

with the request for an automatic extension. Similarly, a calendar year taxpayer (whether or not such taxpayer has obtained an automatic extension of time to file) who has filed its 1984 income tax return before October 15, 1985, without making a mixed straddle account election for either 1984 or 1985, or both, may make the mixed straddle account election under this section for either or for both of such years with an amended return filed on or before December 31, 1985. The mixed straddle account elected on this amended return will be effective for all positions in the designated class of activities even if the taxpayer had elected straddle-by-straddle identification as provided under § 1.1092(b)-3T for purposes of the previously filed 1984 income tax return. For taxable years beginning in 1984 and 1985, the election under this paragraph (f)(3) is effective for the entire taxable year. For taxable years beginning in 1983, an election shall be effective for that part of the year beginning after December 31, 1983, for which the election under § 1.1256(h)-1T or 1.1256(h)-2T is made. See § 1.6081-1T regarding an extension of time to file certain individual income tax returns.

(4) *Period for which election is effective.* For taxable years beginning on or after January 1, 1984, an election under this section, including an amendment to the election pursuant to paragraph (f)(1) of this section, shall be effective only for the taxable year for which the election is made. This election may be revoked during the taxable year for the remainder of the taxable year only with the consent of the Commissioner. An application for consent to revoke the election shall be filed with the service center with which the election was filed and shall—

- (i) Contain the name, address, and taxpayer identification number of the taxpayer;
- (ii) Show that the volume or nature of the taxpayer's activities has changed substantially since the election was made, and that the taxpayer's activities no longer warrant the use of such mixed straddle account; and
- (iii) Any other relevant information.

If a taxpayer's election for a taxable year is revoked, the taxpayer may not make a new election for the same class

of activities under paragraph (f)(1) of this section during the same taxable year.

(g) *Effective date.* The provisions of this section apply to positions held on or after January 1, 1984.

(Secs. 1092(b)(1), 1092(b)(2) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 98 Stat. 627; 26 U.S.C. 1092(b)(1), 1092(b)(2), 7805))

[T.D. 8008, 50 FR 3329, Jan. 24, 1985; 50 FR 12243, Mar. 28, 1985, as amended by T.D. 8058, 50 FR 42013, Oct. 17, 1985]

§ 1.1092(b)-5T Definitions (temporary).

The following definitions apply for purposes of §§ 1.1092(b)-1T through 1.1092(b)-4T.

(a) *Disposing, disposes, or disposed.* The term *disposing, disposes, or disposed* includes the sale, exchange, cancellation, lapse, expiration, or other termination of a right or obligation with respect to personal property (as defined in section 1092(d)(1)).

(b) *Hedging transaction.* The term *hedging transaction* means a hedging transaction as defined in section 1256(e).

(c) *Identified straddle.* The term *identified straddle* means an identified straddle as defined in section 1092(a)(2)(B).

(d) *Loss.* The term *loss* means a loss otherwise allowable under section 165(a) (without regard to the limitation contained in section 165(f)) and includes a write-down in inventory.

(e) *Mixed straddle.* The term *mixed straddle* means a straddle—

- (1) All of the positions of which are held as capital assets;
- (2) At least one (but not all) of the positions of which is a section 1256 contract;
- (3) For which an election under section 1256(d) has not been made; and
- (4) Which is not part of a larger straddle.

(f) *Non-section 1256 position.* The term *non-section 1256 position* means a position that is not a section 1256 contract.

(g) *Offsetting position.* The term *offsetting position* means an offsetting position as defined in section 1092(c)(2).

(h) *Position.* The term *position* means a position as defined in section 1092(d)(2).

(i) [Reserved]

(j) *Related person or flowthrough entity.* The term *related person or*

flowthrough entity means a related person or flowthrough entity as defined in sections 1092(d)(4) (B) and (C) respectively.

(k) *Section 1256 contract*. The term *section 1256 contract* means a section 1256 contract as defined in section 1256(b).

(l) [Reserved]

(m) *Straddle*. The term *straddle* means a straddle as defined in section 1092(c)(1).

(n) *Successor position*. The term *successor position* means a position ("P") that is or was at any time offsetting to a second position if—

(1) The second position was offsetting to any loss position disposed of; and

(2) P is entered into during a period commencing 30 days prior to, and ending 30 days after, the disposition of the loss position referred to in paragraph (n)(1) of this section.

(o) *Unrecognized gain*. The term *unrecognized gain* means unrecognized gain as defined in section 1092(a)(3)(A).

(p) *Substantially identical*. The term *substantially identical* has the same meaning as substantially identical in section 1091(a).

(q) *Securities*. The term *security* means a security as defined in section 1236(c).

(Secs. 1092(b) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 95 Stat. 324, 26 U.S.C. 1092(b), 7805) and sec. 102(h) of the Tax Reform Act of 1984 (98 Stat. 625))

[T.D. 8007, 50 FR 3321, Jan. 24, 1985, as amended by T.D. 8070, 51 FR 1788, Jan. 15, 1986]

§ 1.1092(b)-6T Mixed straddles; accrued gain and loss associated with a position that becomes part of a section 1092(b)(2) identified mixed straddle.

(a) *In general*. Except as otherwise provided, if one or more positions of a section 1092(b)(2) identified mixed straddle were held by the taxpayer on the day prior to the day the section 1092(b)(2) identified mixed straddle is established, any unrealized gain or loss on the day prior to the day the section 1092(b)(2) identified mixed straddle is established with respect to such position or positions is taken into account at the time, and has the character, provided by the provisions of the Internal Revenue Code that would apply to the gain or loss if the section 1092(b)(2) identified mixed straddle were not es-

tablished. Unrealized gain or loss is the difference between the fair market value of the position or positions on the day before a section 1092(b)(2) identified mixed straddle is established and the taxpayer's basis in that position or positions. See § 1.1092(b)-2T for treatment of holding periods with respect to such positions. Changes in value of the position or positions that occur after the section 1092(b)(2) identified mixed straddle is established are accounted for under the other provisions of § 1.1092(b)-3T.

(b) *Examples*. Paragraph (a) of this section may be illustrated by the following examples. It is assumed in each example that the positions are the only positions held directly or indirectly (through a related person or flowthrough entity) by an individual calendar year taxpayer during the taxable year and no section 1256 contract is substantially identical to an offsetting non-section 1256 contract. It is also assumed that any gain or loss recognized on disposition of any position in the straddle would be capital gain or loss. The following examples assume that this section applies to identified mixed straddles established after August 1, Year 2.

Example 1. On August 13, Year 2, A enters into a section 1256 contract. As of the close of the day on August 15, Year 2, there is \$500 of unrealized loss on the section 1256 contract. On August 16, Year 2, A enters into an offsetting non-section 1256 position and makes a valid election to treat the straddle as a section 1092(b)(2) identified mixed straddle. A continues to hold both positions of the section 1092(b)(2) identified mixed straddle on January 1, Year 3. Under these circumstances, A will recognize the \$500 loss on the section 1256 contract that existed prior to establishing the section 1092(b)(2) identified mixed straddle on the last business day of Year 2 because the section 1256 contract would be treated as sold on December 31, Year 2, (the last business day of the taxable year) under section 1256(a). The loss recognized in Year 2 will be treated as 60% long-term capital loss and 40% short-term capital loss. All gains and losses occurring after the section 1092(b)(2) identified mixed straddle is established are accounted for under the applicable provisions in § 1.1092(b)-3T.

Example 2. On September 3, Year 1, A enters into a non-section 1256 position. As of the close of the day on August 22, Year 2, there is \$400 of unrealized short-term capital