

(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.

(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.

(c) 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; July 18, 1984, Pub. L. 98-369, div. A, title II, §§211(b)(15), 224(a), 98 Stat. 756, 776; Oct. 22, 1986, Pub. L. 99-514, title XVIII, §1828, 100 Stat. 2851.)

AMENDMENTS

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 intent of Congress and the earlier amendment by Pub. L. 98-369, §211(b)(15), which substituted “as defined in section 816” for “as defined in section 801”.

Pub. L. 98-369, §211(b)(15), substituted “section 816” for “section 801”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective, except as otherwise provided, as if included in the provisions of the Tax Reform Act of 1984, Pub. L. 98-369, div. A, to which such amendment relates, see section 1881 of Pub. L. 99-514, set out as a note under section 48 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by section 211(b)(5) of Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

Section 224(b) of Pub. L. 98-369 provided that: “The amendment made by subsection (a) [amending this section] shall apply to all exchanges whether before, on, or after the date of the enactment of this Act [July 18, 1984].”

PLAN AMENDMENTS NOT REQUIRED UNTIL
JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see

section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1031 of this title.

§ 1036. Stock for stock of same corporation**(a) General rule**

No gain or loss shall be recognized if common stock in a corporation is exchanged solely for common stock in the same corporation, or if preferred stock in a corporation is exchanged solely for preferred stock in the same corporation.

(b) 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.)

CROSS REFERENCES

Exchange of stock and securities in certain reorganizations, see section 354 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 83, 424, 1031 of this title.

§ 1037. Certain exchanges of United States obligations**(a) General rule**

When so provided by regulations promulgated by the Secretary in connection with the issue of obligations of the United States, no gain or loss shall be recognized on the surrender to the United States of obligations of the United States issued under chapter 31 of title 31 in exchange solely for other obligations issued under such chapter.

(b) Application of original issue discount rules**(1) Exchanges involving obligations issued at a discount**

In any case in which gain has been realized but not recognized because of the provisions of subsection (a) (or so much of section 1031(b) as relates to subsection (a) of this section), to the extent such gain is later recognized by reason of a disposition or redemption of an obligation received in an exchange subject to such provisions, the first sentence of section 1271(c)(2) shall apply to such gain as though the obligation disposed of or redeemed were the obligation surrendered to the Government in the exchange rather than the obligation actually disposed of or redeemed. For purposes of this paragraph and subpart A of part V of subchapter P, if the obligation surrendered in the exchange is a nontransferable obligation described in subsection (a) or (c) of section 454—

(A) the aggregate amount considered, with respect to the obligation surrendered, as ordinary income shall not exceed the difference between the issue price and the stated redemption price which applies at the time of the exchange, and

(B) the issue price of the obligation received in the exchange shall be considered to

be the stated redemption price of the obligation surrendered in the exchange, increased by the amount of other consideration (if any) paid to the United States as a part of the exchange.

(2) Exchanges of transferable obligations issued at not less than par

In any case in which subsection (a) (or so much of section 1031(b) or (c) as relates to subsection (a) of this section) has applied to the exchange of a transferable obligation which was issued at not less than par for another transferable obligation, the issue price of the obligation received from the Government in the exchange shall be considered for purposes of applying subpart A of part V of subchapter P to be the same as the issue price of the obligation surrendered to the Government in the exchange, increased by the amount of other consideration (if any) paid to the United States as a part of the exchange.

(c) Cross references

(1) For rules relating to the recognition of gain or loss in a case where subsection (a) would apply except for the fact that the exchange was not made solely for other obligations of the United States, see subsections (b) and (c) of section 1031.

(2) For rules relating to the basis of obligations of the United States acquired in an exchange for other obligations described in subsection (a), see subsection (d) of section 1031.

(Added Pub. L. 86-346, title II, §201(a), Sept. 22, 1959, 73 Stat. 622; amended Pub. L. 94-455, title XIX, §1901(a)(130), (b)(3)(I), Oct. 4, 1976, 90 Stat. 1786, 1793; Pub. L. 97-452, §2(c)(3), Jan. 12, 1983, 96 Stat. 2478; Pub. L. 98-369, div. A, title I, §42(a)(11), July 18, 1984, 98 Stat. 557.)

AMENDMENTS

1984—Subsec. (b). Pub. L. 98-369, §42(a)(11)(C), substituted “original issue discount rules” for “section 1232” in heading.

Subsec. (b)(1). Pub. L. 98-369, §42(a)(11)(A), (B), substituted “section 1271(c)(2)” for “section 1232(a)(2)(B)”, and “subpart A of part V of subchapter P” for “section 1232”.

Subsec. (b)(2). Pub. L. 98-369, §42(a)(11)(B), substituted “subpart A of part V of subchapter P” for “section 1232”.

1983—Subsec. (a). Pub. L. 97-452 substituted “chapter 31 of title 31” and “chapter” for “the Second Liberty Bond Act” and “Act”, respectively.

1976—Subsec. (b)(1). Pub. L. 94-455 substituted in introductory provisions “section 1232(a)(2)(B)” for “section 1232(a)(2)(A)” and in subpar. (A) “ordinary income” for “gain from the sale or exchange of property which is not a capital asset”.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years ending after July 18, 1984, see section 44 of Pub. L. 98-369, set out as an Effective Date note under section 1271 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by 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.

EFFECTIVE DATE

Section 203 of Pub. L. 86-346 provided that: “The amendments made by this title [enacting this section

and amending section 1031 of this title and section 742a of former Title 31, Money and Finance] shall be effective for taxable years ending after the date of enactment of this Act [Sept. 22, 1959].”

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 454, 1031 of this title.

§ 1038. Certain reacquisitions of real property

(a) General rule

If—

(1) a sale of real property gives rise to indebtedness to the seller which is secured by the real property sold, and

(2) the seller of such property reacquires such property in partial or full satisfaction of such indebtedness,

then, except as provided in subsections (b) and (d), no gain or loss shall result to the seller from such reacquisition, and no debt shall become worthless or partially worthless as a result of such reacquisition.

(b) Amount of gain resulting

(1) In general

In the case of a reacquisition of real property to which subsection (a) applies, gain shall result from such reacquisition to the extent that—

(A) the amount of money and the fair market value of other property (other than obligations of the purchaser) received, prior to such reacquisition, with respect to the sale of such property, exceeds

(B) the amount of the gain on the sale of such property returned as income for periods prior to such reacquisition.

(2) Limitation

The amount of gain determined under paragraph (1) resulting from a reacquisition during any taxable year beginning after the date of the enactment of this section shall not exceed the amount by which the price at which the real property was sold exceeded its adjusted basis, reduced by the sum of—

(A) the amount of the gain on the sale of such property returned as income for periods prior to the reacquisition of such property, and

(B) the amount of money and the fair market value of other property (other than obligations of the purchaser received with respect to the sale of such property) paid or transferred by the seller in connection with the reacquisition of such property.

For purposes of this paragraph, the price at which real property is sold is the gross sales price reduced by the selling commissions, legal fees, and other expenses incident to the sale of such property which are properly taken into account in determining gain or loss on such sale.

(3) Gain recognized

Except as provided in this section, the gain determined under this subsection resulting from a reacquisition to which subsection (a) applies shall be recognized, notwithstanding any other provision of this subtitle.