July 11, 1969, the newly acquired obligation is deemed to have been held on that date and is a qualifying security. The period during which the surrendered obligation is deemed to have been held is taken into account in computing the fraction determined under subparagraph (2) of this paragraph with respect to the newly received obligation.

(5) *Examples.* The provisions of this paragraph may be illustrated by the following examples:

Example 1. Bank A, a calendar year taxpayer, purchased a qualifying security on July 14, 1968, and held it to maturity on August 20, 1970, when it was redeemed. The redemption resulted in a taxable gain of $10,000. The security was held by the bank for 363 days before July 12, 1969, and for a total of 768 days. During the taxable year, the bank had no other gains and no losses from sales or exchanges of qualifying securities, but had a net loss of $4,000 from sales of securities other than qualifying securities. The portion of the gain from the redemption of the qualifying security treated as capital gain under subparagraph (2) of this paragraph is $4,726.56 (363/768×$10,000). Because the net gain of the taxable year from sales and exchanges of securities, $6,000 ($10,000 − $4,000), exceeds the portion of the gain on the sale of the qualifying security treated as capital gain under this paragraph, $4,726.56 is treated as long-term capital gain on the sale of the qualifying security for the taxable year.

Example 2. Assume the same facts as in example 1, except that the bank's net loss of the taxable year from the sale of securities other than qualifying securities was $7,000. The amount considered as long-term capital gain under this paragraph is limited by the amount of gain on the sale of securities to $3,000 ($10,000 − $7,000).

(f) *Small business investment companies and business development corporations*—(1) *Election.* In the case of a small business investment company or a business development corporation, described in section 586(a), section 582(c) does not apply for taxable years beginning after July 11, 1969, and before July 11, 1974, unless the taxpayer elects that such section shall apply. In the case of a small business investment company, see paragraph (a)(1) of § 1.1243–1 if such an election is made, but see paragraph (a)(2) of § 1.1243–1 if such an election is not made. Such election applies to all such taxable years and, except as provided in subparagraph (3) of this paragraph, is irrevocable. Such election must be made not later than (i) the time, including extensions thereof, prescribed by law for filing the taxpayer's income tax return for its first taxable year beginning after July 11, 1969, or (ii) June 8, 1970, whichever is later.

(2) *Manner of making election.* An election pursuant to the provisions of this paragraph is made by the taxpayer by a written statement attached to the taxpayer's income tax return (or an amended return) for its first taxable year beginning after July 11, 1969. Such statement shall indicate that the election is made pursuant to section 433(d) of the Tax Reform Act of 1969 (83 Stat. 624). The taxpayer shall attach to its income tax return for each subsequent taxable year to which such election is applicable a statement indicating that the election has been made and the amount to which it applies for such year.

(3) *Revocation of election.* An election made pursuant to subparagraph (2) of this paragraph shall be irrevocable unless:

(i) A written application for consent to revoke the election, setting forth the reasons therefor, is filed with the Commissioner within 90 days after the permanent regulations relating to section 433(d)(2) of the Tax Reform Act of 1969 (83 Stat. 624) are filed with the Office of the Federal Register, and

(ii) The Commissioner consents to the revocation.

The revocation is effective for all taxable years to which the election applied.

[T.D. 7171, 37 FR 5620, Mar. 17, 1972; 37 FR 6400, Mar. 29, 1972]

§ 1.584–1 Common trust funds.

(a) *Method of taxation.* A common trust fund maintained by a bank is not subject to taxation under this chapter and is not considered a corporation. Its participants are taxed on their proportionate share of income from the common trust fund.

(b) *Conditions for qualification.* (1) For a fund to be qualified as a common trust fund it must be maintained by a bank (as defined in section 581) in conformity with the rules and regulations of the Comptroller of the Currency, exclusively for the collective investment and reinvestment of contributions to the fund by the bank. The bank may either act alone or with one or more other fiduciaries, but it must act solely in its capacity as one or a combination of the following: (i) As a trustee of a trust created by will, deed, agreement, declaration of trust, or order of court; (ii) as an executor of a will or as an administrator of an estate; (iii) as a guardian (by whatever name known under local law) of the estate of an infant, of an incompentent individual, or of an absent individual; or (iv) on or after October 3, 1976, as a custodian of a UniformGifts to Minors account. A Uniform Gifts to Minors account is an account established pursuant to a State law substantially similar to the Uniform Gifts to Minors Act. (*See* the Uniform Gifts to Minors Act of 1956 or the Uniform Gifts to Minors Act of 1966, as published by the National Conference of Commissioners on Uniform State Laws.) The Commissioner will publish a list of the States whose laws he determines to be substantially similar to such uniform acts. A bank that maintains a Uniform Gifts to Minors Act account must establish, to the satisfaction of the Commissioner or his delegate, that with respect to the account the bank has duties and responsibilities similar to the duties and responsibilities of a trustee or guardian.

(2) A common trust fund may be a participant in another common trust fund.

(c) *Affiliated groups.* For taxable years beginning after December 31, 1975, two or more banks that are members of the same affiliated group (within the meaning of section 1504) are treated, for purposes of section 584, as one bank for the period of their affiliation. A common trust fund may be maintained by one or by more than one member of an affiliated group. Any member of the group may, but need not, contribute to the fund. Further, for purposes of this paragraph, members of an affiliated group may be, but need not be, co-trustees of the common trust fund.

[T.D. 6500, 25 FR 11737, Nov. 26, 1960, as amended by T.D. 7935, 49 FR 1694, Jan. 13, 1984]

§ 1.584–2 Income of participants in common trust fund.

(a) Each participant in a common trust fund is required to include in computing its taxable income for its taxable year within which or with which the taxable year of the fund ends, whether or not distributed and whether or not distributable:

(1) Its proportionate share of short-term capital gains and losses, computed as provided in § 1.584–3;

(2) Its proportionate share of long-term capital gains and losses, computed as provided in § 1.584–3; and

(3) Its proportionate share of the ordinary taxable income or the ordinary net loss of the common trust fund, computed as provided in § 1.584–3.

(b) Any tax withheld at the source from income of the fund (*e.g.*, under section 1441) is deemed to have been withheld proportionately from the participants to whom such income is allocated.

(c)(1) The proportionate share of each participant's short-term capital gains and losses, long-term capital gains and losses, ordinary taxable income or ordinary net loss, dividends and interest received, and tax withheld at the source shall be determined under the method of accounting adopted by the bank in accordance with the written plan by which the common trust fund is established and administered, provided such method clearly reflects the income of each participant.

(2) Items of income and deductions shall be allocated to the periods between valuation dates established by the plan within the taxable year in which they were realized. Ordinary taxable income or ordinary net loss, short-term capital gains and losses, long-term capital gains and losses, and tax withheld at the source shall be computed for each period. The participants' proportionate shares of income and losses for each period shall then be determined.

(3) For taxable years beginning on or after September 22, 1980, any amount of income or loss of the common trust fund which is included in the computation of a participant's taxable income for the taxable year shall be treated as income or loss from an unrelated trade or business to the extent that such