

TITLE 26 - INTERNAL REVENUE CODE**Subtitle A - Income Taxes****CHAPTER 1 - NORMAL TAXES AND SURTAXES****Subchapter W - District of Columbia Enterprise Zone****§ 1400B. Zero percent capital gains rate****(a) Exclusion**

Gross income shall not include qualified capital gain from the sale or exchange of any DC Zone asset held for more than 5 years.

(b) DC Zone asset

For purposes of this section—

(1) In general

The term “DC Zone asset” means—

- (A)** any DC Zone business stock,
- (B)** any DC Zone partnership interest, and
- (C)** any DC Zone business property.

(2) DC Zone business stock**(A) In general**

The term “DC Zone business stock” means any stock in a domestic corporation which is originally issued after December 31, 1997, if—

- (i)** such stock is acquired by the taxpayer, before January 1, 2010, at its original issue (directly or through an underwriter) solely in exchange for cash,
- (ii)** as of the time such stock was issued, such corporation was a DC Zone business (or, in the case of a new corporation, such corporation was being organized for purposes of being a DC Zone business), and
- (iii)** during substantially all of the taxpayer’s holding period for such stock, such corporation qualified as a DC Zone business.

(B) Redemptions

A rule similar to the rule of section 1202 (c)(3) shall apply for purposes of this paragraph.

(3) DC Zone partnership interest

The term “DC Zone partnership interest” means any capital or profits interest in a domestic partnership which is originally issued after December 31, 1997, if—

- (A)** such interest is acquired by the taxpayer, before January 1, 2010, from the partnership solely in exchange for cash,
- (B)** as of the time such interest was acquired, such partnership was a DC Zone business (or, in the case of a new partnership, such partnership was being organized for purposes of being a DC Zone business), and
- (C)** during substantially all of the taxpayer’s holding period for such interest, such partnership qualified as a DC Zone business.

A rule similar to the rule of paragraph (2)(B) shall apply for purposes of this paragraph.

(4) DC Zone business property**(A) In general**

The term “DC Zone business property” means tangible property if—

- (i)** such property was acquired by the taxpayer by purchase (as defined in section 179 (d)(2)) after December 31, 1997, and before January 1, 2010,

- (ii) the original use of such property in the DC Zone commences with the taxpayer, and
- (iii) during substantially all of the taxpayer's holding period for such property, substantially all of the use of such property was in a DC Zone business of the taxpayer.

(B) Special rule for buildings which are substantially improved

(i) In general

The requirements of clauses (i) and (ii) of subparagraph (A) shall be treated as met with respect to—

- (I) property which is substantially improved by the taxpayer before January 1, 2010, and
- (II) any land on which such property is located.

(ii) Substantial improvement

For purposes of clause (i), property shall be treated as substantially improved by the taxpayer only if, during any 24-month period beginning after December 31, 1997, additions to basis with respect to such property in the hands of the taxpayer exceed the greater of—

- (I) an amount equal to the adjusted basis of such property at the beginning of such 24-month period in the hands of the taxpayer, or
- (II) \$5,000.

(5) Treatment of DC Zone termination

The termination of the designation of the DC Zone shall be disregarded for purposes of determining whether any property is a DC Zone asset.

(6) Treatment of subsequent purchasers, etc.

The term "DC Zone asset" includes any property which would be a DC Zone asset but for paragraph (2)(A)(i), (3)(A), or (4)(A)(i) or (ii) in the hands of the taxpayer if such property was a DC Zone asset in the hands of a prior holder.

(7) 5-year safe harbor

If any property ceases to be a DC Zone asset by reason of paragraph (2)(A)(iii), (3)(C), or (4)(A)(iii) after the 5-year period beginning on the date the taxpayer acquired such property, such property shall continue to be treated as meeting the requirements of such paragraph; except that the amount of gain to which subsection (a) applies on any sale or exchange of such property shall not exceed the amount which would be qualified capital gain had such property been sold on the date of such cessation.

(c) DC Zone business

For purposes of this section, the term "DC Zone business" means any enterprise zone business (as defined in section 1397C), determined—

- (1) after the application of section 1400 (e),
- (2) by substituting "80 percent" for "50 percent" in subsections (b)(2) and (c)(1) of section 1397C, and
- (3) by treating no area other than the DC Zone as an empowerment zone or enterprise community.

(d) Treatment of zone as including census tracts with 10 percent poverty rate

For purposes of applying this section (and for purposes of applying this subchapter and subchapter U with respect to this section), the DC Zone shall be treated as including all census tracts—

- (1) which are located in the District of Columbia, and
- (2) for which the poverty rate is not less than 10 percent as determined on the basis of the 1990 census.

(e) Other definitions and special rules

For purposes of this section—

(1) Qualified capital gain

Except as otherwise provided in this subsection, the term “qualified capital gain” means any gain recognized on the sale or exchange of—

(A) a capital asset, or

(B) property used in the trade or business (as defined in section 1231 (b)).

(2) Gain before 1998 or after 2014 not qualified

The term “qualified capital gain” shall not include any gain attributable to periods before January 1, 1998, or after December 31, 2014.

(3) Certain gain not qualified

The term “qualified capital gain” shall not include any gain which would be treated as ordinary income under section 1245 or under section 1250 if section 1250 applied to all depreciation rather than the additional depreciation.

(4) Intangibles and land not integral part of DC Zone business

The term “qualified capital gain” shall not include any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC Zone business.

(5) Related party transactions

The term “qualified capital gain” shall not include any gain attributable, directly or indirectly, in whole or in part, to a transaction with a related person. For purposes of this paragraph, persons are related to each other if such persons are described in section 267 (b) or 707 (b)(1).

(f) Certain other rules to apply

Rules similar to the rules of subsections (g), (h), (i)(2), and (j) of section 1202 shall apply for purposes of this section.

(g) Sales and exchanges of interests in partnerships and S corporations which are DC Zone businesses

In the case of the sale or exchange of an interest in a partnership, or of stock in an S corporation, which was a DC Zone business during substantially all of the period the taxpayer held such interest or stock, the amount of qualified capital gain shall be determined without regard to—

(1) any gain which is attributable to real property, or an intangible asset, which is not an integral part of a DC Zone business, and

(2) any gain attributable to periods before January 1, 1998, or after December 31, 2014.

(Added Pub. L. 105–34, title VII, § 701(a), Aug. 5, 1997, 111 Stat. 864; amended Pub. L. 105–206, title VI, § 6008(c), July 22, 1998, 112 Stat. 811; Pub. L. 106–554, § 1(a)(7) [title I, §§ 116(b)(5), 164 (b)], Dec. 21, 2000, 114 Stat. 2763, 2763A–603, 2763A–625; Pub. L. 108–311, title III, § 310(c)(1)–(2)(B), Oct. 4, 2004, 118 Stat. 1180; Pub. L. 109–432, div. A, title I, § 110(c)(1)–(2)(B), Dec. 20, 2006, 120 Stat. 2940; Pub. L. 110–343, div. C, title III, § 322(c)(1), (2)(A), (B), Oct. 3, 2008, 122 Stat. 3874.)

Amendments

2008—Subsec. (b). Pub. L. 110–343, § 322(c)(1), substituted “2010” for “2008” wherever appearing.

Subsec. (e)(2). Pub. L. 110–343, § 322(c)(2)(A), substituted “2014” for “2012” in heading and text.

Subsec. (g)(2). Pub. L. 110–343, § 322(c)(2)(B), substituted “2014” for “2012”.

2006—Subsec. (b). Pub. L. 109–432, § 110(c)(1), substituted “2008” for “2006” wherever appearing.

Subsec. (e)(2). Pub. L. 109–432, § 110(c)(2)(A), substituted “2012” for “2010” in heading and text.

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

- Subsec. (g)(2). Pub. L. 109–432, § 110(c)(2)(B), substituted “2012” for “2010”.
- 2004—Subsec. (b). Pub. L. 108–311, § 310(c)(1), substituted “2006” for “2004” wherever appearing.
- Subsec. (e)(2). Pub. L. 108–311, § 310(c)(2)(A), substituted “2010” for “2008” in heading and text.
- Subsec. (g)(2). Pub. L. 108–311, § 310(c)(2)(B), substituted “2010” for “2008”.
- 2000—Subsec. (b). Pub. L. 106–554, § 1(a)(7) [title I, § 164(b)(1)], substituted “2004” for “2003” wherever appearing.
- Subsec. (c). Pub. L. 106–554, § 1(a)(7) [title I, § 116(b)(5)], substituted “section 1397C” for “section 1397B” in introductory provisions and in par. (2).
- Subsec. (e)(2). Pub. L. 106–554, § 1(a)(7) [title I, § 164(b)(2)], substituted “2008” for “2007” in heading and text.
- Subsec. (g)(2). Pub. L. 106–554, § 1(a)(7) [title I, § 164(b)(2)], substituted “2008” for “2007”.
- 1998—Subsec. (b)(5). Pub. L. 105–206, § 6008(c)(1), added par. (5).
- Subsec. (b)(6). Pub. L. 105–206, § 6008(c)(2), substituted “(4)(A)(i) or (ii)” for “(4)(A)(ii)”.
- Subsec. (c). Pub. L. 105–206, § 6008(c)(3), struck out “entity which is an” before “enterprise zone” in introductory provisions.
- Subsec. (d)(2). Pub. L. 105–206, § 6008(c)(4), inserted “as determined on the basis of the 1990 census” after “percent”.

Effective Date of 2008 Amendment

Pub. L. 110–343, div. C, title III, § 322(c)(3), Oct. 3, 2008, 122 Stat. 3874, provided that:

“(A) Extension.—The amendments made by paragraph (1) [amending this section] shall apply to acquisitions after December 31, 2007.

“(B) Conforming amendments.—The amendments made by paragraph (2) [amending this section and section 1400F of this title] shall take effect on the date of the enactment of this Act [Oct. 3, 2008].”

Effective Date of 2006 Amendment

Pub. L. 109–432, div. A, title I, § 110(c)(3), Dec. 20, 2006, 120 Stat. 2940, provided that:

“(A) Extension.—The amendments made by paragraph (1) [amending this section] shall apply to acquisitions after December 31, 2005.

“(B) Conforming amendments.—The amendments made by paragraph (2) [amending this section and section 1400F of this title] shall take effect on the date of the enactment of this Act [Dec. 20, 2006].”

Effective Date of 2004 Amendment

Amendment by Pub. L. 108–311 effective Jan. 1, 2004, see section 310(e)(1) of Pub. L. 108–311, set out as a note under section 1400 of this title.

Effective Date of 2000 Amendment

Amendment by section 1 (a)(7) [title I, § 116(b)(5)] of Pub. L. 106–554 applicable to qualified empowerment zone assets acquired after Dec. 21, 2000, see section 1 (a)(7) [title I, § 116(c)] of Pub. L. 106–554, set out as a note under section 1016 of this title.

Effective Date of 1998 Amendment

Amendment by Pub. L. 105–206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105–34, to which such amendment relates, see section 6024 of Pub. L. 105–206, set out as a note under section 1 of this title.