

determined after the transfer, must be recomputed accordingly. See paragraph (e)(3)(iv)(B)(1) of this section for an example of this computation.

(2) *Transactions to which this paragraph (h) applies.* The rules in this paragraph (h) apply to a transaction in which—

(i) The transferee determines its basis in the inventories, in whole or in part, by reference to the basis of the inventories in the hands of the transferor;

(ii) The transferor used the dollar-value LIFO method to account for the transferred inventories;

(iii) The transferee uses the dollar-value LIFO method to account for the inventories in the year of the transfer; and

(iv) The transaction is not described in section 381(a).

(3) *Anti-avoidance rule.* The rules in this paragraph (h) do not apply to a transaction entered into with the principal purpose to avail the transferee of a method of accounting that would be unavailable to the transferor (or would be unavailable to the transferor without securing consent from the Commissioner). In determining the principal purpose of a transfer, consideration will be given to all of the facts and circumstances. However, a transfer is deemed made with the principal purpose to avail the transferee of a method of accounting that would be unavailable to the transferor without securing consent from the Commissioner if the transferor acquired inventory in a bargain purchase within the five taxable years preceding the year of the transfer and used a dollar-value LIFO method to account for that inventory that did not treat the bargain purchase inventory and physically identical inventory acquired at market prices as separate items. Inventory is deemed acquired in a bargain purchase if the actual cost of the inventory (or, if appropriate, the allocated cost of the inventory) was less than or equal to 50 percent of the replacement cost of physically identical inventory. Inventory is not considered acquired in a bargain purchase if the actual cost of the inventory (or, if appropriate, the allocated cost of the inventory) was greater than or equal to 75 percent of

the replacement cost of physically identical inventory.

(4) *Effective date.* The rules of this paragraph (h) are applicable for transfers that occur during a taxable year ending on or after December 31, 2001.

[T.D. 6539, 26 FR 518, Jan. 20, 1961, as amended by T.D. 7814, 47 FR 11272, Mar. 16, 1982; T.D. 8976, 67 FR 1082, Jan. 9, 2002; 67 FR 5062, 5148, Feb. 4, 2002]

§ 1.475-0 Table of contents.

This section lists the major captions in §§ 1.475(a)-3, 1.475(b)-1, 1.475(b)-2, 1.475(b)-4, 1.475(c)-1, 1.475(c)-2, 1.475(d)-1, and 1.475(e)-1.

§§ 1.475(a)-1—1.475(a)-2 [Reserved]

§ 1.475(a)-3 *Acquisition by a dealer of a security with a substituted basis.*

- (a) Scope.
- (b) Rules.

§ 1.475(b)-1 *Scope of exemptions from mark-to-market requirement.*

- (a) Securities held for investment or not held for sale.
- (b) Securities deemed identified as held for investment.
 - (1) In general.
 - (2) Relationships.
 - (i) General rule.
 - (ii) Attribution.
 - (iii) Trusts treated as partnerships.
 - (3) Securities traded on certain established financial markets.
 - (4) Changes in status.
 - (i) Onset of prohibition against marking.
 - (ii) Termination of prohibition against marking.
 - (iii) Examples.
 - (c) Securities deemed not held for investment; dealers in notional principal contracts and derivatives.
 - (d) Special rule for hedges of another member's risk.
 - (e) Transitional rules.
 - (1) Stock, partnership, and beneficial ownership interests in certain controlled corporations, partnerships, and trusts before January 23, 1997.
 - (i) In general.
 - (ii) Control defined.
 - (iii) Applicability.
 - (2) Dealers in notional principal contracts and derivatives acquired before January 23, 1997.
 - (i) General rule.
 - (ii) Exception for securities not acquired in dealer capacity.
 - (iii) Applicability.

§ 1.475(a)-1—1.475(a)-2

26 CFR Ch. I (4-1-04 Edition)

§ 1.475(b)-2 Exemptions—identification requirements.

- (a) Identification of the basis for exemption.
- (b) Time for identifying a security with a substituted basis.
- (c) Integrated transactions under § 1.1275-6.
 - (1) Definitions.
 - (2) Synthetic debt held by a taxpayer as a result of legging in.
 - (3) Securities held after legging out.

§ 1.475(b)-3 [Reserved]

§ 1.475(b)-4 Exemptions—transitional issues.

- (a) Transitional identification.
 - (1) Certain securities previously identified under section 1236.
 - (2) Consistency requirement for other securities.
- (b) Corrections on or before January 31, 1994.
 - (1) Purpose.
 - (2) To conform to § 1.475(b)-1(a).
 - (i) Added identifications.
 - (ii) Limitations.
 - (3) To conform to § 1.475(b)-1(c).
 - (c) Effect of corrections.

§ 1.475(c)-1 Definitions—dealer in securities.

- (a) Dealer-customer relationship.
 - (1) [Reserved]
 - (2) Transactions described in section 475(c)(1)(B).
 - (i) In general.
 - (ii) Examples.
 - (3) Related parties.
 - (i) General rule.
 - (ii) Special rule for members of a consolidated group.
 - (iii) The intragroup-customer election.
 - (A) Effect of election.
 - (B) Making and revoking the election.
 - (iv) Examples.
 - (b) Sellers of nonfinancial goods and services.
 - (1) Purchases and sales of customer paper.
 - (2) Definition of customer paper.
 - (3) Exceptions.
 - (4) Election not to be governed by the exception for sellers of nonfinancial goods or services.
 - (i) Method of making the election.
 - (A) Taxable years ending after December 24, 1996.
 - (B) Taxable years ending on or before December 24, 1996.
 - (ii) Continued applicability of an election.
 - (c) Taxpayers that purchase securities from customers but engage in no more than negligible sales of the securities.
 - (1) Exemption from dealer status.
 - (i) General rule.
 - (ii) Election to be treated as a dealer.
 - (2) Negligible sales.

- (3) Special rules for members of a consolidated group.

- (i) Intragroup-customer election in effect.
- (ii) Intragroup-customer election not in effect.
- (4) Special rules.
- (5) Example.
- (d) Issuance of life insurance products.

§ 1.475(c)-2 Definitions—security.

- (a) Items that are not securities.
- (b) Synthetic debt that § 1.1275-6(b) treats the taxpayer as holding.
- (c) Negative value REMIC residuals acquired before January 4, 1995.
 - (1) Description.
 - (2) Special rules applicable to negative value REMIC residuals acquired before January 4, 1995.

§ 1.475(d)-1 Character of gain or loss.

- (a) Securities never held in connection with the taxpayer's activities as a dealer in securities.
- (b) Ordinary treatment for notional principal contracts and derivatives held by dealers in notional principal contracts and derivatives.

§ 1.475(e)-1 Effective dates.

[T.D. 8700, 61 FR 67719, Dec. 24, 1996]

§ 1.475(a)-1—1.475(a)-2 [Reserved]

§ 1.475(a)-3 Acquisition by a dealer of a security with a substituted basis.

- (a) *Scope.* This section applies if—
 - (1) A dealer in securities acquires a security that is subject to section 475(a) and the dealer's basis in the security is determined, in whole or in part, by reference to the basis of that security in the hands of the person from whom the security was acquired; or
 - (2) A dealer in securities acquires a security that is subject to section 475(a) and the dealer's basis in the security is determined, in whole or in part, by reference to other property held at any time by the dealer.
- (b) *Rules.* If this section applies to a security—
 - (1) Section 475(a) applies only to changes in value of the security occurring after the acquisition; and
 - (2) Any built-in gain or loss with respect to the security (based on the difference between the fair market value of the security on the date the dealer acquired it and its basis to the dealer on that date) is taken into account at