

**§ 1.1234-3 Special rules for the treatment of grantors of certain options granted after September 1, 1976.**

(a) *In general.* In the case of the grantor of an option (including an option granted as part of a straddle or multiple option), gain or loss from any closing transaction with respect to, and gain on the lapse of, an option in property shall be treated as a gain or loss from the sale or exchange of a capital asset held not more than 1 year. (6 months for taxable years beginning before 1977; 9 months for taxable years beginning in 1977).

(b) *Definitions.* The following definitions apply for purposes of this section.

(1) The term *closing transaction* means any termination of a grantor's obligation under an option to buy property (a *call*) or an option to sell property (a *put*) other than through the exercise or lapse of the option. For example, the grantor of a call may effectively terminate his obligation under the option by either:

(i) Repurchasing the option from the holder or

(ii) Purchasing from an options exchange a call with terms identical to the original option granted and designating the purchase as a closing transaction.

A put or call purchased to make a closing transaction is identical as to striking price and expiration date. Such put or call need not match the granted option in time of creation, date of acquisition, cost of the entire option or units therein, or number of units subject to the option. If such put or call terminates only part of a grantor's obligation under the granted option, a closing transaction is made as to that part.

(2) The term *property* means stocks and securities (including stocks and securities dealt with on a *when issued* basis), commodities, and commodity futures.

(3) The term *grantor* means the writer or issuer of an option.

(4) The term *straddle* means a simultaneously granted combination of an option to buy and an option to sell the same quantity of property at the same price during the same period of time.

(5) The term *multiple option* means a simultaneously granted combination of

an option to buy plus an option to sell plus one or more additional options to buy or sell property.

(c) *Nonapplicability to broker-dealers.* The provisions of this section do not apply to any option granted in the ordinary course of the taxpayer's trade or business of granting options. However, the provisions of this section do apply to:

(1) Gain from any closing transaction with respect to an option and gain on lapse of an option if gain on the sale or exchange of the option would be considered capital gain by a dealer in securities under section 1236(a) and the regulations thereunder, and

(2) Loss from any closing transaction with respect to an option if loss on the sale or exchange of the option would not be considered ordinary loss by a dealer in securities under section 1236(b) and the regulations thereunder.

The preceding sentence shall be applied with respect to dealers in *property* (as defined in paragraph (b)(2) of this section) and without regard to the limitation of the applicability of section 1236 to dealers in securities.

(d) *Nonapplicability to compensatory options.* Section 1234 does not apply to options to purchase stock or other property which are issued as compensation for services, as described in sections 61, 83, and 421 and the regulations thereunder.

(e) *Premium allocation for simultaneously granted options.* The allocation of a premium received for a straddle or multiple option between or among the component options thereof shall be made on the basis of the relative market value of the component options at the time of their issuance or on any other reasonable and consistently applied basis which is acceptable to the Commissioner.

(f) *Effective date.* This section, relating to special rules for the treatment of grantors of certain options, shall apply to options granted after September 1, 1976.

[T.D. 7652, 44 FR 62282, Oct. 30, 1979; 44 FR 67657, Nov. 27, 1979]

**§ 1.1234-4 Hedging transactions.**

The character of gain or loss on an acquired or a written option that is (or is identified as being) part of a hedging