

any loss from such disposition shall be allowed for the taxable year of the disposition if such loss is incurred in a trade or business, or if such loss is incurred in a transaction entered into for profit though not connected with a trade or business.

“(b) LOSS INCURRED IN A TRADE OR BUSINESS.—For purposes of subsection (a), any loss incurred by a commodities dealer in the trading of commodities shall be treated as a loss incurred in a trade or business.

“(c) NET LOSS ALLOWED.—If any loss with respect to a position described in paragraphs (1) and (2) of subsection (a) is not allowable as a deduction (after applying subsections (a) and (b)), such loss shall be allowed in determining the gain or loss from dispositions of other positions in the straddle to the extent required to accurately reflect the taxpayer’s net gain or loss from all positions in such straddle.

“(d) OTHER RULES.—Except as otherwise provided in subsections (a) and (c) and in sections 1233 and 1234 of such Code, the determination of whether there is recognized gain or loss with respect to a position, and the amount and timing of such gain or loss, and the treatment of such gain or loss as long-term or short-term shall be made without regard to whether such position constitutes part of a straddle.

“(e) STRADDLE.—For purposes of this section, the term ‘straddle’ has the meaning given to such term by section 1092(c) of the Internal Revenue Code of 1986 as in effect on the day after the date of the enactment of the Economic Recovery Tax Act of 1981 [Aug. 13, 1981], and shall include a straddle all the positions of which are regulated futures contracts.

“(f) COMMODITIES DEALER.—For purposes of this section, the term ‘commodities dealer’ means any taxpayer who—

“(1) at any time before January 1, 1982, was an individual described in section 1402(i)(2)(B) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by this subtitle), or

“(2) was a member of the family (within the meaning of section 704(e)(3) [now 704(e)(2)] of such Code) of an individual described in paragraph (1) to the extent such member engaged in commodities trading through an organization the members of which consisted solely of—

“(A) 1 or more individuals described in paragraph (1), and

“(B) 1 or more members of the families (as so defined) of such individuals.

“(g) REGULATED FUTURES CONTRACTS.—For purposes of this section, the term ‘regulated futures contracts’ has the meaning given to such term by section 1256(b) of the Internal Revenue Code of 1986 (as in effect before the date of enactment of this Act [July 18, 1984]).

“(h) SYNDICATES.—For purposes of this section, any loss incurred by a person (other than a commodities dealer) with respect to an interest in a syndicate (within the meaning of section 1256(e)(3)(B) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) shall not be considered to be a loss incurred in a trade or business.”

[PART VIII—REPEALED]

[§§ 1101 to 1103. Repealed. Pub. L. 101-508, title XI, § 11801(a)(34), Nov. 5, 1990, 104 Stat. 1388-521]

Section 1101, added May 9, 1956, ch. 240, § 10(a), 70 Stat. 139; amended Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1503; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834; Oct. 19, 1982, Pub. L. 97-354, § 5(a)(34), 96 Stat. 1695, related to distributions of property pursuant to Bank Holding Company Act.

Section 1102, added May 9, 1956, ch. 240, § 10(a), 70 Stat. 143; amended Dec. 27, 1967, Pub. L. 90-225, § 1, 81 Stat. 730; Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1508; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834, related to basis of property acquired in distributions, periods of limitation, allocation of earnings and profits, and itemization of property.

Section 1103, added May 9, 1956, ch. 240, § 10(a), 70 Stat. 144; amended Oct. 2, 1976, Pub. L. 94-452, § 2(a), 90 Stat. 1509; Oct. 4, 1976, Pub. L. 94-455, title XIX, § 1906(b)(13)(A), 90 Stat. 1834, related to definitions for this part.

SAVINGS PROVISION

For provisions that nothing in repeal 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.

[PART IX—REPEALED]

[§ 1111. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(134), Oct. 4, 1976, 90 Stat. 1786]

Section, added Pub. L. 87-403, § 1(a), Feb. 2, 1962, 76 Stat. 4, related to distribution of stock pursuant to order enforcing antitrust laws.

Subchapter P—Capital Gains and Losses

- | | |
|------|--|
| Part | |
| I. | Treatment of capital gains. |
| II. | Treatment of capital losses. |
| III. | General rules for determining capital gains and losses. |
| IV. | Special rules for determining capital gains and losses. |
| V. | Special rules for bonds and other debt instruments. |
| VI. | Treatment of certain passive foreign investment companies. |

AMENDMENTS

1986—Pub. L. 99-514, title XII, § 1235(g), Oct. 22, 1986, 100 Stat. 2576, added item for part VI.

1984—Pub. L. 98-369, div. A, title I, § 42(b)(1), July 18, 1984, 98 Stat. 557, added item for part V.

PART I—TREATMENT OF CAPITAL GAINS

- | | |
|--------|---|
| Sec. | |
| [1201. | Repealed.] |
| 1202. | Partial exclusion for gain from certain small business stock. |

AMENDMENTS

2017—Pub. L. 115-97, title I, § 13001(b)(2)(A), Dec. 22, 2017, 131 Stat. 2096, struck out item 1201 “Alternative tax for corporations”.

2000—Pub. L. 106-554, § 1(a)(7) [title I, § 117(b)(3)], Dec. 21, 2000, 114 Stat. 2763, 2763A-604, substituted “Partial” for “50-percent” in item 1202.

1993—Pub. L. 103-66, title XIII, § 13113(d)(6), Aug. 10, 1993, 107 Stat. 430, added item 1202.

1986—Pub. L. 99-514, title III, § 301(b)(13), Oct. 22, 1986, 100 Stat. 2218, struck out item 1202 “Deduction for capital gains”.

1978—Pub. L. 95-600, title IV, § 401(b)(6), Nov. 6, 1978, 92 Stat. 2867, substituted “Alternative tax for corporations” for “Alternative tax” in item 1201.

[§ 1201. Repealed. Pub. L. 115-97, title I, § 13001(b)(2)(A), Dec. 22, 2017, 131 Stat. 2096]

Section, Aug. 16, 1954, ch. 736, 68A Stat. 320; Mar. 13, 1956, ch. 83, § 5(7), 70 Stat. 49; Pub. L. 86-69, § 3(f)(2), June 25, 1959, 73 Stat. 140; Pub. L. 87-834, § 8(g)(3), Oct. 16, 1962, 76 Stat. 999; Pub. L. 91-172, title V, § 511(b), Dec. 30, 1969, 83 Stat. 635; Pub. L. 94-455, title XIX, § 1901(a)(135), (b)(33)(L), Oct. 4, 1976, 90 Stat. 1786, 1801; Pub. L. 95-600, title IV, §§ 401(a), 403(a), (b), Nov. 6, 1978, 92 Stat. 2866, 2868; Pub. L. 96-222, title I, § 104(a)(2)(B), (3)(A), Apr. 1, 1980, 94 Stat. 214, 215; Pub. L. 98-369, div. A, title II,

§211(b)(16), July 18, 1984, 98 Stat. 756; Pub. L. 99-514, title III, §311(a), title X, §1024(c)(14), Oct. 22, 1986, 100 Stat. 2219, 2408; Pub. L. 100-647, title I, §1003(c)(1), title II, §2004(l), Nov. 10, 1988, 102 Stat. 3384, 3606; Pub. L. 103-66, title XIII, §13221(c)(2), Aug. 10, 1993, 107 Stat. 477; Pub. L. 104-188, title I, §1703(f), Aug. 20, 1996, 110 Stat. 1876; Pub. L. 105-34, title III, §314(a), Aug. 5, 1997, 111 Stat. 842; Pub. L. 110-234, title XV, §15311(a), May 22, 2008, 122 Stat. 1502; Pub. L. 110-246, §4(a), title XV, §15311(a), June 18, 2008, 122 Stat. 1664, 2264; Pub. L. 114-113, div. Q, title III, §334(a), Dec. 18, 2015, 129 Stat. 3108, related to alternative tax for corporations.

SUBSECTION (b) OF THIS SECTION PRIOR TO REPEAL

Prior to repeal by section 13001(b)(2)(A) of Pub. L. 115-97, subsection (b) of this section read as follows:

(b) Special rate for qualified timber gains

(1) In general

If, for any taxable year beginning in 2016, a corporation has both a net capital gain and qualified timber gain—

(A) subsection (a) shall apply to such corporation for the taxable year without regard to whether the applicable tax rate exceeds 35 percent, and

(B) the tax computed under subsection (a)(2) shall be equal to the sum of—

(i) 23.8 percent of the least of—

(I) qualified timber gain,

(II) net capital gain, or

(III) taxable income, plus

(ii) 35 percent of the excess (if any) of taxable income over the sum of the amounts for which a tax was determined under subsection (a)(1) and clause (i).

(2) Qualified timber gain

For purposes of this section, the term “qualified timber gain” means, with respect to any taxpayer for any taxable year, the excess (if any) of—

(A) the sum of the taxpayer’s gains described in subsections (a) and (b) of section 631 for such year, over

(B) the sum of the taxpayer’s losses described in such subsections for such year.

For purposes of subparagraphs (A) and (B), only timber held more than 15 years shall be taken into account.

See Extension of Special Rule Relating to Qualified Timber Gain note set out below.

EFFECTIVE DATE OF REPEAL

Repeal applicable to taxable years beginning after Dec. 31, 2017, see section 13001(c)(1) of Pub. L. 115-97, set out as an Effective Date of 2017 Amendment note under section 11 of this title.

EXTENSION OF SPECIAL RULE RELATING TO QUALIFIED TIMBER GAIN

Pub. L. 115-123, div. D, title I, §40310, Feb. 9, 2018, 132 Stat. 147, provided that: “For purposes of applying section 1201(b) of the Internal Revenue Code of 1986 with respect to taxable years beginning during 2017, such section shall be applied by substituting ‘2016 or 2017’ for ‘2016.’”

§ 1202. Partial exclusion for gain from certain small business stock

(a) Exclusion

(1) In general

In the case of a taxpayer other than a corporation, gross income shall not include 50

percent of any gain from the sale or exchange of qualified small business stock held for more than 5 years.

(2) Empowerment zone businesses

(A) In general

In the case of qualified small business stock acquired after the date of the enactment of this paragraph in a corporation which is a qualified business entity (as defined in section 1397C(b)) during substantially all of the taxpayer’s holding period for such stock, paragraph (1) shall be applied by substituting “60 percent” for “50 percent”.

(B) Certain rules to apply

Rules similar to the rules of paragraphs (5) and (7) of section 1400B(b) (as in effect before its repeal) shall apply for purposes of this paragraph.

(C) Gain after 2018 not qualified

Subparagraph (A) shall not apply to gain attributable to periods after December 31, 2018.

(D) Treatment of DC zone

The District of Columbia Enterprise Zone shall not be treated as an empowerment zone for purposes of this paragraph.

(3) Special rules for 2009 and certain periods in 2010

In the case of qualified small business stock acquired after the date of the enactment of this paragraph and on or before the date of the enactment of the Creating Small Business Jobs Act of 2010—

(A) paragraph (1) shall be applied by substituting “75 percent” for “50 percent”, and

(B) paragraph (2) shall not apply.

In the case of any stock which would be described in the preceding sentence (but for this sentence), the acquisition date for purposes of this subsection shall be the first day on which such stock was held by the taxpayer determined after the application of section 1223.

(4) 100 percent exclusion for stock acquired during certain periods in 2010 and thereafter

In the case of qualified small business stock acquired after the date of the enactment of the Creating Small Business Jobs Act of 2010—

(A) paragraph (1) shall be applied by substituting “100 percent” for “50 percent”,

(B) paragraph (2) shall not apply, and

(C) paragraph (7) of section 57(a) shall not apply.

In the case of any stock which would be described in the preceding sentence (but for this sentence), the acquisition date for purposes of this subsection shall be the first day on which such stock was held by the taxpayer determined after the application of section 1223.

(b) Per-issuer limitation on taxpayer’s eligible gain

(1) In general

If the taxpayer has eligible gain for the taxable year from 1 or more dispositions of stock issued by any corporation, the aggregate