amendment by Pub. L. 110-343 applicable to disasters declared in taxable years beginning after Dec. 31, 2007,

see section 706(d)(1) of Pub. L. 110-343, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 2005 AMENDMENT

Pub. L. 109-7, §1(c)(2), Apr. 15, 2005, 119 Stat. 22, provided that: "The amendments made by subsection (b) [amending this section] shall apply to sales or other dispositions before, on, or after the date of the enactment of this Act [Apr. 15, 2005]."

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to any taxable year with respect to which the due date (without regard to extensions) for the return is after Dec. 31, 2002, see section 311(d) of Pub. L. 108-357, set out as a note under section 451 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 312(d)(1), (7) of Pub. L. 105-34 applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as a note under section 121 of this title.

Amendment by section 913(b) of Pub. L. 105-34 applicable to sales and exchanges after Dec. 31, 1996, see section 913(c) of Pub. L. 105-34, set out as a note under section 451 of this title.

Pub. L. 105-34, title X, §1087(b), Aug. 5, 1997, 111 Stat. 959, provided that: "The amendment made by this section [amending this section] shall apply to involuntary conversions occurring after June 8, 1997."

EFFECTIVE DATE OF 1996 AMENDMENT

Pub. L. 104-188, title I, §1119(d)(1), Aug. 20, 1996, 110 Stat. 1765, provided that: "The amendments made by this section [amending this section] shall apply to disasters declared after December 31, 1994, in taxable years ending after such date."

Pub. L. 104-188, title I, §1610(b), Aug. 20, 1996, 110 Stat. 1845, provided that: "The amendment made by this section [amending this section] shall apply to involuntary conversions occurring after the date of the enactment of this Act [Aug. 20, 1996]."

EFFECTIVE DATE OF 1995 AMENDMENT

Pub. L. 104-7, §3(a)(2), Apr. 11, 1995, 109 Stat. 95, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to involuntary conversions occurring on or after February 6, 1995."

Pub. L. 104-7, §3(b)(2), Apr. 11, 1995, 109 Stat. 95, provided that: "The amendment made by paragraph (1) [amending this section] shall apply to sales or exchanges after March 14, 1995."

EFFECTIVE DATE OF 1993 AMENDMENT

Pub. L. 103-66, title XIII, §13431(b), Aug. 10, 1993, 107 Stat. 567, provided that: "The amendment made by subsection (a) [amending this section] shall apply to property compulsorily or involuntarily converted as a result of disasters for which the determination referred to in section 1033(h)(2) of the Internal Revenue Code of 1986 (as added by this section) is made on or after September 1, 1991, and to taxable years ending on or after such date."

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to property placed in service after Dec. 31, 1990, but not applicable to any transition property (as defined in section 49(e) of this title), any property with respect to which qualified progress expenditures were previously taken into account under section 46(d) of this title, and any property described in section 46(b)(2)(C) of this title, as such sections were in effect on Nov. 4, 1990, see section 11813(c) of Pub. L. 101-508, set out as a note under section 45K of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks

from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to property placed in service after Dec. 31, 1980, in taxable years ending after that date, see section 209(a) of Pub. L. 97-34, set out as an Effective Date note under section 168 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by section 404(c)(4) of Pub. L. 95-600 applicable to sales or exchanges after July 26, 1978, in taxable years ending after such date, see section 404(d)(1) of Pub. L. 95-600, set out as a note under section 121 of this title.

Pub. L. 95-600, title V, §542(b), Nov. 6, 1978, 92 Stat. 2888, provided that: "The amendments made by subsection (a) [amending this section] shall apply with respect to taxable years beginning after December 31, 1974."

Amendment by section 703(j)(5) of Pub. L. 95-600 effective on Oct. 4, 1976, see section 703(r) of Pub. L. 95-600, set out as a note under section 46 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(128) 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.

Pub. L. 94-455, title XXI, §2127(b), Oct. 4, 1976, 90 Stat. 1921, provided that: "The amendment made by this section [amending this section] shall apply to taxable years beginning after December 31, 1970."

Pub. L. 94-455, title XXI, §2140(b), Oct. 4, 1976, 90 Stat. 1932, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendment made by this section [amending this section] shall apply with respect to any disposition of converted property (within the meaning of section 1033(a)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) after December 31, 1974, unless a condemnation proceeding with respect to such property began before the date of the enactment of this Act [Oct. 4, 1976]."

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title IX, §915(b), Dec. 30, 1969, 83 Stat. 723, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "The amendment made by this section [amending this section] shall apply only if the disposition of the converted property (within the meaning of section 1033(a)(2) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) occurs after the date of the enactment of this Act [Dec. 30, 1969]."

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to dispositions after Dec. 31, 1963, in taxable years ending after such date, see section 206(c) of Pub. L. 88-272, set out as an Effective Date note under section 121 of this title.

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.

EFFECTIVE DATE OF 1956 AMENDMENT

Act June 29, 1956, ch. 464, §5(b), 70 Stat. 407, provided that: "The amendment made by this section [amending this section] shall apply with respect to taxable years ending after December 31, 1955, but only in the case of sales and exchanges of livestock after December 31, 1955."

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain

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.

[§ 1034. Repealed. Pub. L. 105-34, title III, § 312(b), Aug. 5, 1997, 111 Stat. 839]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 306; Sept. 2, 1958, Pub. L. 85-866, title I, §46(b), 72 Stat. 1642; Feb. 26, 1964, Pub. L. 88-272, title II, §206(b)(4), 78 Stat. 40; Jan. 2, 1975, Pub. L. 93-597, §6(a), 88 Stat. 1953; Mar. 29, 1975, Pub. L. 94-12, title II, §207, 89 Stat. 32; Oct. 4, 1976, Pub. L. 94-455, title XIX, §§1901(a)(129), 1906(b)(13)(A), 90 Stat. 1785, 1834; May 23, 1977, Pub. L. 95-30, title I, §102(b)(13), 91 Stat. 138; Nov. 6, 1978, Pub. L. 95-600, title IV, §§404(c)(5), 405(a)-(c)(1), 92 Stat. 2870, 2871; Nov. 8, 1978, Pub. L. 95-615, title II, §206, 92 Stat. 3107; Aug. 13, 1981, Pub. L. 97-34, title I, §§112(b)(4), 122(a), (b), 95 Stat. 195, 197; July 18, 1984, Pub. L. 98-369, div. A, title X, §1053(a), 98 Stat. 1045; Oct. 22, 1986, Pub. L. 99-514, title XVIII, §1878(g), 100 Stat. 2904; Nov. 10, 1988, Pub. L. 100-647, title VI, §6002(a), 102 Stat. 3684, related to roll-over of gain on sale of principal residence.

EFFECTIVE DATE OF REPEAL

Repeal applicable to sales and exchanges after May 6, 1997, with certain exceptions, see section 312(d) of Pub. L. 105-34, set out as an Effective Date of 1997 Amendment note under section 121 of this title.

§ 1035. Certain exchanges of insurance policies

(a) General rules

No gain or loss shall be recognized on the exchange of—

(1) a contract of life insurance for another contract of life insurance or for an endowment or annuity contract or for a qualified long-term care insurance contract;

(2) a contract of endowment insurance (A) for another contract of endowment insurance which provides for regular payments beginning at a date not later than the date payments would have begun under the contract exchanged, or (B) for an annuity contract, or (C) for a qualified long-term care insurance contract;

(3) an annuity contract for an annuity contract or for a qualified long-term care insurance contract; or

(4) a qualified long-term care insurance contract for a qualified long-term care insurance contract.

(b) Definitions

For the purpose of this section—

(1) Endowment contract

A contract of endowment insurance is a contract with an insurance company which depends in part on the life expectancy of the insured, but which may be payable in full in a single payment during his life.

(2) Annuity contract

An annuity contract is a contract to which paragraph (1) applies but which may be payable during the life of the annuitant only in installments. For purposes of the preceding sentence, a contract shall not fail to be treated as an annuity contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.

(3) Life insurance contract

A contract of life insurance is a contract to which paragraph (1) applies but which is not ordinarily payable in full during the life of the insured. For purposes of the preceding sentence, a contract shall not fail to be treated as a life insurance contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.

(c) Exchanges involving foreign persons

To the extent provided in regulations, subsection (a) shall not apply to any exchange having the effect of transferring property to any person other than a United States person.

(d) Cross references

(1) For rules relating to recognition of gain or loss where an exchange is not solely in kind, see subsections (b) and (c) of section 1031.

(2) For rules relating to the basis of property acquired in an exchange described in subsection (a), see subsection (d) of section 1031.

(Aug. 16, 1954, ch. 736, 68A Stat. 309; Pub. L. 98-369, div. A, title II, §§211(b)(15), 224(a), July 18, 1984, 98 Stat. 756, 776; Pub. L. 99-514, title XVIII, §1828, Oct. 22, 1986, 100 Stat. 2851; Pub. L. 105-34, title XI, §1131(b)(1), Aug. 5, 1997, 111 Stat. 979; Pub. L. 109-280, title VIII, §844(b), Aug. 17, 2006, 120 Stat. 1010; Pub. L. 115-141, div. U, title IV, §401(a)(168), Mar. 23, 2018, 132 Stat. 1192.)

CODIFICATION

Another section 1131(b) of Pub. L. 105-34 enacted section 684 of this title.

AMENDMENTS

2018—Subsec. (a)(1). Pub. L. 115-141 struck out “or” after semicolon at end.

2006—Subsec. (a)(1). Pub. L. 109-280, §844(b)(3)(A), which directed amendment by inserting “or for a qualified long-term care insurance contract” before semicolon “at the end”, was executed by making the insertion before “; or” to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 109-280, §844(b)(3)(B), which directed amendment by inserting “, or (C) for a qualified long-term care insurance contract” before semicolon “at the end”, was executed by making the insertion before “; or” to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 109-280, §844(b)(3)(C), inserted “or for a qualified long-term care insurance contract” after “annuity contract”.

Subsec. (a)(4). Pub. L. 109-280, §844(b)(4), added par. (4).

Subsec. (b)(2). Pub. L. 109-280, §844(b)(1), inserted at end “For purposes of the preceding sentence, a contract shall not fail to be treated as an annuity contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.”

Subsec. (b)(3). Pub. L. 109-280, §844(b)(2), inserted at end “For purposes of the preceding sentence, a contract shall not fail to be treated as a life insurance contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.”

1997—Subsecs. (c), (d). Pub. L. 105-34 added subsec. (c) and redesignated former subsec. (c) as (d).

1986—Subsec. (b)(1). Pub. L. 99-514 struck out “subject to tax under subchapter L” after “with an insurance company”.

1984—Subsec. (b)(1). Pub. L. 98-369, §224(a), which directed the substitution of “an insurance company subject to tax under subchapter L” for “a life insurance company as defined in section 801”, was executed by making such substitution for “a life insurance company as defined in section 816” to reflect the probable