

**§ 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.)

**Editorial Notes**

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).

**Statutory Notes and Related Subsidiaries**

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 sec-

tion 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