

L. 105-34, set out as an Effective Date of 1997 Amendment note under section 121 of this title.

§ 1035. Certain exchanges of insurance policies

(a) General rules

No gain or loss shall be recognized on the exchange of—

(1) a contract of life insurance for another contract of life insurance or for an endowment or annuity contract or for a qualified long-term care insurance contract; or¹

(2) a contract of endowment insurance (A) for another contract of endowment insurance which provides for regular payments beginning at a date not later than the date payments would have begun under the contract exchanged, or (B) for an annuity contract, or (C) for a qualified long-term care insurance contract;

(3) an annuity contract for an annuity contract or for a qualified long-term care insurance contract; or

(4) a qualified long-term care insurance contract for a qualified long-term care insurance contract.

(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. For purposes of the preceding sentence, a contract shall not fail to be treated as an annuity contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.

(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. For purposes of the preceding sentence, a contract shall not fail to be treated as a life insurance contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.

(c) Exchanges involving foreign persons

To the extent provided in regulations, subsection (a) shall not apply to any exchange having the effect of transferring property to any person other than a United States person.

(d) 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; Pub. L. 98-369, div. A, title II, §§ 211(b)(15), 224(a), July 18,

1984, 98 Stat. 756, 776; Pub. L. 99-514, title XVIII, § 1828, Oct. 22, 1986, 100 Stat. 2851; Pub. L. 105-34, title XI, § 1131(b)(1), Aug. 5, 1997, 111 Stat. 979; Pub. L. 109-280, title VIII, § 844(b), Aug. 17, 2006, 120 Stat. 1010.)

CODIFICATION

Another section 1131(b) of Pub. L. 105-34 enacted section 684 of this title.

AMENDMENTS

2006—Subsec. (a)(1). Pub. L. 109-280, § 844(b)(3)(A), which directed amendment by inserting “or for a qualified long-term care insurance contract” before semicolon “at the end”, was executed by making the insertion before “; or” to reflect the probable intent of Congress.

Subsec. (a)(2). Pub. L. 109-280, § 844(b)(3)(B), which directed amendment by inserting “, or (C) for a qualified long-term care insurance contract” before semicolon “at the end”, was executed by making the insertion before “; or” to reflect the probable intent of Congress.

Subsec. (a)(3). Pub. L. 109-280, § 844(b)(3)(C), inserted “or for a qualified long-term care insurance contract” after “annuity contract”.

Subsec. (a)(4). Pub. L. 109-280, § 844(b)(4), added par. (4).

Subsec. (b)(2). Pub. L. 109-280, § 844(b)(1), inserted at end “For purposes of the preceding sentence, a contract shall not fail to be treated as an annuity contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.”

Subsec. (b)(3). Pub. L. 109-280, § 844(b)(2), inserted at end “For purposes of the preceding sentence, a contract shall not fail to be treated as a life insurance contract solely because a qualified long-term care insurance contract is a part of or a rider on such contract.”

1997—Subsecs. (c), (d). Pub. L. 105-34 added subsec. (c) and redesignated former subsec. (c) as (d).

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 2006 AMENDMENT

Amendment by Pub. L. 109-280 applicable to contracts issued after Dec. 31, 1996, but only with respect to taxable years beginning after Dec. 31, 2009, and to exchanges occurring after Dec. 31, 2009, see section 844(g)(1), (2) of Pub. L. 109-280, set out as a note under section 72 of this title.

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].”

¹ So in original. The word “or” probably should not appear.

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.

§ 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) Nonqualified preferred stock not treated as stock

For purposes of this section, nonqualified preferred stock (as defined in section 351(g)(2)) shall be treated as property other than stock.

(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; Pub. L. 105-34, title X, § 1014(e)(3), Aug. 5, 1997, 111 Stat. 921.)

AMENDMENTS

1997—Subsecs. (b), (c). Pub. L. 105-34 added subsec. (b) and redesignated former subsec. (b) as (c).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable, with certain exceptions, to transactions after June 8, 1997, see section 1014(f) of Pub. L. 105-34, set out as a note under section 351 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 obliga-

tion 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”.