Internal Revenue Service, Treasury

§ 1.1(h)–1

term capital losses. Where, for pur-
poses of computations under the in-
come averaging provisions, section
1201(b) is treated as imposing the alter-
native tax on capital gains computed
under section 1301(e)(2), the 87-percent
limitation shall apply only to the tax
equal to the tax imposed by section 1,
reduced by the amount of the tax im-
posed by section 1 which is attributable
to capital gain net income for the com-
putation year.

(b) Taxable years beginning after De-
cember 31, 1970. If, for any taxable year
beginning after December 31, 1970, an
individual has earned taxable income
which exceeds his taxable income as
defined by section 1348, the tax imposed
by section 1, as amended by the Tax
Reform Act of 1969, shall not exceed
the sum computed under the provisions
of section 1348. For imposition of min-
imum tax for tax preferences see sec-
cions 56 through 58.

[T.D. 7117, 36 FR 9397, May 25, 1971]

§ 1.1–3 Change in rates applicable to
taxable year.

For computation of the tax for a tax-
able year during which a change in the
tax rates occurs, see section 21 and the
regulations thereunder.

nated by T.D. 7117, 36 FR 9397, May 25, 1971]

§ 1.1(h)–1 Capital gains look-through
rule for sales or exchanges of inter-
est in a partnership, S corporation,
or trust.

(a) In general. When an interest in a
partnership held for more than one
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feror may recognize ordinary income
(e.g., under section 751(a)), collectibles
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When stock in an S corporation held
for more than one year is sold or ex-
changed, the transferor may recognize
ordinary income (e.g., under sections
304, 306, 341, 1254), collectibles gain, and
residual long-term capital gain or loss.

When an interest in a trust held for
more than one year is sold or ex-
changed, a transferor who is not treat-
ed as the owner of the portion of the
trust attributable to the interest sold or
exchanged (sections 673 through 679)
(a non-grantor transferor) may recog-

nize collectibles gain and residual long-
term capital gain or loss.

(b) Look-through capital gain—(1) In
general. Look-through capital gain is
the share of collectibles gain allocable
to an interest in a partnership, S cor-
poration, or trust, plus the share of
section 1250 capital gain allocable to
an interest in a partnership, determined
under paragraphs (b)(2) and (3) of this
section.

(2) Collectibles gain—(i) Definition. For
purposes of this section, collectibles gain
shall be treated as gain from the sale
or exchange of a collectible (as defined
in section 408(m) without regard to sec-
tion 408(m)(3)) that is a capital asset
held for more than 1 year.

(ii) Share of collectibles gain allocable
to an interest in a partnership, S corpo-
ration, or a trust. When an interest in a
partnership, S corporation, or trust
held for more than one year is sold or
exchanged in a transaction in which all
realized gain is recognized, the trans-
feror shall recognize as collectibles
gain the amount of net gain (but not
net loss) that would be allocated to
that partner (taking into account any
remedial allocation under § 1.704–3(d)),
shareholder, or beneficiary (to the ex-
tent attributable to the portion of the
partnership interest, S corporation
stock, or trust interest transferred
that was held for more than one year)
and that is held for more than 1 year) if the partnership, S corporation, or
trust transferred all of its collectibles
determined as a fraction that is the amount of gain recognized in the sale or exchange of an interest in a
partnership, S corporation, or trust,
the same methodology shall apply to
determine the collectibles gain recog-
nized by the transferor, except that the
partnership, S corporation, or trust
shall be treated as transferring only a
proportionate amount of each of its
collectibles determined as a fraction
that is the amount of gain recognized
in the sale or exchange over the
amount of gain realized in the sale or
exchange. With respect to the transfer
of an interest in a trust, this paragraph
(b)(2) applies only to transfers by non-