

actions (1) between a husband and wife; or (2) between an individual and a corporation more than 80 percent in value of the outstanding stock of which is owned by such individual, his spouse, and his minor children and minor grandchildren and “any gain recognized to the transferee shall be treated as ordinary income if such property is, in the hands of the transferee, subject to the allowance for depreciation provided in section 167” for “any gain recognized to the transferor from the sale or exchange of such property shall be considered as gain from the sale or exchange of property which is neither a capital asset nor property described in section 1231”.

Subsec. (b). Pub. L. 94-455 substituted definition of “related persons” for prior provision making section applicable only to sales or exchanges of depreciable property.

Subsec. (c). Pub. L. 94-455 substituted provision respecting constructive ownership of stock for prior provision making section inapplicable with respect to sales or exchanges made on or before May 3, 1951.

1958—Subsec. (c). Pub. L. 85-866 added subsec. (c).

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to taxable years beginning after Aug. 5, 1997, see section 1308(c) of Pub. L. 105-34, set out as a note under section 267 of this title.

##### EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title VI, §642(c), Oct. 22, 1986, 100 Stat. 2284, as amended by Pub. L. 100-647, title I, §1006(i)(3), Nov. 10, 1988, 102 Stat. 3411, provided that:

“(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section and sections 453 and 707 of this title] shall apply to sales after the date of the enactment of this Act [Oct. 22, 1986], in taxable years ending after such date.

“(2) TRANSITIONAL RULE FOR BINDING CONTRACTS.—The amendments made by this section shall not apply to sales made after August 14, 1986, which are made pursuant to a binding contract in effect on August 14, 1986, and at all times thereafter.”

##### EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title I, §175(c), July 18, 1984, 98 Stat. 708, provided that: “The amendments made by this section [amending this section] shall apply to sales or exchanges after March 1, 1984, in taxable years ending after such date.”

Amendment by section 421(b)(6) of Pub. L. 98-369 applicable to transfers after July 18, 1984, in taxable years ending after such date, subject to election to have amendment apply to transfers after 1983 or to transfers pursuant to existing decrees, see section 421(d) of Pub. L. 98-369, set out as an Effective Date note under section 1041 of this title.

Pub. L. 98-369, div. A, title V, §557(b), July 18, 1984, 98 Stat. 899, provided that: “The amendment made by subsection (a) [amending this section] shall apply to sales or exchanges after the date of the enactment of this Act [July 18, 1984] in taxable years ending after such date.”

##### EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 applicable to dispositions made after Oct. 19, 1980, in taxable years ending after such date, see section 311(a) of Pub. L. 97-448, set out as a note under section 453 of this title.

##### EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §701(v)(2), Nov. 6, 1978, 92 Stat. 2920, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “The amendment made by paragraph (1) [amending this section] shall apply as if included in the amendment made to section

1239 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] by section 2129(a) of the Tax Reform Act of 1976 [section 2129(a) of Pub. L. 94-455].”

##### EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XXI, §2129(b), Oct. 4, 1976, 90 Stat. 1922, provided that: “The amendment made by this section [amending this section] shall apply to sales or exchanges after the date of the enactment of this Act [Oct. 4, 1976]. For purposes of the preceding sentence, a sale or exchange is considered to have occurred on or before such date of enactment if such sale or exchange is made pursuant to a binding contract entered into on or before that date.”

#### § 1240. Repealed. Pub. L. 94-455, title XIX, § 1901(a)(139), Oct. 4, 1976, 90 Stat. 1787

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 332, related to taxability to employee of termination payments.

#### Statutory Notes and Related Subsidiaries

##### EFFECTIVE DATE OF REPEAL

Repeal applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2 of this title.

#### § 1241. Cancellation of lease or distributor's agreement

Amounts received by a lessee for the cancellation of a lease, or by a distributor of goods for the cancellation of a distributor's agreement (if the distributor has a substantial capital investment in the distributorship), shall be considered as amounts received in exchange for such lease or agreement.

(Aug. 16, 1954, ch. 736, 68A Stat. 333.)

#### § 1242. Losses on small business investment company stock

If—

(1) a loss is on stock in a small business investment company operating under the Small Business Investment Act of 1958, and

(2) such loss would (but for this section) be a loss from the sale or exchange of a capital asset,

then such loss shall be treated as an ordinary loss. For purposes of section 172 (relating to the net operating loss deduction) any amount of loss treated by reason of this section as an ordinary loss shall be treated as attributable to a trade or business of the taxpayer.

(Added Pub. L. 85-866, title I, §57(a), Sept. 2, 1958, 72 Stat. 1645; amended Pub. L. 94-455, title XIX, §1901(b)(3)(F), Oct. 4, 1976, 90 Stat. 1793.)

#### Editorial Notes

##### REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in cl. (1), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, as amended, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

##### AMENDMENTS

1976—Pub. L. 94-455 substituted “an ordinary loss” for “a loss from the sale or exchange of property which is not a capital asset”, each time appearing.