

include the name and address of the taxpayer (or his duly authorized representative), and shall set forth the following information:

(i) A declaration that the taxpayer is making an election under section 451(d) and this section;

(ii) Identification of the specific crop or crops destroyed or damaged;

(iii) A declaration that under the taxpayer's normal business practice the income derived from the crops which were destroyed or damaged would have been included in this gross income for a taxable year following the taxable year of such destruction or damage;

(iv) The cause of destruction or damage of crops and the date or dates on which such destruction or damage occurred;

(v) The total amount of payments received from insurance carriers, itemized with respect to each specific crop and with respect to the date each payment was received;

(vi) The name(s) of the insurance carrier or carriers from whom payments were received.

(2) *Scope of election.* Once made, an election under section 451(d) is binding for the taxable year for which made unless the district director consents to a revocation of such election. Requests for consent to revoke an election under section 451(d) shall be made by means of a letter to the district director for the district in which the taxpayer is required to file his return, setting forth the taxpayer's name, address, and identification number, the year for which it is desired to revoke the election, and the reasons therefor.

[T.D. 7097, 36 FR 5215, Mar. 18, 1971, as amended by T.D. 7526, 42 FR 64624, Dec. 27, 1977; T.D. 8429, 57 FR 38595, Aug. 26, 1992]

§ 1.451-7 Election relating to livestock sold on account of drought.

(a) *In general.* Section 451(e) provides that for taxable years beginning after December 31, 1975, a taxpayer whose principal trade or business is farming (within the meaning of § 6420 (c)(3)) and who reports taxable income on the cash receipts and disbursements method of accounting may elect to defer for one year a certain portion of income. The income which may be deferred is the amount of gain realized during the tax-

able year from the sale or exchange of that number of livestock sold or exchanged solely on account of a drought which caused an area to be designated as eligible for assistance by the Federal Government (regardless of whether the designation is made by the President or by an agency or department of the Federal Government). That number is equal to the excess of the number of livestock sold or exchanged over the number which would have been sold or exchanged had the taxpayer followed its usual business practices in the absence of such drought. For example, if in the past it has been a taxpayer's practice to sell or exchange annually 400 head of beef cattle but due to qualifying drought conditions 550 head were sold in a given taxable year, only income from the sale of 150 head may qualify for deferral under this section. The election is not available with respect to livestock described in section 1231(b)(3) (relating to cattle, horses (and other livestock) held by the taxpayer for 24 months (12 months) and used for draft, breeding, dairy, or sporting purposes).

(b) *Usual business.* The determination of the number of animals which a taxpayer would have sold if it had followed its usual business practice in the absence of drought will be made in light of all facts and circumstances. In the case of taxpayers who have not established a usual business practice, reliance will be placed upon the usual business practice of similarly situated taxpayers in the same general region as the taxpayer.

(c) *Special rules*—(1) *Connection with drought area.* To qualify under section 451(e) and this section, the livestock need not be raised, and the sale or exchange need not take place, in a drought area. However, the sale or exchange of the livestock must occur solely on account of drought conditions, the existence of which affected the water, grazing, or other requirements of the livestock so as to necessitate their sale or exchange.

(2) *Sale prior to designation of area as eligible for Federal assistance.* The provisions of this section will apply regardless of whether all or a portion of the excess number of animals were sold or

exchanged before an area becomes eligible for Federal assistance, so long as the drought which caused such dispositions also caused the area to be designated as eligible for Federal assistance.

(d) *Classifications of livestock with respect to which the election may be made.* The election to have the provisions of section 451(e) apply must be made separately for each broad generic classification of animals (e.g., hogs, sheep, cattle) for which the taxpayer wishes the provisions to apply. Separate elections shall not be made solely by reason of the animals' age, sex, or breed.

(e) *Computation—(1) Determination of amount deferred.* The amount of income which may be deferred for a classification of livestock pursuant to this section shall be determined in the following manner. The total amount of income realized from the sale or exchange of all livestock in the classification during the taxable year shall be divided by the total number of all such livestock sold. The resulting quotient shall then be multiplied by the excess number of such livestock sold on account of drought.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example. A, a calendar year taxpayer, normally sells 100 head of beef cattle a year. As the result of drought conditions existing during 1976, A sells 135 head during that year. A realizes \$35,100 of income from the sale of the 135 head. On August 9, 1976, as a result of the drought, the affected area was declared a disaster area thereby eligible for Federal assistance. The amount of income which A may defer until 1977, presuming the other provisions of this section are met, is determined as follows:

$\$35,100$ (total income from sales of beef cattle)/ 135 (total number of beef cattle sold) $\times 35$ (excess number of beef cattle sold, i.e. $135 - 100$)= $\$9,100$ (amount which A may defer until 1977)

(f) *Successive elections.* If a taxpayer makes an election under section 451(e) for successive years, the amount deferred from one year to the next year shall not be deemed to have been received from the sale or exchange of livestock during the later year. In addition, in determining the taxpayer's normal business practice for the later year, earlier years for which an elec-

tion under section 451(e) was made shall not be considered.

(g) *Time and manner of making election.* The election provided for in this section must be made by the later of (1) the due date for filing the income tax return (determined with regard to any extensions of time granted the taxpayer for filing such return) for the taxable year in which the early sale of livestock occurs, or (2) (the 90th day after the date these regulations are published as a Treasury decision in the FEDERAL REGISTER). The election must be made separately for each taxable year to which it is to apply. It must be made by attaching a statement to the return or an amended return for such taxable year. The statement shall include the name and address of the taxpayer and shall set forth the following information for each classification of livestock for which the election is made:

(1) A declaration that the taxpayer is making an election under section 451(e);

(2) Evidence of the existence of the drought conditions which forced the early sale or exchange of the livestock and the date, if known, on which an area was designated as eligible for assistance by the Federal Government as a result of the drought conditions.

(3) A statement explaining the relationship of the drought area to the taxpayer's early sale or exchange of the livestock;

(4) The total number of animals sold in each of the three preceding years;

(5) The number of animals which would have been sold in the taxable year had the taxpayer followed its normal business practice in the absence of drought;

(6) The total number of animals sold, and the number sold on account of drought, during the taxable year; and

(7) A computation, pursuant to paragraph (e) of this section, of the amount of income to be deferred for each such classification.

(h) *Revocation of election.* Once an election under this section is made for a taxable year, it may be revoked only with the approval of the Commissioner.

(i) *Cross reference.* For provisions relating to the involuntary conversion of livestock sold on account of drought

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see section 1033(e) and the regulations thereunder.

[T.D. 7526, 42 FR 64624, Dec. 27, 1977]

§§ 1.453-1—1.453-2 [Reserved]

§ 1.453-3 Purchaser evidences of indebtedness payable on demand or readily tradable.

(a) *In general.* A bond or other evidence of indebtedness (hereinafter in this section referred to as an obligation) issued by any person and payable on demand shall not be treated as an evidence of indebtedness of the purchaser in applying section 453(b) to a sale or other disposition of real property or to a casual sale or other casual disposition of personal property. In addition, an obligation issued by a corporation or a government or political subdivision thereof—

(1) With interest coupons attached (whether or not the obligation is readily tradable in an established securities market),

(2) In registered form (other than an obligation issued in registered form which the taxpayer establishes will not be readily tradable in an established securities market), or

(3) In any other form designed to render such obligation readily tradable in an established securities market shall not be treated as an evidence of indebtedness of the purchaser in applying section 453(b) to a sale or other disposition of real property or to a casual sale or other casual disposition of personal property. For purposes of this section, an obligation is to be considered in registered form if it is registered as to principal, interest, or both and if its transfer must be effected by the surrender of the old instrument and either the reissuance by the corporation of the old instrument to the new holder or the issuance by the corporation of a new instrument to the new holder.

(b) *Treatment as payment.* If under section 453(b)(3) an obligation is not treated as an evidence of indebtedness of the purchaser, then—

(1) For purposes of determining whether the payments received in the taxable year of the sale or disposition exceed 30 percent of the selling price, and

(2) For purposes of returning income on the installment method during the taxable year of the sale or disposition or in a subsequent taxable year, the receipt by the seller of such obligation shall be treated as a payment. The rules stated in this paragraph may be illustrated by the following examples:

| | | |
|---|---|------------|
| \$250,000 payment (i.e., 250 of corporation Y's registered bonds each with a principal amount and fair market value of \$1,000) | = | 25 percent |
| \$1 million selling price (i.e., \$250,000 of corporation Y's registered bonds plus promissory note of \$750,000) | | |

Example (1). On July 1, 1970, A, an individual on the cash method of accounting reporting on a calendar year basis, transferred all of his stock in corporation X (traded on an established securities market and having a fair market value of \$1 million) to corporation Y in exchange for 250 of corporation Y's registered bonds (which are traded in an over-the-counter bond market) each with a principal amount and fair market value of \$1,000 (with interest payable at the rate of 8 percent per year), and Y's unsecured promissory note, with a principal amount of \$750,000. At the time of such exchange A's basis in the corporation X stock is \$900,000. The promissory note is payable at the rate of \$75,000 annually, due on July 1, of each year following 1970, until the principal balance is paid. The note provides for the payment of interest at the rate of 10 percent per year also payable on July 1 of each year. Under the rule stated in subparagraph (1) of this paragraph, the 250 registered bonds of corporation Y are treated as a payment for purposes of the 30 percent test described in section 453(b)(2)(A)(ii). The payment on account of the bonds equals 25 percent of the selling price determined as follows:

Since the payments received in the taxable year of the sale do not exceed 30 percent of the selling price and the sales price exceeds \$1,000, A may report the income received on the sale of his corporation X stock on the installment method. A elects to report the income on the installment method. The gross profit to be realized when the corporation X stock is fully paid for is 10 percent of the total contract price, computed as follows: \$100,000 gross profit (i.e., \$1 million contract price less \$900,000 basis in corporation X stock) over \$1 million contract price. However, since subparagraph (2) of this paragraph also treats the 250 corporation Y registered bonds as a payment for purposes of reporting income, A must include \$25,000