

**TITLE 26 - INTERNAL REVENUE CODE****Subtitle A - Income Taxes****CHAPTER 1 - NORMAL TAXES AND SURTAXES****Subchapter O - Gain or Loss on Disposition of Property****PART I - DETERMINATION OF AMOUNT OF AND RECOGNITION OF GAIN OR LOSS****§ 1001. Determination of amount of and recognition of gain or loss****(a) Computation of gain or loss**

The gain from the sale or other disposition of property shall be the excess of the amount realized therefrom over the adjusted basis provided in section 1011 for determining gain, and the loss shall be the excess of the adjusted basis provided in such section for determining loss over the amount realized.

**(b) Amount realized**

The amount realized from the sale or other disposition of property shall be the sum of any money received plus the fair market value of the property (other than money) received. In determining the amount realized—

- (1) there shall not be taken into account any amount received as reimbursement for real property taxes which are treated under section 164 (d) as imposed on the purchaser, and
- (2) there shall be taken into account amounts representing real property taxes which are treated under section 164 (d) as imposed on the taxpayer if such taxes are to be paid by the purchaser.

**(c) Recognition of gain or loss**

Except as otherwise provided in this subtitle, the entire amount of the gain or loss, determined under this section, on the sale or exchange of property shall be recognized.

**(d) Installment sales**

Nothing in this section shall be construed to prevent (in the case of property sold under contract providing for payment in installments) the taxation of that portion of any installment payment representing gain or profit in the year in which such payment is received.

**(e) Certain term interests****(1) In general**

In determining gain or loss from the sale or other disposition of a term interest in property, that portion of the adjusted basis of such interest which is determined pursuant to section 1014, 1015, or 1041 (to the extent that such adjusted basis is a portion of the entire adjusted basis of the property) shall be disregarded.

**(2) Term interest in property defined**

For purposes of paragraph (1), the term “term interest in property” means—

- (A) a life interest in property,
- (B) an interest in property for a term of years, or
- (C) an income interest in a trust.

**(3) Exception**

Paragraph (1) shall not apply to a sale or other disposition which is a part of a transaction in which the entire interest in property is transferred to any person or persons.

(Aug. 16, 1954, ch. 736, 68A Stat. 295; Pub. L. 91-172, title II, § 231(c)(2), title V, § 516(a), Dec. 30, 1969, 83 Stat. 579, 646; Pub. L. 94-455, title XIX, § 1901(a)(121), Oct. 4, 1976, 90 Stat. 1784; Pub. L. 95-600, title VII, § 702(c)(9), Nov. 6, 1978, 92 Stat. 2928; Pub. L. 96-223, title IV, § 401(a), Apr.

2, 1980, 94 Stat. 299; Pub. L. 98–369, div. A, title IV, § 421(b)(4), July 18, 1984, 98 Stat. 794; Pub. L. 103–66, title XIII, § 13213(a)(2)(E), Aug. 10, 1993, 107 Stat. 474.)

## Amendments

1993—Subsec. (f). Pub. L. 103–66 struck out heading and text of subsec. (f). Text read as follows: “For treatment of certain expenses incident to the sale of a residence which were deducted as moving expenses by the taxpayer or his spouse under section 217 (a), see section 217 (e).”

1984—Subsec. (e)(1). Pub. L. 98–369 inserted reference to section 1041.

1980—Subsec. (e)(1). Pub. L. 96–223 repealed the amendment made by Pub. L. 95–600. See 1978 Amendment note below.

1978—Subsec. (e)(1). Pub. L. 95–600 inserted reference to section 1023. See Repeals note below.

1976—Subsec. (c). Pub. L. 94–455 substituted provision recognizing the entire amount of gain or loss, except as otherwise provided, for provision referring to section 1002 for the determination of the extent of gain or loss to be recognized.

1969—Subsec. (e). Pub. L. 91–172, § 516(a), added subsec. (e).

Subsec. (f). Pub. L. 91–172, § 231(c)(2), added subsec. (f).

## Effective Date of 1993 Amendment

Amendment by Pub. L. 103–66 applicable to expenses incurred after Dec. 31, 1993, see section 13213(e) of Pub. L. 103–66 set out as a note under section 62 of this title.

## Effective Date of 1984 Amendment

Amendment by Pub. L. 98–369 applicable to transfers after July 18, 1984, in taxable years ending after such date, subject to election to have amendment apply to transfers after 1983 or to transfers pursuant to existing decrees, see section 421(d) of Pub. L. 98–369, set out as an Effective Date note under section 1041 of this title.

## Effective Date of 1980 Amendment and Revival of Prior Law

Amendment by Pub. L. 96–223 (repealing section 702(c)(9) of Pub. L. 95–600 and the amendment made thereby, which had amended this section) applicable in respect of decedents dying after Dec. 31, 1976, and except for certain elections, this title to be applied and administered as if those repealed provisions had not been enacted, see section 401(b), (e) of Pub. L. 96–223, set out as a note under section 1023 of this title.

## Effective Date of 1978 Amendment

Amendment by Pub. L. 95–600 effective as if included in the amendments and additions made by, and the appropriate provisions of Pub. L. 94–455, see section 702(c)(10) of Pub. L. 95–600, set out as a note under section 1014 of this title.

## Effective Date of 1976 Amendment

Amendment by Pub. L. 94–455 effective for 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 of 1969 Amendment

Amendment by section 231(c)(2) of Pub. L. 91–172 applicable to taxable years beginning after Dec. 31, 1969, see section 231(d) of Pub. L. 91–172, set out as a note under section 217 of this title.

Section 516(d) of Pub. L. 91–172, as amended by Pub. L. 99–514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) The amendment made by subsection (a) [amending this section] shall apply to sales or other dispositions after October 9, 1969.

“(2) The amendment made by subsection (b) [amending section 1231 of this title] shall apply to taxable years beginning after December 31, 1969.

“(3) The amendments made by subsection (c) [enacting section 1253 and amending sections 162 and 1016 of this title] shall apply to transfers after December 31, 1969, except that section 1253(d)(1) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as added by subsection (c) shall, at the election of the taxpayer (made at such time and in such manner as the Secretary or his delegate may by regulations prescribe), apply to transfers before January

*NB: This unofficial compilation of the U.S. Code is current as of Jan. 4, 2010 (see <http://www.law.cornell.edu/uscode/uscpri.html>).*

1, 1970, but only with respect to payments made in taxable years ending after December 31, 1969, and beginning before January 1, 1980.”

### **Repeals**

Pub. L. 95–600, § 702(c)(9), cited as a credit to this section, and the amendment made thereby, were repealed by Pub. L. 96–223, title IV, § 401(a), 94 Stat. 299, resulting in the text of this section reading as it read prior to enactment of section 702 (c)(9). See Effective Date of 1980 Amendment and Revival of Prior Law note set out above.