

Editorial Notes

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in cl. (1), is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

AMENDMENTS

1976—Pub. L. 94-455 substituted “an ordinary loss” for “a loss from the sale or exchange of property which is not a capital asset”, each time appearing.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to 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 applicable with respect to taxable years beginning after Sept. 2, 1958, see section 57(d) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 243 of this title.

§ 1243. Loss of small business investment company

In the case of a small business investment company operating under the Small Business Investment Act of 1958, if—

(1) a loss is on stock received pursuant to the conversion privilege of convertible debentures acquired pursuant to section 304 of the Small Business Investment Act of 1958, and

(2) such loss would (but for this section) be a loss from the sale or exchange of a capital asset,

then such loss shall be treated as an ordinary loss.

(Added Pub. L. 85-866, title I, §57(a), Sept. 2, 1958, 72 Stat. 1645; amended Pub. L. 91-172, title IV, §433(b), Dec. 30, 1969, 83 Stat. 624; Pub. L. 94-455, title XIX, §1901(b)(3)(F), Oct. 4, 1976, 90 Stat. 1793.)

Editorial Notes

REFERENCES IN TEXT

The Small Business Investment Act of 1958, referred to in text, is Pub. L. 85-699, Aug. 21, 1958, 72 Stat. 689, which is classified principally to chapter 14B (§661 et seq.) of Title 15, Commerce and Trade. Section 304 of the Small Business Investment Act of 1958, is classified to section 684 of Title 15. For complete classification of this Act to the Code, see Short Title note set out under section 661 of Title 15 and Tables.

AMENDMENTS

1976—Pub. L. 94-455 substituted “an ordinary loss” for “a loss from the sale or exchange of property which is not a capital asset”.

1969—Par. (1). Pub. L. 91-172 substituted “stock received pursuant to the conversion privilege of convertible debentures” for “convertible debentures (including stock received pursuant to the conversion privilege)”.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see sec-

tion 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable to taxable years beginning after July 11, 1969, see section 433(d) of Pub. L. 91-172, set out as a note under section 582 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years beginning after Sept. 2, 1958, see section 57(d) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 243 of this title.

§ 1244. Losses on small business stock**(a) General rule**

In the case of an individual, a loss on section 1244 stock issued to such individual or to a partnership which would (but for this section) be treated as a loss from the sale or exchange of a capital asset shall, to the extent provided in this section, be treated as an ordinary loss.

(b) Maximum amount for any taxable year

For any taxable year the aggregate amount treated by the taxpayer by reason of this section as an ordinary loss shall not exceed—

(1) \$50,000, or

(2) \$100,000, in the case of a husband and wife filing a joint return for such year under section 6013.

(c) Section 1244 stock defined**(1) In general**

For purposes of this section, the term “section 1244 stock” means stock in a domestic corporation if—

(A) at the time such stock is issued, such corporation was a small business corporation,

(B) such stock was issued by such corporation for money or other property (other than stock and securities), and

(C) such corporation, during the period of its 5 most recent taxable years ending before the date the loss on such stock was sustained, derived more than 50 percent of its aggregate gross receipts from sources other than royalties, rents, dividends, interests, annuities, and sales or exchanges of stocks or securities.

(2) Rules for application of paragraph (1)(C)**(A) Period taken into account with respect to new corporations**

For purposes of paragraph (1)(C), if the corporation has not been in existence for 5 taxable years ending before the date the loss on the stock was sustained, there shall be substituted for such 5-year period—

(i) the period of the corporation’s taxable years ending before such date, or

(ii) if the corporation has not been in existence for 1 taxable year ending before such date, the period such corporation has been in existence before such date.

(B) Gross receipts from sales of securities

For purposes of paragraph (1)(C), gross receipts from the sales or exchanges of stock or securities shall be taken into account only to the extent of gains therefrom.