

Instructions

(References are to the Internal Revenue Code)

A. General.—Every sale or exchange of property must be reported in detail even though no gain or loss results.

B. Capital assets.—A capital asset is property held by the corporation (whether or not connected with its trade or business) except: (1) inventoriable assets or property held primarily for sale to customers; (2) depreciable or real property used in the trade or business; (for life insurance companies, this relates only to property used in carrying on an insurance business, e.g., home office building; branch offices; office equipment; etc. Excluded are investment assets that produce interest, rents, dividends or royalties. See section 817 (a)(2)); (3) certain copyrights, literary, musical, or artistic compositions, or similar property; (4) accounts or notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property described in (1) above; or (5) certain short-term Federal, State, and municipal obligations issued on or after March 1, 1941, on a discount basis.

Thus, the gains or losses from the sale or exchange of depreciable assets attributable to any trade or business (other than an insurance business) carried on by the life insurance company, such as renting various pieces of real estate, or operating a radio station, a housing development, or a farm, will be treated as gains or losses from the sale or exchange of capital assets.

C. Gains from disposition of depreciable property under sections 1245 and 1250—assets held more than 6 months (Part I).—(Report any gain from such property held for 6 months or less in Part IV.) In columns f and i, use the 1st heading for section 1245 and the 2nd heading for section 1250.

Except as provided below, section 1245 property means depreciable (a) personal property (other than livestock) including intangible personal property; (b) tangible real property (except for buildings and their structural components) if used as an integral part of manufacturing, production, or extraction, or of furnishing transportation, communications, electrical energy, gas, water, or sewage disposal services, or used as a research or storage facility in connection with these activities; and (c) elevators and escalators.

Except as provided below, section 1250 property means depreciable real property (other than section 1245 property).

See sections 1245(b) and 1250(d) for exceptions and limitations involving: (a) disposition by gift; (b) certain tax-free transactions; (c) like kind exchanges, involuntary conversions; and (d) sales or exchanges to effectuate FCC policies and exchanges to comply with SEC orders.

Column f of Part I.—In computing depreciation allowed or allowable for elevators or escalators, enter in column f-1, depreciation prior to July 1, 1963, and in column f-2, depreciation after June 30, 1963.

Column i of Part I, section 1250 property only.—If held for more than 6 months, but not more than 1 year, enter the smaller of column h or column f-2.

If held for more than 1 year, enter the result of multiplying the smaller of

- (1) column h, or
- (2) column f-2 less the amount of depreciation computed for the same period using the straight-line method,

by the percentage obtained by subtracting from 100 percent, one percentage point for each full month the property was held in excess of 20 months.

Where substantial improvements have been made within the preceding 10 years, see section 1250(f).

For provisions relating to recapture of exploration expenditures on the sale or other disposition of mining property, see section 617.

Investment assets.—Gains or losses from the sale or exchange of investment assets are treated as gains or losses from the sale or exchange of capital assets. See instruction B. All sales of investment assets subject to sections 1245 or 1250 should be reported in Part I regardless of the length of time held. If held 6 months or less, the other gain reported in column j of Part I should be entered on line 6, Part III, and identified as gain from Part I. If held more than 6 months, the other gain reported in column j of Part I should be entered on line 8, Part III, and identified as gain from Part I. Any amount included in column i of Part I as ordinary income from the sale of investment assets should be included in line 7, Schedule A.

Gain on sale by a controlled corporation.—A gain on the sale of depreciable property between an individual and his controlled corporation is treated as ordinary income. Capital gain provisions do not apply. (See section 1239.)

For this purpose, a corporation is controlled if the individual, his spouse, and his minor children and minor grandchildren own more than 80% in value of the outstanding stock.

D. Gains and losses from involuntary conversion and from the sale or exchange of certain property used in the trade or business.—Section 1231 provides in part that where the gains from the sale or exchange of property used in the trade or business and held more than 6 months exceed the losses, each gain and loss is treated as though it was from the sale or exchange of a long-term capital asset. Where the losses exceed the gains, then each gain or loss is considered as not being from the sale or exchange of a capital asset, with the result that ordinary gain or loss is realized.

Section 817(a) provides that in applying section 1231(a), the term "property used in the trade or business" shall be treated as including only (1) property used in carrying on an insurance business, which is subject to depreciation provided in section 167 and held for more than 6 months (including real property but excluding (a) inventoriable property or property held primarily for sale to customers and (b) certain copyrights; literary, musical or artistic compositions; or similar property); and (2) timber, coal, and domestic iron ore to which section 631 applies. See instruction B.

The total shown on line 5, page 1, determines whether the items reflected therein represent a long-term capital gain or an ordinary loss. In either case, after the initial determination, the items must be segregated into (1) assets held on December 31, 1958, where the F.M.V. exceeded the adjusted basis on that date, and (2) other. Enter the totals into the appropriate schedules of Part III or Part IV.

E. Basis.—The "basis" for certain property is not subject to the same rule for reporting gains as for losses.

(a) Gain on property held on December 31, 1958.—Section 817(b)(1), in effect, limits the amount of gain that is to be recognized on the sale or other disposition of certain property held by the company on December 31, 1958. This is accomplished by treating the gain on the sale or other disposition of such property as an amount (but not less than zero) equal to the amount by which the gain (determined without regard to 817(b)(1)) exceeds the difference between the fair market value on December 31, 1958, and the adjusted basis (as provided in sec. 1016(a)) for determining gain as of such date. This limitation on the amount of gain recognized applies only if (1) the property was held by a life insurance company on December 31, 1958; (2) the fair market value of the property on December 31, 1958, is greater than the adjusted basis for determining gain as of that date; and (3) the taxpayer has been a life insurance company at all times on and after December 31, 1958, until the date of sale or other disposition of the property.

(b) Certain substituted property acquired after December 31, 1958.—See subparagraphs A–E of section 817(b)(2) which provide certain rules for such property.

Section 817(b)(3) provides that the term “property” (for purposes of (a) and (b), above) does not include insurance and annuity contracts (and contracts supplementary thereto) and property described in paragraph (1) of section 1221 (relating to stock in trade or inventory-type property).

(c) Property held on December 31, 1958, and certain substituted property acquired after December 31, 1958.—In determining loss for such property (described in (a) and (b), above) the basis is cost, adjusted as provided by section 1016.

(d) Other property acquired after December 31, 1958.—Where property, other than property described in (b) above, was purchased after December 31, 1958, the basis is cost, adjusted as provided in section 1016. Where property was acquired by bequest, gift, involuntary conversion, or wash sale of stock, see sections 1014, 1015, 1033, and 1091, respectively.

F. Losses.—Capital losses are allowed only to the extent of capital gains. A net capital loss, however, may be carried forward as a short-term capital loss for 5 years (10 years to the extent the loss is attributable to a foreign expropriation loss) or until exhausted, whichever comes first.

Worthless securities.—Except for banks, if securities which are capital assets become wholly worthless during the taxable year, the loss is to be treated as a capital loss as of the last day of the taxable year.

Losses not allowable.—No loss is allowed for wash sales of stock or securities. (See section 1091.) No loss is allowed (distributions in liquidation excepted) on transactions between related persons. (See section 267.)

G. Gain on transactions occurring prior to January 1, 1959.—Section 817(d) provides that the gain described in such section shall be excluded.

H. Emergency facilities.—If emergency facilities are sold or exchanged, see section 1238.

I. Long-term capital gains from regulated investment companies.—Include in income as a long-term capital gain the amount the corporation has been notified constitutes its share of the undistributed capital gains of a regulated investment company.

J. Short sales of capital assets.—See section 1233 for rules relating to certain short sales of stock or other securities and transactions in commodity futures.

Specific Instructions for Parts II Through IV

Column a.—Enter full description of each item of property sold or exchanged and include the following facts: (a) for real estate: location and description of land, description of improvements and details explaining depreciation; (b) for bonds or other evidences of indebtedness: name of issuing corporation, description of the particular issue, denomination, and amount; and (c) for stocks: name of issuing corporation, class of stock, number of shares, and capital changes affecting basis.

Column e.—Enter the amount of depreciation, obsolescence, amortization, and depletion in respect of the property. This amount shall be the sum of the following:

(a) The amount of depreciation, obsolescence, amortization, and depletion which has been allowed (but not less than the amount allowable) in respect of such property since date of acquisition. For any period after December 31, 1951, the amount of depreciation, etc., allowed (and which is in excess of the amount allowable) shall be disregarded to the extent that such excess does not result in a reduction for any taxable year of the taxpayer’s income tax; and

(b) The amount of depreciation, obsolescence, amortization, and depletion actually sustained:

(1) Prior to March 1, 1913, if the property was acquired before that date; or

(2) Since February 28, 1913, and before January 1, 1958, with respect to property to which section 1016(a)(2) was inapplicable during such period.

Column f.—If the amount shown as the basis is other than actual cash cost of the property sold or exchanged, full details must be furnished regarding the acquisition of the property. Also enter subsequent improvements that restored the property or prolonged its useful life. Do not include ordinary repairs, interest, or taxes in column f or elsewhere in computing gain or loss. Also, see General Instruction E.

Column g.—Except where section 817 is applicable, the gain or loss is the result of column d plus column e, less column f. Where section 817 is applicable, complete columns a through f and attach a schedule showing the method of computing the gain reported in column g. See General Instruction E.

Columns h–k.—These columns are to be used only in the event of gains on disposition of property and the fair market value of such property held on December 31, 1958, exceeded the adjusted basis for determining gain as of such date.

Line 4.—Enter each section 1231 item not carried over from line 3.

Line 5.—Enter the net gain or loss of the section 1231 items described in Part II. See instruction D.

Line 6.—Enter each short-term capital gain (loss).

Line 7.—Enter your net short-term capital gain or loss. The term “net short-term capital gain” (“loss”) means the excess of the total of all of the short-term capital gains over the total of the short-term capital losses (the excess of the total of the short-term capital losses over the total of all of the short-term capital gains). This total should also be entered on line 12.

Line 8.—(A) Cols. a–g: Enter the total of applicable items from Part II and other long-term capital gains and losses (excluding the gains from those assets whose F.M.V. on 12/31/58 exceeded the adjusted basis on that date).

(B) Cols. a–k: Enter only the long-term capital gains of those assets whose F.M.V. on 12/31/58 exceeded the adjusted basis on that date.

Line 9.—Enter the total of the long-term capital gains (losses) described in line 8 (cols. a–g).

Line 10.—Enter the total of the gains that are shown in column k.

Line 11.—Enter your net long-term capital gain or loss. The term “net long-term gain” (“loss”) means the excess of the total of all of the long-term capital gains over the total of the long-term capital losses (the excess of the total of the long-term capital losses over the total of all of the long-term capital gains). This total should also be entered on line 13.

Alternative tax.—If the net long-term capital gain exceeds the net short-term capital loss, then, in lieu of the normal tax and surtax imposed upon taxable income, there is imposed an alternative tax (if such tax is less than the normal tax and surtax). The alternative tax is the sum of (1) a partial tax, computed at the normal tax and surtax rates on the taxable income determined by reducing the taxable investment income, and the gain from operations, by the amount of the excess of the net long-term capital gain over the net short-term capital loss, and (2) 25 percent of such excess.

Controlled corporations.—Controlled corporations: see Tax Computation Instructions of Form 1120L.