''(a) GENERAL RULE.—The taxable year of inclusion in gross income of any amount covered by a private deferred compensation plan shall be determined in accordance with the principles set forth in regulations, rulings, and judicial decisions relating to deferred compensation which were in effect on February 1, 1978.

''(b) PRIVATE DEFERRED COMPENSATION PLAN DEFINED.—

''(1) IN GENERAL.—For purposes of this section, the term 'private deferred compensation plan' means a plan, agreement, or arrangement—

''(A) where the person for whom the service is performed is not a State (within the meaning of paragraph (1) of section 457(d) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954]) and not an organization which is exempt from tax under section 501 of such Code, and

''(B) under which the payment or otherwise making available of compensation is deferred.

''(2) CERTAIN PLANS EXCLUDED.—Paragraph (1) shall not apply to—

''(A) a plan described in section 401(a) of the Internal Revenue Code of 1986 which includes a trust, exempt from tax under section 501(a) of such Code,

''(B) an annuity plan or contract described in section 403 of such Code,

''(C) a qualified bond purchase plan described in section 405(a) of such Code,

''(D) that portion of any plan which consists of a transfer of property described in section 83 (determined without regard to subsection (e) thereof of such Code, and

''(E) that portion of any plan which consists of a trust to which section 402(b) of such Code applies.

''(c) EFFECTIVE DATE.—This section shall apply to taxable years ending on or after February 1, 1978.''

YEAR OF INCLUSION FOR DISASTER OR DEFICIENCY PAYMENTS RECEIVED IN 1978; ELECTION

Pub. L. 95–258, §1, Apr. 7, 1978, 92 Stat. 195, provided that:

''(a) IN GENERAL.—In the case of a taxpayer reporting on the cash receipts and disbursements method of accounting, if—

''(1)(A) the taxpayer receives in his first taxable year beginning in 1978 payments under the Agricultural Act of 1949, as amended, [see Short Title note set out under section 1421 of Title 7, Agriculture], as a result of—

''(i) the destruction or damage to crops caused by drought, flood, or any other natural disaster, or

''(ii) the inability to plant crops because of such a natural disaster, and

''(B) the taxpayer establishes that, under his practice, income from such crops could have been reported for his last taxable year beginning in 1977, or

''(2)(A) the taxpayer receives in his first taxable year beginning in 1978 deficiency (or 'target price') payments under the Agricultural Act of 1949, as amended, for any 1977 crop, and

''(B) the fifth month of such crop's marketing year ends before December 1, 1977,

then the taxpayer may elect to include such proceeds in income for his last taxable year beginning in 1977.

''(b) MAKING AND EFFECT OF ELECTION—An election under this section for any taxable year shall be made at such time and in such manner as the Secretary of the Treasury may by regulations prescribe and shall apply with respect to all proceeds described in subsection (a) which were received by the taxpayer.''

[§ 452. Repealed. June 15, 1955, ch. 143, § 1(a), 69 Stat. 134]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 152, related to prepaid income.

EFFECTIVE DATE OF REPEAL

Repeal effective with respect to taxable years beginning after Dec. 31, 1953, and ending after Aug. 16, 1954, see section 3 of act June 15, 1955, set out as an Effective Date of 1955 Amendment note under section 381 of this title.

SAVINGS PROVISION

For provisions concerning increase in tax in any taxable year ending on or before June 15, 1955 by reason of enactment of act June 15, 1955, see section 4 of act June 15, 1955, set out as a note under section 381 of this title.

§ 453. Installment method

(a) General rule

Except as otherwise provided in this section, income from an installment sale shall be taken into account for purposes of this title under the installment method.

(b) Installment sale defined

For purposes of this section—

(1) In general

The term ''installment sale'' means a disposition of property where at least 1 payment is to be received after the close of the taxable year in which the disposition occurs.

(2) Exceptions

The term ''installment sale'' does not include—

(A) Dealer dispositions

Any dealer disposition (as defined in subsection (*l*)).

(B) Inventories of personal property

A disposition of personal property of a kind which is required to be included in the inventory of the taxpayer if on hand at the close of the taxable year.

(c) Installment method defined

For purposes of this section, the term ''installment method'' means a method under which the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

(d) Election out

(1) In general

Subsection (a) shall not apply to any disposition if the taxpayer elects to have subsection (a) not apply to such disposition.

(2) Time and manner for making election

Except as otherwise provided by regulations, an election under paragraph (1) with respect to a disposition may be made only on or before the due date prescribed by law (including extensions) for filing the taxpayer's return of the tax imposed by this chapter for the taxable year in which the disposition occurs. Such an election shall be made in the manner prescribed by regulations.

(3) Election revocable only with consent

An election under paragraph (1) with respect to any disposition may be revoked only with the consent of the Secretary.

(e) Second dispositions by related persons

(1) In general

If—

(A) any person disposes of property to a related person (hereinafter in this subsection referred to as the ''first disposition''), and

(B) before the person making the first disposition receives all payments with respect to such disposition, the related person disposes of the property (hereinafter in this subsection referred to as the ''second disposition''),

then, for purposes of this section, the amount realized with respect to such second disposition shall be treated as received at the time of the second disposition by the person making the first disposition.

(2) 2-Year cutoff for property other than marketable securities

(A) In general

Except in the case of marketable securities, paragraph (1) shall apply only if the date of the second disposition is not more than 2 years after the date of the first disposition.

(B) Substantial diminishing of risk of ownership

The running of the 2-year period set forth in subparagraph (A) shall be suspended with respect to any property for any period during which the related person's risk of loss with respect to the property is substantially diminished by—

(i) the holding of a put with respect to such property (or similar property),

(ii) the holding by another person of a right to acquire the property, or

(iii) a short sale or any other transaction.

(3) Limitation on amount treated as received

The amount treated for any taxable year as received by the person making the first disposition by reason of paragraph (1) shall not exceed the excess of—

(A) the lesser of—

(i) the total amount realized with respect to any second disposition of the property occurring before the close of the taxable year, or

(ii) the total contract price for the first disposition, over

(B) the sum of—

(i) the aggregate amount of payments received with respect to the first disposition before the close of such year, plus

(ii) the aggregate amount treated as received with respect to the first disposition for prior taxable years by reason of this subsection.

(4) Fair market value where disposition is not sale or exchange

For purposes of this subsection, if the second disposition is not a sale or exchange, an amount equal to the fair market value of the property disposed of shall be substituted for the amount realized.

(5) Later payments treated as receipt of tax paid amounts

If paragraph (1) applies for any taxable year, payments received in subsequent taxable years by the person making the first disposition shall not be treated as the receipt of payments with respect to the first disposition to the extent that the aggregate of such payments does not exceed the amount treated as received by reason of paragraph (1).

(6) Exception for certain dispositions

For purposes of this subsection—

(A) Reacquisitions of stock by issuing corporation not treated as first dispositions

Any sale or exchange of stock to the issuing corporation shall not be treated as a first disposition.

(B) Involuntary conversions not treated as second dispositions

A compulsory or involuntary conversion (within the meaning of section 1033) and any transfer thereafter shall not be treated as a second disposition if the first disposition occurred before the threat or imminence of the conversion.

(C) Dispositions after death

Any transfer after the earlier of—

(i) the death of the person making the first disposition, or

(ii) the death of the person acquiring the property in the first disposition,

and any transfer thereafter shall not be treated as a second disposition.

(7) Exception where tax avoidance not a principal purpose

This subsection shall not apply to a second disposition (and any transfer thereafter) if it is established to the satisfaction of the Secretary that neither the first disposition nor the second disposition had as one of its principal purposes the avoidance of Federal income tax.

(8) Extension of statute of limitations

The period for assessing a deficiency with respect to a first disposition (to the extent such deficiency is attributable to the application of this subsection) shall not expire before the day which is 2 years after the date on which the person making the first disposition furnishes (in such manner as the Secretary may by regulations prescribe) a notice that there was a second disposition of the property to which this subsection may have applied. Such deficiency may be assessed notwithstanding the provisions of any law or rule of law which would otherwise prevent such assessment.

(f) Definitions and special rules

For purposes of this section—

(1) Related person

Except for purposes of subsections (g) and (h), the term ''related person'' means—

(A) a person whose stock would be attributed under section 318(a) (other than paragraph (4) thereof) to the person first disposing of the property, or

(B) a person who bears a relationship described in section 267(b) to the person first disposing of the property.

(2) Marketable securities

The term ''marketable securities'' means any security for which, as of the date of the

disposition, there was a market on an established securities market or otherwise.

(3) Payment

Except as provided in paragraph (4), the term ''payment'' does not include the receipt of evidences of indebtedness of the person acquiring the property (whether or not payment of such indebtedness is guaranteed by another person).

(4) Purchaser evidences of indebtedness payable on demand or readily tradable

Receipt of a bond or other evidence of indebtedness which—

(A) is payable on demand, or

(B) is readily tradable,

shall be treated as receipt of payment.

(5) Readily tradable defined

For purposes of paragraph (4), the term ''readily tradable'' means a bond or other evidence of indebtedness which is issued—

(A) with interest coupons attached or in registered form (other than one in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or

(B) in any other form designed to render such bond or other evidence of indebtedness readily tradable in an established securities market.

(6) Like-kind exchanges

In the case of any exchange described in section 1031(b)—

(A) the total contract price shall be reduced to take into account the amount of any property permitted to be received in such exchange without recognition of gain,

(B) the gross profit from such exchange shall be reduced to take into account any amount not recognized by reason of section 1031(b), and

(C) the term ''payment'', when used in any provision of this section other than subsection (b)(1), shall not include any property permitted to be received in such exchange without recognition of gain.

Similar rules shall apply in the case of an exchange which is described in section 356(a) and is not treated as a dividend.

(7) Depreciable property

The term ''depreciable property'' means property of a character which (in the hands of the transferee) is subject to the allowance for depreciation provided in section 167.

(8) Payments to be received defined

The term ''payments to be received'' includes—

(A) the aggregate amount of all payments which are not contingent as to amount, and

(B) the fair market value of any payments which are contingent as to amount.

(g) Sale of depreciable property to controlled entity

(1) In general

In the case of an installment sale of depreciable property between related persons—

(A) subsection (a) shall not apply,

(B) for purposes of this title—

(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

(ii) in the case of any payments which are contingent as to the amount but with respect to which the fair market value may not be reasonably ascertained, the basis shall be recovered ratably, and

(C) the purchaser may not increase the basis of any property acquired in such sale by any amount before the time such amount is includible in the gross income of the seller.

(2) Exception where tax avoidance not a principal purpose

Paragraph (1) shall not apply if it is established to the satisfaction of the Secretary that the disposition did not have as one of its principal purposes the avoidance of Federal income tax.

(3) Related persons

For purposes of this subsection, the term ''related persons'' has the meaning given to such term by section 1239(b), except that such term shall include 2 or more partnerships having a relationship to each other described in section 707(b)(1)(B).

(h) Use of installment method by shareholders in certain liquidations

(1) Receipt of obligations not treated as receipt of payment

(A) In general

If, in a liquidation to which section 331 applies, the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period beginning on the date a plan of complete liquidation is adopted and the liquidation is completed during such 12-month period, then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.

(B) Obligations attributable to sale of inventory must result from bulk sale

Subparagraph (A) shall not apply to an installment obligation acquired in respect of a sale or exchange of—

(i) stock in trade of the corporation,

(ii) other property of a kind which would properly be included in the inventory of the corporation if on hand at the close of the taxable year, and

(iii) property held by the corporation primarily for sale to customers in the ordinary course of its trade or business,

unless such sale or exchange is to 1 person in 1 transaction and involves substantially all of such property attributable to a trade or business of the corporation.

(C) Special rule where obligor and shareholder are related persons

If the obligor of any installment obligation and the shareholder are married to each

other or are related persons (within the meaning of section 1239(b)), to the extent such installment obligation is attributable to the disposition by the corporation of depreciable property—

(i) subparagraph (A) shall not apply to such obligation, and

(ii) for purposes of this title, all payments to be received by the shareholder shall be deemed received in the year the shareholder receives the obligation.

(D) Coordination with subsection (e)(1)(A)

For purposes of subsection (e)(1)(A), disposition of property by the corporation shall be treated also as disposition of such property by the shareholder.

(E) Sales by liquidating subsidiaries

For purposes of subparagraph (A), in the case of a controlling corporate shareholder (within the meaning of section 368(c)) of a selling corporation, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by such controlling corporate shareholder. The preceding sentence shall be applied successively to each controlling corporate shareholder above such controlling corporate shareholder.

(2) Distributions received in more than 1 taxable year of shareholder

If—

(A) paragraph (1) applies with respect to any installment obligation received by a shareholder from a corporation, and

(B) by reason of the liquidation such shareholder receives property in more than 1 taxable year,

then, on completion of the liquidation, basis previously allocated to property so received shall be reallocated for all such taxable years so that the shareholder's basis in the stock of the corporation is properly allocated among all property received by such shareholder in such liquidation.

(i) Recognition of recapture income in year of disposition

(1) In general

In the case of any installment sale of property to which subsection (a) applies—

(A) notwithstanding subsection (a), any recapture income shall be recognized in the year of the disposition, and

(B) any gain in excess of the recapture income shall be taken into account under the installment method.

(2) Recapture income

For purposes of paragraph (1), the term ''recapture income'' means, with respect to any installment sale, the aggregate amount which would be treated as ordinary income under (or so much of section 751 as relates to section 1245 or 1250) for the taxable year of the disposition if all payments to be received were received in the taxable year of disposition.

(j) Regulations

(1) In general

The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the provisions of this section.

(2) Selling price not readily ascertainable

The regulations prescribed under paragraph (1) shall include regulations providing for ratable basis recovery in transactions where the gross profit or the total contract price (or both) cannot be readily ascertained.

(k) Current inclusion in case of revolving credit plans, etc.

In the case of—

(1) any disposition of personal property under a revolving credit plan, or

(2) any installment obligation arising out of a sale of—

(A) stock or securities which are traded on an established securities market, or

(B) to the extent provided in regulations, property (other than stock or securities) of a kind regularly traded on an established market,

subsection (a) shall not apply, and, for purposes of this title, all payments to be received shall be treated as received in the year of disposition. The Secretary may provide for the application of this subsection in whole or in part for transactions in which the rules of this subsection otherwise would be avoided through the use of related parties, pass-thru entities, or intermediaries.

***(l)* Dealer dispositions**

For purposes of subsection (b)(2)(A)—

(1) In general

The term ''dealer disposition'' means any of the following dispositions:

(A) Personal property

Any disposition of personal property by a person who regularly sells or otherwise disposes of personal property of the same type on the installment plan.

(B) Real property

Any disposition of real property which is held by the taxpayer for sale to customers in the ordinary course of the taxpayer's trade or business.

(2) Exceptions

The term ''dealer disposition'' does not include—

(A) Farm property

The disposition on the installment plan of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e)(4) or (5)).

(B) Timeshares and residential lots

(i) In general

Any dispositions described in clause (ii) on the installment plan if the taxpayer elects to have paragraph (3) apply to any installment obligations which arise from such dispositions. An election under this paragraph shall not apply with respect to an installment obligation which is guaranteed by any person other than an individual.

(ii) Dispositions to which subparagraph applies

A disposition is described in this clause if it is a disposition in the ordinary course

of the taxpayer's trade or business to an individual of—

(I) a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks per year, or a right to use specified campgrounds for recreational purposes, or

(II) any residential lot, but only if the taxpayer (or any related person) is not to make any improvements with respect to such lot.

For purposes of subclause (I), a timeshare right to use (or timeshare ownership interest in) property held by the spouse, children, grandchildren, or parents of an individual shall be treated as held by such individual.

(C) Carrying charges or interest

Any carrying charges or interest with respect to a disposition described in subparagraph (A) or (B) which are added on the books of account of the seller to the established cash selling price of the property shall be included in the total contract price of the property and, if such charges or interest are not so included, any payments received shall be treated as applying first against such carrying charges or interest.

(3) Payment of interest on timeshares and residential lots

(A) In general

In the case of any installment obligation to which paragraph (2)(B) applies, the tax imposed by this chapter for any taxable year for which payment is received on such obligation shall be increased by the amount of interest determined in the manner provided under subparagraph (B).

(B) Computation of interest

(i) In general

The amount of interest referred to in subparagraph (A) for any taxable year shall be determined—

(I) on the amount of the tax for such taxable year which is attributable to the payments received during such taxable year on installment obligations to which this subsection applies,

(II) for the period beginning on the date of sale, and ending on the date such payment is received, and

(III) by using the applicable Federal rate under section 1274 (without regard to subsection (d)(2) thereof) in effect at the time of the sale compounded semiannually.

(ii) Interest not taken into account

For purposes of clause (i), the portion of any tax attributable to the receipt of any payment shall be determined without regard to any interest imposed under subparagraph (A).

(iii) Taxable year of sale

No interest shall be determined for any payment received in the taxable year of the disposition from which the installment obligation arises.

(C) Treatment as interest

Any amount payable under this paragraph shall be taken into account in computing the amount of any deduction allowable to the taxpayer for interest paid or accrued during such taxable year.

(Added Pub. L. 96–471, § 2(a), Oct. 19, 1980, 94 Stat. 2247; amended Pub. L. 97–34, title II, § 202(c), Aug. 13, 1981, 95 Stat. 221; Pub. L. 97–448, title III, § 303, Jan. 12, 1983, 96 Stat. 2398; Pub. L. 98–369, div. A, title I, § 112(a), title IV, § 421(b)(6)(B), (C), July 18, 1984, 98 Stat. 635, 794; Pub. L. 99–514, title VI, §§ 631(e)(8), 642(a)(1)(D), (3), (b), title VIII, § 812(a), title XVIII, § 1809(c), Oct. 22, 1986, 100 Stat. 2274, 2284, 2371, 2821; Pub. L. 100–203, title X, § 10202(b), Dec. 22, 1987, 101 Stat. 1330–388; Pub. L. 100–647, title I, §§ 1006(e)(7), (i)(1), (2), 1008(g)(1), 1018(u)(25), (26), title II, § 2004(d)(1), (5), Nov. 10, 1988, 102 Stat. 3401, 3410, 3442, 3591, 3599; Pub. L. 106–170, title V, § 536(a), Dec. 17, 1999, 113 Stat. 1936; Pub. L. 106–573, § 2(a), Dec. 28, 2000, 114 Stat. 3061; Pub. L. 108–357, title VIII, § 897(a), Oct. 22, 2004, 118 Stat. 1649.)

PRIOR PROVISIONS

A prior section 453, acts Aug. 16, 1954, ch. 736, 68A Stat. 154; Sept. 2, 1958, Pub. L. 85–866, title I, § 27(a), 72 Stat. 1624; Oct. 16, 1962, Pub. L. 87–834, § 13(f)(5), 76 Stat. 1035; Feb. 26, 1964, Pub. L. 88–272, title II, §§ 222(a), 231(b)(5), 78 Stat. 75, 105; Aug. 22, 1964, Pub. L. 88–484, § 1(b)(2), 78 Stat. 597; Aug. 31, 1964, Pub. L. 88–539, § 3(a), (b), 78 Stat. 746; Sept. 12, 1966, Pub. L. 89–570, § 1(b)(5), 80 Stat. 762; Nov. 13, 1966, Pub. L. 89–809, title II, § 202(c), 80 Stat. 1576; Dec. 30, 1969, Pub. L. 91–172, title II, § 211(b)(5), title III, § 301(b)(7), title IV, § 412(a), title IX, § 916(a), 83 Stat. 570, 585, 608, 723; Oct. 4, 1976, Pub. L. 94–455, title II, § 205(c)(1)(E), title XIX, §§ 1901(a)(66), 1906(b)(13)(A), 1951(b)(7)(A), 90 Stat. 1535, 1775, 1834, 1838; Nov. 6, 1978, Pub. L. 95–600, title VII, § 703(j)(3), 92 Stat. 2941; Apr. 1, 1980, Pub. L. 96–222, title I, § 104(a)(4)(H)(iv), 94 Stat. 217; Apr. 2, 1980, Pub. L. 96–223, title IV, § 403(b)(2)(B), 94 Stat. 305; Oct. 19, 1980, Pub. L. 96–471, § 2(c)(4), 94 Stat. 2254, related to installment method in general, installment method for dealers in personal property, and gain or loss dispositions of installment obligations, prior to repeal by Pub. L. 96–471, § 2(a), Oct. 19, 1980, 94 Stat. 2247. See sections 453A and 453B of this title.

AMENDMENTS

2004—Subsec. (f)(4)(B). Pub. L. 108–357 struck out "is issued by a corporation or a government or political subdivision thereof and" before "is readily tradable".

2000—Subsecs. (a), (d)(1), (i)(1), (k). Pub. L. 106–573 repealed Pub. L. 106–170, § 536(a). See 1999 Amendment notes below.

1999—Subsec. (a). Pub. L. 106–170, § 536(a)(1), which substituted "Use of installment method" for "General rule" in subsec. heading, designated existing provisions as par. (1) and inserted heading, and added heading and text of par. (2), text of which read as follows: "(2) ACCRUAL METHOD TAXPAYER.—The installment method shall not apply to income from an installment sale if such income would be reported under an accrual method of accounting without regard to this section. The preceding sentence shall not apply to a disposition described in subparagraph (A) or (B) of subsection (*l*)(2).", was repealed by Pub. L. 106–573, § 2(a). See Effective Date and Construction of 2000 Amendment note below.

Subsecs. (d)(1), (i)(1), (k). Pub. L. 106–170, § 536(a)(2), which substituted "(a)(1)" for "(a)" wherever appearing, was repealed by Pub. L. 106–573. See Effective Date and Construction of 2000 Amendment note below.

1988—Subsec. (f)(1). Pub. L. 100–647, § 1018(u)(25), substituted "subsections (g)" for "subsection (g)".

Subsec. (f)(8). Pub. L. 100–647, § 1018(u)(26), substituted "payments to be" for "payment to be".

Subsec. (g)(1). Pub. L. 100–647, §1006(i)(2)(B), struck out ''(within the meaning of section 1239(b))'' after ''between related persons''.

Pub. L. 100–647, §1006(i)(1), added subpars. (A) to (C) and struck out former subpars. (A) and (B) which read as follows:

''(A) subsection (a) shall not apply, and

''(B) for purposes of this title—

''(i) except as provided in clause (ii), all payments to be received shall be treated as received in the year of the disposition, and

''(ii) in the case of any payments which are contingent as to amount but with respect to which the fair market value may not be reasonably ascertained—

''(I) the basis shall be recovered ratably, and

''(II) the purchaser may not increase the basis of any property acquired in such sale by any amount before such time as the seller includes such amount in income.''

Subsec. (g)(3). Pub. L. 100–647, §1006(i)(2)(A), added par. (3).

Subsec. (h)(1)(B). Pub. L. 100–647, §1006(e)(7)(A), substituted ''to 1 person in 1 transaction'' for ''to one person'' in concluding provisions.

Subsec. (h)(1)(E). Pub. L. 100–647, §1006(e)(7)(B), substituted ''section 368(c)'' for ''section 368(c)(1)''.

Subsec. (j). Pub. L. 100–647, §1008(g)(1), redesignated subsec. (j), relating to current inclusion in case of revolving credit plans, etc., as (k).

Subsec. (k). Pub. L. 100–647, §2004(d)(5), struck out ''and section 453A'' after ''subsection (a)'' in second sentence.

Pub. L. 100–647, §1008(g)(1), redesignated subsec. (j), relating to current inclusion in case of revolving credit plans, etc., as (k).

Subsec. (*l*)(1)(A). Pub. L. 100–647, §2004(d)(1), inserted ''of the same type'' after ''disposes of personal property''.

1987—Subsec. (b)(2)(A). Pub. L. 100–203, §10202(b)(1), substituted ''Dealer dispositions'' for ''Dealer disposition of personal property'' in heading and amended text generally. Prior to amendment, text read as follows: ''A disposition of personal property on the installment plan by a person who regularly sells or otherwise disposes of personal property on the installment plan.''

Subsec. (*l*). Pub. L. 100–203, §10202(b)(2), added subsec. (*l*).

1986—Subsec. (f)(1). Pub. L. 99–514, §642(a)(3), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''Except for purposes of subsections (g) and (h), the term 'related person' means a person whose stock would be attributed under section 318(a) (other than paragraph (4) thereof) to the person first disposing of the property.''

Subsec. (f)(8). Pub. L. 99–514, §642(b)(1), added par. (8).

Subsec. (g). Pub. L. 99–514, §642(a)(1)(D), substituted ''controlled entity'' for ''80-percent owned entity'' in heading.

Subsec. (g)(1). Pub. L. 99–514, §642(b)(2), amended par. (1) generally. Prior to amendment, par. (1) read as follows: ''In the case of an installment sale of depreciable property between related persons within the meaning of section 1239(b), subsection (a) shall not apply, and, for purposes of this title, all payments to be received shall be deemed received in the year of the disposition.''

Subsec. (h). Pub. L. 99–514, §631(e)(8)(C), substituted ''certain liquidations'' for ''section 337 liquidations'' in heading.

Subsec. (h)(1)(A). Pub. L. 99–514, §631(e)(8)(A), amended subpar. (A) generally. Prior to amendment, subpar. (A) read as follows: ''If, in connection with a liquidation to which section 337 applies, in a transaction to which section 331 applies the shareholder receives (in exchange for the shareholder's stock) an installment obligation acquired in respect of a sale or exchange by the corporation during the 12-month period set forth in section 337(a), then, for purposes of this section, the receipt of payments under such obligation (but not the receipt of such obligation) by the shareholder shall be treated as the receipt of payment for the stock.''

Subsec. (h)(1)(B). Pub. L. 99–514, §631(e)(8)(A), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: ''Subparagraph (A) shall not apply to an installment obligation described in section 337(b)(1)(B) unless such obligation is also described in section 337(b)(2)(B).''

Subsec. (h)(1)(E). Pub. L. 99–514, §631(e)(8)(B), substituted ''subsidiaries'' for ''subsidiary'' in heading and amended text generally. Prior to amendment, subpar. (E) read as follows: ''For purposes of subparagraph (A), in any case to which section 337(c)(3) applies, an obligation acquired in respect of a sale or exchange by the selling corporation shall be treated as so acquired by the corporation distributing the obligation to the shareholder.''

Subsec. (i)(2). Pub. L. 99–514, §1809(c), substituted ''(or so much of section 751 as relates to section 1245 or 1250)'' for ''section 1245 or 1250''.

Subsec. (j). Pub. L. 99–514, §812(a), added subsec. (j) relating to current inclusion in case of revolving credit plans, etc.

1984—Subsec. (g). Pub. L. 98–369, §421(b)(6)(C), struck out ''spouse or'' after ''property to'' in heading.

Subsec. (h)(1)(C). Pub. L. 98–369, §421(b)(6)(B), inserted ''married to each other or are''.

Subsec. (i). Pub. L. 98–369, §112(a), amended subsec. (i) generally, substituting provisions relating to recognition of recapture income in year of disposition for provisions relating to application of subsec. (a) in the case of an installment sale of section 179 property.

1983—Subsec. (f)(6)(C). Pub. L. 97–448 inserted '', when used in any provision of this section other than subsection (b)(1),'' after ''the term 'payment' ''.

1981—Subsecs. (i), (j). Pub. L. 97–34 added subsec. (i) and redesignated former subsec. (i) as (j).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108–357, title VIII, §897(b), Oct. 22, 2004, 118 Stat. 1649, provided that: ''The amendment made by this section [amending this section] shall apply to sales occurring on or after the date of the enactment of this Act [Oct. 22, 2004].''

EFFECTIVE DATE AND CONSTRUCTION OF 2000 AMENDMENT

Pub. L. 106–573, §2, Dec. 28, 2000, 114 Stat. 3061, provided that:

''(a) IN GENERAL.—Subsection (a) of section 536 of the Ticket to Work and Work Incentives Improvement Act of 1999 (relating to modification of installment method and repeal of installment method for accrual method taxpayers) [Pub. L. 106–170, amending this section] is repealed effective with respect to sales and other dispositions occurring on or after the date of the enactment of such Act [Dec. 17, 1999].

''(b) APPLICABILITY.—The Internal Revenue Code of 1986 shall be applied and administered as if that subsection (and the amendments made by that subsection) had not been enacted.''

EFFECTIVE DATE OF 1999 AMENDMENT

Pub. L. 106–170, title V, §536(c), Dec. 17, 1999, 113 Stat. 1936, provided that: ''The amendments made by this section [amending this section and section 453A of this title] shall apply to sales or other dispositions occurring on or after the date of the enactment of this Act [Dec. 17, 1999].''

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by sections 1006(e)(7), (i)(1), (2), 1008(g)(1), and 1018(u)(25), (26) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99–514, to which such amendment relates, see section 1019(a) of Pub. L. 100–647, set out as a note under section 1 of this title.

Amendment by section 2004(d)(1), (5) of Pub. L. 100–647 effective, except as otherwise provided, as if included in the provisions of the Revenue Act of 1987, Pub. L. 100–203, title X, to which such amendment relates, see

section 2004(u) of Pub. L. 100–647, set out as a note under section 56 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Section 10202(e) of Pub. L. 100–203, as amended by Pub. L. 100–647, title II, § 2004(d)(3), (4), (6), Nov. 10, 1988, 102 Stat. 3599, 3600, provided that:

''(1) IN GENERAL.—Except as provided in this subsection, the amendments made by this section [amending this section and sections 56, 381, 453A, and 691 of this title and repealing section 453C of this title] shall apply to dispositions in taxable years beginning after December 31, 1987.

''(2) SPECIAL RULES FOR DEALERS.—

''(A) IN GENERAL.—In the case of dealer dispositions (within the meaning of section 453(*l*)(1) of the Internal Revenue Code of 1986 as added by this section), the amendments made by subsections (a) and (b) [amending this section and repealing section 453C of this title] shall apply to installment obligations arising from dispositions after December 31, 1987.

''(B) SPECIAL RULES FOR OBLIGATIONS ARISING FROM DEALER DISPOSITIONS AFTER FEBRUARY 28, 1986, AND BEFORE JANUARY 1, 1988.—

''(i) IN GENERAL.—In the case of an applicable installment obligation arising from a disposition described in subclause (I) or (II) of section 453C(e)(1)(A)(i) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this section) before January 1, 1988, the amendments made by subsections (a) and (b) shall apply to taxable years beginning after December 31, 1987.

''(ii) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who is required by clause (i) to change its method of accounting for any taxable year with respect to obligations described in clause (i)—

''(I) such change shall be treated as initiated by the taxpayer,

''(II) such change shall be treated as made with the consent of the Secretary of the Treasury or his delegate, and

''(III) the net amount of adjustments required by section 481 of the Internal Revenue Code of 1986 shall be taken into account over a period not longer than 4 taxable years.

''(C) CERTAIN RULES MADE APPLICABLE.—For purposes of this paragraph, rules similar to the rules of paragraphs (4) and (5) of section 812(c) of the Tax Reform Act of 1986 [Pub. L. 99–514, set out as an Effective Date of 1986 Amendment note below] (as added by the Technical and Miscellaneous Revenue Act of 1988 [Pub. L. 100–647]) shall apply.

''(3) SPECIAL RULE FOR NONDEALERS.—

''(A) ELECTION.—A taxpayer may elect, at such time and in such manner as the Secretary of the Treasury or his delegate may prescribe, to have the amendments made by subsections (a) and (c) [amending sections 381, 453A, and 691 of this title and repealing section 453C of this title] apply to taxable years ending after December 31, 1986, with respect to dispositions and pledges occurring after August 16, 1986.

''(B) PLEDGING RULES.—Except as provided in subparagraph (A)—

''(i) IN GENERAL.—Section 453A(d) of the Internal Revenue Code of 1986 shall apply to any installment obligation which is pledged to secure any secured indebtedness (within the meaning of section 453A(d)(4) of such Code) after December 17, 1987, in taxable years ending after such date.

''(ii) COORDINATION WITH SECTION 453C.—For purposes of section 453C of such Code (as in effect before its repeal), the face amount of any obligation to which section 453A(d) of such Code applies shall be reduced by the amount treated as payments on such obligation under section 453A(d) of such Code and the amount of any indebtedness secured by it shall not be taken into account.

''(C) CERTAIN DISPOSITIONS DEEMED MADE ON 1ST DAY OF TAXABLE YEAR.—If the taxpayer makes an election under subparagraph (A), in the case of the taxpayer's 1st taxable year ending after December 31, 1986—

''(i) dispositions after August 16, 1986, and before the 1st day of such taxable year shall be treated as made on such 1st day, and

''(ii) subsections (b)(2)(B) and (c)(4) of section 453A of such Code shall be applied separately with respect to such dispositions by substituting for '$5,000,000' the amount which bears the same ratio to $5,000,000 as the number of days after August 16, 1986, and before such 1st day bears to 365.

''(4) MINIMUM TAX.—The amendment made by subsection (d) [amending section 56 of this title] shall apply to dispositions in taxable years beginning after December 31, 1986.

''(5) COORDINATION WITH TAX REFORM ACT OF 1986.—The amendments made by this section shall not apply to any installment obligation or to any taxpayer during any period to the extent the amendments made by section 811 of the Tax Reform Act of 1986 [section 811 of Pub. L. 99–514, amending former section 453C of this title and enacting provisions set out as a note under former section 453C of this title] do not apply to such obligation or during such period.''

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 631(e)(8) of Pub. L. 99–514 applicable to any distribution in complete liquidation, and any sale or exchange, made by a corporation after July 31, 1986, unless such corporation is completely liquidated before Jan. 1, 1987, any transaction described in section 338 of this title for which the acquisition date occurs after Dec. 31, 1986, and any distribution, not in complete liquidation, made after Dec. 31, 1986, with exceptions and special and transitional rules, see section 633 of Pub. L. 99–514, set out as an Effective Date note under section 336 of this title.

Amendment by section 642(a)(1)(D), (3), (b) of Pub. L. 99–514 applicable to sales after Oct. 22, 1986, in taxable years ending after such date, but not applicable to sales made after Aug. 14, 1986, which are made pursuant to a binding contract in effect on Aug. 14, 1986, and at all times thereafter, see section 642(c) of Pub. L. 99–514, set out as a note under section 1239 of this title.

Section 812(c) of Pub. L. 99–514, as amended by Pub. L. 100–647, title I, § 1008(g)(3)–(6), Nov. 10, 1988, 102 Stat. 3443, provided that:

''(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendment made by subsection (a) [amending this section] shall apply to taxable years beginning after December 31, 1986.

''(2) SALES OF STOCK, ETC.—Section 453(k)(2) of the Internal Revenue Code of 1986, as added by subsection (a), shall apply to sales after December 31, 1986, in taxable years ending after such date.

''(3) CHANGE IN METHOD OF ACCOUNTING.—In the case of any taxpayer who made sales under a revolving credit plan and was on the installment method under section 453 or 453A of the Internal Revenue Code of 1986 for such taxpayer's last taxable year beginning before January 1, 1987, the amendments made by this section [amending this section and section 453A of this title] shall be treated as a change in method of accounting for its 1st taxable year beginning after December 31, 1986, and—

''(A) such change shall be treated as initiated by the taxpayer,

''(B) such change shall be treated as having been made with the consent of the Secretary,

''(C) the period for taking into account adjustments under section 481 of such Code by reason of such change shall be equal to 4 years, and

''(D) except as provided in paragraph (4), the amount taken into account in each of such 4 years shall be the applicable percentage (determined in accordance with the following table) of the net adjustment:

"In the case of the:	**The applicable percentage is:**
1st taxable year	15

2nd taxable year	25
3rd taxable year	30
4th taxable year	30.

If the taxpayer's last taxable year beginning before January 1, 1987, was the taxpayer's 1st taxable year in which sales were made under a revolving credit plan, all adjustments under section 481 of such Code shall be taken into account in the taxpayer's 1st taxable year beginning after December 31, 1986.

''(4) ACCELERATION OF ADJUSTMENTS WHERE CONTRACTION IN AMOUNT OF INSTALLMENT OBLIGATIONS.—

''(A) IN GENERAL.—If the percentage determined under subparagraph (B) for any taxable year in the adjustment period exceeds the percentage which would otherwise apply under paragraph (3)(D) for such taxable year (determined after the application of this paragraph for prior taxable years in the adjustment period)—

''(i) the percentage determined under subparagraph (B) shall be substituted for the applicable percentage which would otherwise apply under paragraph (3)(D), and

''(ii) any increase in the applicable percentage by reason of clause (i) shall be applied to reduce the applicable percentage determined under paragraph (3)(D) for subsequent taxable years in the adjustment period (beginning with the 1st of such subsequent taxable years).

''(B) DETERMINATION OF PERCENTAGE.—For purposes of subparagraph (A), the percentage determined under this subparagraph for any taxable year in the adjustment period is the excess (if any) of—

''(i) the percentage determined by dividing the aggregate contraction in revolving installment obligations by the aggregate face amount of such obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, over

''(ii) the sum of the applicable percentages under paragraph (3)(D) (as modified by this paragraph) for prior taxable years in the adjustment period.

''(C) AGGREGATE CONTRACTION IN REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of subparagraph (B), the aggregate contraction in revolving installment obligations is the amount by which—

''(i) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, exceeds

''(ii) the aggregate face amount of the revolving installment obligations outstanding as of the close of the taxable year involved.

''(D) REVOLVING INSTALLMENT OBLIGATIONS.—For purposes of this paragraph, the term 'revolving installment obligations' means installment obligations arising under a revolving credit plan.

''(E) TREATMENT OF CERTAIN OBLIGATIONS DISPOSED OF ON OR BEFORE OCTOBER 26, 1987.—For purposes of subparagraphs (B)(i) and (C)(i), in determining the aggregate face amount of revolving installment obligations outstanding as of the close of the taxpayer's last taxable year beginning before January 1, 1987, there shall not be taken into account any obligation—

''(i) which was disposed of to an unrelated person on or before October 26, 1987, or

''(ii) was disposed of to an unrelated person on or after such date pursuant to a binding written contract in effect on October 26, 1987, and at all times thereafter before such disposition.

For purposes of the preceding sentence, the term 'unrelated person' means any person who is not a related person (as defined in section 453(g) of the Internal Revenue Code of 1986).

''(5) LIMITATION ON LOSSES FROM SALES OF OBLIGATIONS UNDER REVOLVING CREDIT PLANS.—If 1 or more obligations arising under a revolving credit plan and taken into account under paragraph (3) are disposed of during the adjustment period, then, notwithstanding any other provision of law—

''(A) no losses from such dispositions shall be recognized, and

''(B) the aggregate amount of the adjustment for taxable years in the adjustment period (in reverse order of time) shall be reduced by the amount of such losses.

''(6) ADJUSTMENT PERIOD.—For purposes of paragraphs (4) and (5), the adjustment period is the 4-year period under paragraph (3).''

Amendment by section 1809(c) of 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

Section 112(b) of Pub. L. 98–369 provided that:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by this section [amending this section] shall apply with respect to dispositions made after June 6, 1984.

''(2) EXCEPTION.—The amendments made by this section shall not apply with respect to any disposition conducted pursuant to a contract which was binding on March 22, 1984, and at all times thereafter.

''(3) SPECIAL RULE FOR CERTAIN DISPOSITIONS BEFORE OCTOBER 1, 1984.—The amendments made by this section shall not apply to any disposition before October 1, 1984, of all or substantially all of the personal property of a cable television business pursuant to a written offer delivered by the seller on June 20, 1984, but only if the last payment under the installment contract is due no later than October 1, 1989.''

Amendment by section 421(b)(6)(B), (C) of 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 1983 AMENDMENT

Section 311(a) of Pub. L. 97–448 provided that: ''The amendments made by sections 301, 302, and 303 [amending this section and sections 453B and 1239 of this title] shall apply to dispositions made after October 19, 1980, in taxable years ending after such date.''

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to property placed in service after Dec. 31, 1980, in taxable years ending after that date, see section 209(a) of Pub. L. 97–34, set out as an Effective Date note under section 168 of this title.

EFFECTIVE DATE; APPLICATION OF FORMER SECTION 453(b) TO CERTAIN DISPOSITIONS

Section 6(a) of Pub. L. 96–471, as amended by Pub. L. 99–514, §2, Oct. 22, 1986, 100 Stat. 2095, provided:

''(1) IN GENERAL.—Except as otherwise provided in this subsection, the amendments made by sections 2 [enacting this section and sections 453A and 453B of this title and amending sections 311, 336, 337, 381, former section 453, and sections 453B, 481, 644, 691, and 1255 of this title] and 5 [amending section 1239 of this title] shall apply to dispositions made after the date of the enactment of this Act [Oct. 19, 1980] in taxable years ending after such date.

''(2) FOR SECTION 453(e).—Section 453(e) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by section 2) shall apply to first dispositions made after May 14, 1980.

''(3) FOR SECTION 453(h).—Paragraphs (1) and (2) of section 453(h) of such Code (as amended by section 2) shall apply in the case of distributions of installment obligations after March 31, 1980.

''(4) FOR SECTION 453a.—Section 453A of the Internal Revenue Code of 1986 (as amended by section 2) shall

apply to taxable years ending after the date of enactment of this Act [Oct. 19, 1980].

''(5) FOR SECTION 453b(f).—Section 453B(f) of the Internal Revenue Code of 1986 (as amended by section 2) shall apply to installment obligations becoming unenforceable after the date of the enactment of this Act [Oct. 19, 1980].

''(6) FOR SECTION 2(c).—The amendments made by section 2(c) [amending sections 336, 337, 453B, and former section 453 of this title] shall take effect as if included in the amendments made by section 403(b) of the Crude Oil Windfall Profit Tax Act of 1980 [see section 403(b)(3) of Pub. L. 96–223, set out as an Effective Date of 1980 Amendments note under section 337 of this title].

''(7) SPECIAL RULE FOR APPLICATION OF FORMER SECTION 453 TO CERTAIN DISPOSITIONS.—In the case of any disposition made on or before the date of the enactment of this Act [Oct. 19, 1980] in any taxable year ending after such date, the provisions of section 453(b) of the Internal Revenue Code of 1986 [see subsec. (b) of former section 453 of this title, set out below] as in effect before such date, shall be applied with respect to such disposition without regard to—

''(A) paragraph (2) of such section 453(b), and

''(B) any requirement that more than 1 payment be received.''

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.

§ 453A. Special rules for nondealers

(a) General rule

In the case of an installment obligation to which this section applies—

(1) interest shall be paid on the deferred tax liability with respect to such obligation in the manner provided under subsection (c), and

(2) the pledging rules under subsection (d) shall apply.

(b) Installment obligations to which section applies

(1) In general

This section shall apply to any obligation which arises from the disposition of any property under the installment method, but only if the sales price of such property exceeds $150,000.

(2) Special rule for interest payments

For purposes of subsection (a)(1), this section shall apply to an obligation described in paragraph (1) arising during a taxable year only if—

(A) such obligation is outstanding as of the close of such taxable year, and

(B) the face amount of all such obligations held by the taxpayer which arose during, and are outstanding as of the close of, such taxable year exceeds $5,000,000.

Except as provided in regulations, all persons treated as a single employer under subsection (a) or (b) of section 52 shall be treated as one person for purposes of this paragraph and subsection (c)(4).

(3) Exception for personal use and farm property

An installment obligation shall not be treated as described in paragraph (1) if it arises from the disposition—

(A) by an individual of personal use property (within the meaning of section 1275(b)(3)), or

(B) of any property used or produced in the trade or business of farming (within the meaning of section 2032A(e)(4) or (5)).

(4) Special rule for timeshares and residential lots

An installment obligation shall not be treated as described in paragraph (1) if it arises from a disposition described in section 453(*l*)(2)(B), but the provisions of section 453(*l*)(3) (relating to interest payments on timeshares and residential lots) shall apply to such obligation.

(5) Sales price

For purposes of paragraph (1), all sales or exchanges which are part of the same transaction (or a series of related transactions) shall be treated as 1 sale or exchange.

(c) Interest on deferred tax liability

(1) In general

If an obligation to which this section applies is outstanding as of the close of any taxable year, the tax imposed by this chapter for such taxable year shall be increased by the amount of interest determined in the manner provided under paragraph (2).

(2) Computation of interest

For purposes of paragraph (1), the interest for any taxable year shall be an amount equal to the product of—

(A) the applicable percentage of the deferred tax liability with respect to such obligation, multiplied by

(B) the underpayment rate in effect under section 6621(a)(2) for the month with or within which the taxable year ends.

(3) Deferred tax liability

For purposes of this section, the term ''deferred tax liability'' means, with respect to any taxable year, the product of—

(A) the amount of gain with respect to an obligation which has not been recognized as of the close of such taxable year, multiplied by

(B) the maximum rate of tax in effect under section 1 or 11, whichever is appropriate, for such taxable year.

For purposes of applying the preceding sentence with respect to so much of the gain which, when recognized, will be treated as long-term capital gain, the maximum rate on net capital gain under section 1(h) or 1201 (whichever is appropriate) shall be taken into account.

(4) Applicable percentage

For purposes of this subsection, the term ''applicable percentage'' means, with respect to obligations arising in any taxable year, the percentage determined by dividing—