

(iii) to manage such other risks as the Secretary may prescribe in regulations.

(B) Treatment of nonidentification or improper identification of hedging transactions

Notwithstanding subsection (a)(7), the Secretary shall prescribe regulations to properly characterize any income, gain, expense, or loss arising from a transaction—

(i) which is a hedging transaction but which was not identified as such in accordance with subsection (a)(7), or

(ii) which was so identified but is not a hedging transaction.

(3) Sale or exchange of self-created musical works

At the election of the taxpayer, paragraphs (1) and (3) of subsection (a) shall not apply to musical compositions or copyrights in musical works sold or exchanged by a taxpayer described in subsection (a)(3).

(4) Regulations

The Secretary shall prescribe such regulations as are appropriate to carry out the purposes of paragraph (6) and (7) of subsection (a) in the case of transactions involving related parties.

(Aug. 16, 1954, ch. 736, 68A Stat. 321; Pub. L. 91-172, title V, §514(a), Dec. 30, 1969, 83 Stat. 643; Pub. L. 94-455, title XIX, §1901(c)(9), title XXI, §2132(a), Oct. 4, 1976, 90 Stat. 1803, 1925; Pub. L. 97-34, title V, §505(a), Aug. 13, 1981, 95 Stat. 331; Pub. L. 106-170, title V, §532(a), Dec. 17, 1999, 113 Stat. 1928; Pub. L. 107-16, title V, §542(e)(2)(A), June 7, 2001, 115 Stat. 85; Pub. L. 107-147, title IV, §417(20), Mar. 9, 2002, 116 Stat. 57; Pub. L. 109-222, title II, §204(a), May 17, 2006, 120 Stat. 350; Pub. L. 109-432, div. A, title IV, §412(a), Dec. 20, 2006, 120 Stat. 2963; Pub. L. 111-312, title III, §301(a), Dec. 17, 2010, 124 Stat. 3300; Pub. L. 115-97, title I, §13314(a), Dec. 22, 2017, 131 Stat. 2133.)

AMENDMENTS

2017—Subsec. (a)(3). Pub. L. 115-97 inserted “a patent, invention, model or design (whether or not patented), a secret formula or process,” before “a copyright” in introductory provisions.

2010—Subsec. (a)(3)(C). Pub. L. 111-312 amended subsec. (a)(3)(C) to read as if amendment by Pub. L. 107-16, §542(e)(2)(A), had never been enacted. See 2001 Amendment note below.

2006—Subsec. (b)(3). Pub. L. 109-432 struck out “before January 1, 2011,” after “exchanged”.

Pub. L. 109-222 added par. (3). Former par. (3) redesignated (4).

Subsec. (b)(4). Pub. L. 109-222 redesignated par. (3) as (4).

2002—Subsec. (b)(1)(B)(i). Pub. L. 107-147 substituted “1256(b))” for “1256(b))”.

2001—Subsec. (a)(3)(C). Pub. L. 107-16, §542(e)(2)(A), inserted “(other than by reason of section 1022)” after “is determined”.

1999—Pub. L. 106-170 designated existing provisions as subsec. (a), inserted heading, and added pars. (6) to (8) and subsec. (b).

1981—Pars. (5), (6). Pub. L. 97-34 redesignated par. (6) as (5) and struck out former par. (5), which excluded from definition of “capital asset” an obligation of the United States or any of its possessions, or of a State or any political subdivision thereof, or of the District of Columbia, issued on or after March 1, 1941, on a discount basis and payable without interest at a fixed ma-

turity date not exceeding one year from the date of issue, and is covered by section 1232(a)(4)(B) of this title.

1976—Par. (5). Pub. L. 94-455, §1901(c)(9), struck out “or Territory,” after “State”.

Par. (6). Pub. L. 94-455, §2132(a), added par. (6).

1969—Par. (3). Pub. L. 91-172 inserted reference to a letter or memorandum, added subpar. (B) dealing with a letter or memorandum, and redesignated former subpar. (B) as (C).

EFFECTIVE DATE OF 2017 AMENDMENT

Pub. L. 115-97, title I, §13314(c), Dec. 22, 2017, 131 Stat. 2133, provided that: “The amendments made by this section [amending this section and section 1231 of this title] shall apply to dispositions after December 31, 2017.”

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-312 applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Pub. L. 109-432, div. A, title IV, §412(b), Dec. 20, 2006, 120 Stat. 2963, provided that: “The amendment made by this section [amending this section] shall take effect as if included in section 204 of the Tax Increase Prevention and Reconciliation Act of 2005 [Pub. L. 109-222].”

Amendment by Pub. L. 109-222 applicable to sales and exchanges in taxable years beginning after May 17, 2006, see section 204(c) of Pub. L. 109-222, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to estates of decedents dying after Dec. 31, 2009, see section 542(f)(1) of Pub. L. 107-16, set out as a note under section 121 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106-170 applicable to any instrument held, acquired, or entered into, any transaction entered into, and supplies held or acquired on or after Dec. 17, 1999, see section 532(d) of Pub. L. 106-170, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 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 an Effective Date note under section 1092 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XXI, §2132(b), Oct. 4, 1976, 90 Stat. 1925, provided that: “The amendment made by subsection (a) [amending this section] shall apply to sales, exchanges, and contributions made after the date of enactment of this Act [Oct. 4, 1976].”

EFFECTIVE DATE OF 1969 AMENDMENT

Pub. L. 91-172, title V, §514(c), Dec. 30, 1969, 83 Stat. 643, provided that: “The amendments made by this section [amending this section and sections 341 and 1231 of this title] shall apply to sales and other dispositions occurring after July 25, 1969.”

§ 1222. Other terms relating to capital gains and losses

For purposes of this subtitle—

(1) Short-term capital gain

The term “short-term capital gain” means gain from the sale or exchange of a capital

asset held for not more than 1 year, if and to the extent such gain is taken into account in computing gross income.

(2) Short-term capital loss

The term “short-term capital loss” means loss from the sale or exchange of a capital asset held for not more than 1 year, if and to the extent that such loss is taken into account in computing taxable income.

(3) Long-term capital gain

The term “long-term capital gain” means gain from the sale or exchange of a capital asset held for more than 1 year, if and to the extent such gain is taken into account in computing gross income.

(4) Long-term capital loss

The term “long-term capital loss” means loss from the sale or exchange of a capital asset held for more than 1 year, if and to the extent that such loss is taken into account in computing taxable income.

(5) Net short-term capital gain

The term “net short-term capital gain” means the excess of short-term capital gains for the taxable year over the short-term capital losses for such year.

(6) Net short-term capital loss

The term “net short-term capital loss” means the excess of short-term capital losses for the taxable year over the short-term capital gains for such year.

(7) Net long-term capital gain

The term “net long-term capital gain” means the excess of long-term capital gains for the taxable year over the long-term capital losses for such year.

(8) Net long-term capital loss

The term “net long-term capital loss” means the excess of long-term capital losses for the taxable year over the long-term capital gains for such year.

(9) Capital gain net income

The term “capital gain net income” means the excess of the gains from sales or exchanges of capital assets over the losses from such sales or exchanges.

(10) Net capital loss

The term “net capital loss” means the excess of the losses from sales or exchanges of capital assets over the sum allowed under section 1211. In the case of a corporation, for the purpose of determining losses under this paragraph, amounts which are short-term capital losses under section 1212(a)(1) shall be excluded.

(11) Net capital gain

The term “net capital gain” means the excess of the net long-term capital gain for the taxable year over the net short-term capital loss for such year.

(Aug. 16, 1954, ch. 736, 68A Stat. 322; Pub. L. 88-272, title II, §230(b), Feb. 26, 1964, 78 Stat. 100; Pub. L. 91-172, title V, §§511(a), 513(c), Dec. 30, 1969, 83 Stat. 635, 643; Pub. L. 94-455, title XIV,

§1402(a)(1), (2), (d), title XIX, §1901(a)(136), Oct. 4, 1976, 90 Stat. 1731, 1733, 1787; Pub. L. 98-369, div. A, title X, §1001(a), (e), July 18, 1984, 98 Stat. 1011, 1012; Pub. L. 111-325, title I, §101(b)(2), Dec. 22, 2010, 124 Stat. 3538; Pub. L. 113-295, div. A, title II, §221(a)(79), Dec. 19, 2014, 128 Stat. 4049.)

AMENDMENTS

2014—Pub. L. 113-295 struck out concluding provisions which read as follows: “For purposes of this subtitle, in the case of futures transactions in any commodity subject to the rules of a board of trade or commodity exchange, the length of the holding period taken into account under this section or under any other section amended by section 1402 of the Tax Reform Act of 1976 shall be determined without regard to the amendments made by subsections (a) and (b) of such section 1402.”

2010—Par. (10). Pub. L. 111-325 substituted “section 1212(a)(1)” for “section 1212”.

1984—Pars. (1) to (4). Pub. L. 98-369 substituted “6 months” for “1 year”, applicable to property acquired after June 22, 1984, and before Jan. 1, 1988. See Effective Date of 1984 Amendment note below.

1976—Pars. (1) to (4). Pub. L. 94-455, §1402(a)(2), provided that “9 months” would be changed to “1 year”.

Pub. L. 94-455, §1402(a)(1), provided that “6 months” would be changed to “9 months” for taxable years beginning in 1977.

Par. (9). Pub. L. 94-455, §1901(a)(136)(A), substituted “Capital gain net income” and “capital gain net income” for “Net capital gain” and “net capital gain” in heading and text.

Par. (11). Pub. L. 94-455, §1901(a)(136)(B), substituted “Net capital gain” and “net capital gain” for “Net section 1201 gain” and “net section 1201 gain” in heading and text.

Pub. L. 94-455, §1402(d), inserted sentence at end relating to length of holding period in case of futures transactions in commodities.

1969—Par. (9). Pub. L. 91-172, §513(c), substituted “The” for “In the case of a corporation, the”.

Par. (11). Pub. L. 91-172, §511(a), added par. (11).

1964—Pars. (9), (10). Pub. L. 88-272 struck out provisions from par. (9) relating to taxpayers other than corporations, and inserted “In the case of a corporation” in par. (10).

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 2010 AMENDMENT

Except as otherwise provided, amendment by Pub. L. 111-325 applicable to net capital losses for taxable years beginning after Dec. 22, 2010, see section 101(c) of Pub. L. 111-325, set out as a note under section 1212 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to property acquired after June 22, 1984, and before Jan. 1, 1988, see section 1001(e) of Pub. L. 98-369, set out as a note under section 166 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIV, §1402(a)(1), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by that section is effective with respect to taxable years beginning in 1977.

Pub. L. 94-455, title XIV, §1402(a)(2), Oct. 4, 1976, 90 Stat. 1731, provided that the amendment made by that section is effective with respect to taxable years beginning after Dec. 31, 1977.

Amendment by section 1901(a)(136) of Pub. L. 94-455 applicable with respect to 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 OF 1969 AMENDMENT

Amendment by section 511(a) of Pub. L. 91-172 applicable with respect to taxable years beginning after Dec. 31, 1969, see section 511(d) of Pub. L. 91-172, set out as an Effective Date note under section 852 of this title.

Amendment by section 513(c) of Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1969, see section 513(d) of Pub. L. 91-172, set out as a note under section 1211 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years beginning after Dec. 31, 1963, see section 230(c) of Pub. L. 88-272, set out as a note under section 1212 of this title.

§ 1223. Holding period of property

For purposes of this subtitle—

(1) In determining the period for which the taxpayer has held property received in an exchange, there shall be included the period for which he held the property exchanged if, under this chapter, the property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as the property exchanged, and, in the case of such exchanges the property exchanged at the time of such exchange was a capital asset as defined in section 1221 or property described in section 1231. For purposes of this paragraph—

(A) an involuntary conversion described in section 1033 shall be considered an exchange of the property converted for the property acquired, and

(B) a distribution to which section 355 (or so much of section 356 as relates to section 355) applies shall be treated as an exchange.

(2) In determining the period for which the taxpayer has held property however acquired there shall be included the period for which such property was held by any other person, if under this chapter such property has, for the purpose of determining gain or loss from a sale or exchange, the same basis in whole or in part in his hands as it would have in the hands of such other person.

(3) In determining the period for which the taxpayer has held stock or securities the acquisition of which (or the contract or option to acquire which) resulted in the nondeductibility (under section 1091 relating to wash sales) of the loss from the sale or other disposition of substantially identical stock or securities, there shall be included the period for which he held the stock or securities the loss from the sale or other disposition of which was not deductible.

(4) In determining the period for which the taxpayer has held stock or rights to acquire stock received on a distribution, if the basis of such stock or rights is determined under section 307, there shall (under regulations prescribed by the Secretary) be included the period for which he held the stock in the distributing corporation before the receipt of such stock or rights upon such distribution.

(5) In determining the period for which the taxpayer has held stock or securities acquired from a corporation by the exercise of rights to acquire such stock or securities, there shall be

included only the period beginning with the date on which the right to acquire was exercised.

[(6) Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(80)(C), Dec. 19, 2014, 128 Stat. 4049.]

(7) In determining the period for which the taxpayer has held a commodity acquired in satisfaction of a commodity futures contract (other than a commodity futures contract to which section 1256 applies) there shall be included the period for which he held the commodity futures contract if such commodity futures contract was a capital asset in his hands.

[(8) Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(80)(C), Dec. 19, 2014, 128 Stat. 4049.]

(9) In the case of a person acquiring property from a decedent or to whom property passed from a decedent (within the meaning of section 1014(b)), if—

(A) the basis of such property in the hands of such person is determined under section 1014, and

(B) such property is sold or otherwise disposed of by such person within 1 year after the decedent's death,

then such person shall be considered to have held such property for more than 1 year.

(10) If—

(A) property is acquired by any person in a transfer to which section 1040 applies,

(B) such property is sold or otherwise disposed of by such person within 1 year after the decedent's death, and

(C) such sale or disposition is to a person who is a qualified heir (as defined in section 2032A(e)(1)) with respect to the decedent,

then the person making such sale or other disposition shall be considered to have held such property for more than 1 year.

(11) In determining the period for which the taxpayer has held qualified replacement property (within the meaning of section 1042(b)) the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale of qualified securities (within the meaning of section 1042(b)), there shall be included the period for which such qualified securities had been held by the taxpayer.

(12) In determining the period for which the taxpayer has held property the acquisition of which resulted under section 1043 in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property had been held as of the date of such sale.

(13) Except for purposes of subsections (a)(2) and (c)(2)(A) of section 1202, in determining the period for which the taxpayer has held property the acquisition of which resulted under section 1045 or 1397B in the nonrecognition of any part of the gain realized on the sale of other property, there shall be included the period for which such other property has been held as of the date of such sale.

(14) If the security to which a securities futures contract (as defined in section 1234B) relates (other than a contract to which section 1256 applies) is acquired in satisfaction of such contract, in determining the period for which