

**§ 1.453-5 Sale of real property treated on installment method.**

(a) *In general.* In any transaction described in paragraph (b)(1) of § 1.453-4, that is, sales of real property in which there are no payments during the year of sale or the payments in that year do not exceed 30 percent of the selling price, the vendor may return as income from each such transaction in any taxable year that proportion of the installment payments actually received in that year which the gross profit (as described in paragraph (b) of § 1.453-1) realized or to be realized when the property is paid for bears to the total contract price. In any case, the sale of each lot or parcel of a subdivided tract must be treated as a separate transaction and gain or loss computed accordingly. (See paragraph (a) of § 1.61-6.)

(b) *Defaults and repossessions—(1) Effective date.* This paragraph shall apply only with respect to taxable years beginning before September 3, 1964, in respect of which an election has not been properly made to have the provisions of section 1038 apply. For rules applicable to taxable years beginning after September 2, 1964, and for taxable years beginning after December 31, 1957, to which such an election applies, see section 1038, and §§ 1.1038-1 through 1.1038-3.

(2) *Gain or loss on reacquisition of property.* If the purchaser of real property on the installment plan defaults in any of his payments, and the vendor returning income on the installment method reacquires the property sold, whether title thereto had been retained by the vendor or transferred to the purchaser, gain or loss for the year in which the reacquisition occurs is to be computed upon any installment obligations of the purchaser which are satisfied or discharged upon the reacquisition or are applied by the vendor to the purchase or bid price of the property. Such gain or loss is to be measured by the difference between the fair market value at the date of reacquisition of the property reacquired (including the fair market value of any fixed improvements placed on the property by the purchaser) and the basis in the hands of the vendor of the obligations of the purchaser which are so satisfied, dis-

charged, or applied, with proper adjustment for any other amounts realized or costs incurred in connection with the reacquisition.

(3) *Fair market value of reacquired property.* If the property reacquired is bid in by the vendor at a foreclosure sale, the fair market value of the property shall be presumed to be the purchase or bid price thereof in the absence of clear and convincing proof to the contrary.

(4) *Basis of obligations.* The basis in the hands of the vendor of the obligations of the purchaser satisfied, discharged, or applied upon the reacquisition of the property will be the excess of the face value of such obligations over an amount equal to the income which would be returnable were the obligations paid in full. For definition of the basis of an installment obligation, see section 453(d)(2) and paragraph (b)(2) of § 1.453-9.

(5) *Bad debt deduction.* No deduction for a bad debt shall in any case be taken on account of any portion of the obligations of the purchaser which are treated by the vendor as not having been satisfied, discharged, or applied upon the reacquisition of the property, unless it is clearly shown that after the property was reacquired the purchaser remained liable for such portion; and in no event shall the amount of the deduction exceed the basis in the hands of the vendor of the portion of the obligations with respect to which the purchaser remained liable after the reacquisition. See section 166 and the regulations thereunder.

(6) *Basis of reacquired property.* If the property reacquired is subsequently sold, the basis for determining gain or loss is the fair market value of the property at the date of reacquisition, including the fair market value of any fixed improvements placed on the property by the purchaser.

[T.D. 6500, 25 FR 11716, Nov. 26, 1960, as amended by T.D. 6916, 32 FR 5923, Apr. 13, 1967]

**§ 1.453-6 Deferred payment sale of real property not on installment method.**

(a) *Value of obligations.* (1) In transactions included in paragraph (b)(2) of § 1.453-4, that is, sales of real property

involving deferred payments in which the payments received during the year of sale exceed 30 percent of the selling price, the obligations of the purchaser received by the vendor are to be considered as an amount realized to the extent of their fair market value in ascertaining the profit or loss from the transaction. Such obligations, however, are not considered in determining whether the payments during the year of sale exceed 30 percent of the selling price.

(2) If the obligations received by the vendor have no fair market value, the payments in cash or other property having a fair market value shall be applied against and reduce the basis of the property sold and, if in excess of such basis, shall be taxable to the extent of the excess. Gain or loss is realized when the obligations are disposed of or satisfied, the amount thereof being the difference between the reduced basis as provided in the preceding sentence and the amount realized therefor. Only in rare and extraordinary cases does property have no fair market value.

(b) *Repossession of property where title is retained by vendor*—(1) *Gain or loss on repossession.* If the vendor in sales referred to in paragraph (a) of this section has retained title to the property and the purchaser defaults in any of his payments, and the vendor repossesses the property, the difference between—

(i) The entire amount of the payments actually received on the contract and retained by the vendor plus the fair market value at the time of repossession of fixed improvements placed on the property by the purchaser, and

(ii) The sum of the profits previously returned as income in connection therewith and an amount representing what would have been a proper adjustment for exhaustion, wear and tear, obsolescence, amortization, and depletion of the property during the period the property was in the hands of the purchaser had the sale not been made, will constitute gain or loss, as the case may be, to the vendor for the year in which the property is repossessed.

(2) *Basis of repossessed property.* The basis of the property described in subparagraph (1) of this paragraph in the

hands of the vendor will be the original basis at the time of the sale plus the fair market value at the time of repossession of fixed improvements placed on the property by the purchaser, except that, with respect to repossessions occurring after September 18, 1958, the basis of the property shall be reduced by what would have been a proper adjustment for exhaustion, wear and tear, obsolescence, amortization, and depletion of the property during the period the property was in the hands of the purchaser if the sale had not been made.

(c) *Reacquisition of property where title is transferred to purchaser*—(1) *Gain or loss on reacquisition.* If the vendor in sales described in paragraph (a) of this section has previously transferred title to the purchaser, and the purchaser defaults in any of his payments, and the vendor accepts a voluntary reconveyance of the property, in partial or full satisfaction of the unpaid portion of the purchase price, the receipt of the property so reacquired, to the extent of its fair market value at that time, including the fair market value of fixed improvements placed on the property by the purchaser, shall be considered as the receipt of payment on the obligations satisfied. If the fair market value of the property is greater than the basis of the obligations of the purchaser so satisfied (generally, such basis being the fair market value of such obligations previously recognized in computing income), the excess constitutes ordinary income. If the value of such property is less than the basis of such obligations, the difference may be deducted as a bad debt if uncollectible, except that, if the obligations satisfied are securities (as defined in section 165(g)(2)(C)), any gain or loss resulting from the transaction is a capital gain or loss subject to the provisions of sections 1201 through 1241.

(2) *Basis of reacquired property.* If the reacquired property described in subparagraph (1) of this paragraph is subsequently sold, the basis for determining gain or loss is the fair market value of the property at the date of reacquisition, including the fair market value of the fixed improvements placed on the property by the purchaser. See

section 166 and the regulations thereunder with respect to property reacquired by the vendor in a foreclosure proceeding.

(d) *Effective date.* Paragraphs (b) and (c) of this section shall apply only with respect to taxable years beginning before September 3, 1964, in respect of which an election has not been properly made to have the provisions of section 1038 apply. For rules applicable to taxable years beginning after September 2, 1964, and for taxable years beginning after December 31, 1957, to which such an election applies, see section 1038, and §§ 1.1038-1 through 1.1038-3.

[T.D. 6500, 25 FR 11716, Nov. 26, 1960, as amended by T.D. 6916, 32 FR 5923, Apr. 13, 1967]

§§ 1.453-7—1.453-8 [Reserved]

§ 1.453-9 Gain or loss on disposition of installment obligations.

(a) *In general.* Subject to the exceptions contained in section 453(d)(4) and paragraph (c) of this section, the entire amount of gain or loss resulting from any disposition or satisfaction of installment obligations, computed in accordance with section 453(d), is recognized in the taxable year of such disposition or satisfaction and shall be considered as resulting from the sale or exchange of the property in respect of which the installment obligation was received by the taxpayer.

(b) *Computation of gain or loss.* (1) The amount of gain or loss resulting under paragraph (a) of this section is the difference between the basis of the obligation and (i) the amount realized, in the case of satisfaction at other than face value or in the case of a sale or exchange, or (ii) the fair market value of the obligation at the time of disposition, if such disposition is other than by sale or exchange.

(2) The basis of an installment obligation shall be the excess of the face value of the obligation over an amount equal to the income which would be returnable were the obligation satisfied in full.

(3) The application of subparagraphs (1) and (2) of this paragraph may be illustrated by the following examples:

*Example 1.* In 1960 the M Corporation sold a piece of unimproved real estate to B for \$20,000. The company acquired the property in 1948 at a cost of \$10,000. During 1960 the company received \$5,000 cash and vendee's notes for the remainder of the selling price, or \$15,000, payable in subsequent years. In 1962, before the vendee made any further payments, the company sold the notes for \$13,000 in cash. The corporation makes its returns on the calendar year basis. The income to be reported for 1962 is \$5,500, computed as follows:

Proceeds of sale of notes .....	\$13,000
Selling price of property .....	\$20,000
Cost of property .....	10,000
<hr/>	
Total profit .....	10,000
Total contract price .....	20,000

Percent of profit, or proportion of each payment returnable as income, \$10,000 divided by \$20,000, 50 percent.

Face value of notes .....	15,000
Amount of income returnable were the notes satisfied in full, 50 percent of \$15,000 .....	7,500

Basis of obligation—excess of face value of notes over amount of income returnable were the notes satisfied in full .....	7,500
---	-------

Taxable income to be reported for 1962 ..... 5,500

*Example 2.* Suppose in Example 1 the M Corporation, instead of selling the notes, distributed them in 1962 to its shareholders as a dividend, and at the time of such distribution, the fair market value of the notes was \$14,000. The income to be reported for 1962 is \$6,500, computed as follows:

Fair market value of notes .....	\$14,000
Basis of obligation—excess of face value of notes over amount of income returnable were the notes satisfied in full (computed as in Example 1) .....	7,500

Taxable income to be reported for 1962 ..... 6,500

(c) *Disposition from which no gain or loss is recognized.* (1)(i) Under section 453(d)(4)(A), no gain or loss shall be recognized to a distributing corporation with respect to the distribution made after November 13, 1966, of installment obligations if (a) the distribution is made pursuant to a plan for the complete liquidation of a subsidiary under section 332, and (b) the basis of the such obligations in the hands of the distributee is determined under section 334(b)(1).

(ii) Under section 453(d)(4)(B), no gain or loss shall be recognized to a distributing corporation with respect to the distribution of installment obligations if the distribution is made, pursuant to