

Internal Revenue Service, Treasury

§ 1.1254-0

(a)(4) of § 1.1251-4, minus \$7,000 gain recognized under section 1252(a) in accordance with example (2) of paragraph (a)(4) of this section), B's holding period includes the holding period of A (i.e., the period back to January 15, 1971) with respect to A's deductions.

(g) *Disposition of farm land not specifically covered.* If farm land is disposed of in a transaction not specifically covered under § 1.1252-1 and this section, then the principles of section 1245 shall apply.

[T.D. 7418, 41 FR 18832, May 7, 1976; 41 FR 23669, June 11, 1976]

§ 1.1254-0 Table of contents for section 1254 recapture rules.

This section lists the major captions contained in §§ 1.1254-1 through 1.1254-6.

§ 1.1254-1 Treatment of gain from disposition of natural resource recapture property.

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- (1) Section 1254 costs.
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 - (1) Disposition of a portion (other than an undivided interest) of natural resource recapture property.
 - (2) Disposition of an undivided interest.
 - (3) Alternative allocation rule.
 - (d) Installment method.

§ 1.1254-2 Exceptions and limitations.

- (a) Exception for gifts and section 1041 transfers.
 - (1) General rule.
 - (2) Part gift transactions.
 - (b) Exception for transfers at death.
 - (c) Limitation for certain tax-free transactions.
 - (1) General rule.
 - (2) Special rule for dispositions to certain tax exempt organizations.
 - (3) Transfers described.
 - (4) Special rules for section 332 transfers.
 - (d) Limitation for like kind exchanges and involuntary conversions.
 - (1) General rule.
 - (2) Disposition and acquisition of both natural resource recapture property and other property.

§ 1.1254-3 Section 1254 costs immediately after certain acquisitions.

- (a) Transactions in which basis is determined by reference to cost or fair market value of property transferred.
 - (1) Basis determined under section 1012.
 - (2) Basis determined under section 301(d), 334(a), or 358(a)(2).

(3) Basis determined solely under former section 334(b)(2) or former section 334(c).

(4) Basis determined by reason of the application of section 1014(a).

- (b) Gifts and certain tax-free transactions.
 - (1) General rule.
 - (2) Transactions covered.
 - (c) Certain transfers at death.
 - (d) Property received in a like kind exchange or involuntary conversion.
 - (1) General rule.
 - (2) Allocation of section 1254 costs among multiple natural resource recapture property acquired.
 - (e) Property transferred in cases to which section 1071 or 1081(b) applies.

§ 1.1254-4 Special rules for S corporations and their shareholders.

- (a) In general.
- (b) Determination of gain treated as ordinary income under section 1254 upon a disposition of natural resource recapture property by an S corporation.
 - (1) General rule.
 - (2) Examples.
 - (c) Character of gain recognized by a shareholder upon a sale or exchange of S corporation stock.
 - (1) General rule.
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 - (3) Examples.
 - (d) Section 1254 costs of a shareholder.
 - (e) Section 1254 costs of an acquiring shareholder after certain acquisitions.
 - (1) Basis determined under section 1012.
 - (2) Basis determined under section 1014(a).
 - (3) Basis determined under section 1014(b)(9).
 - (4) Gifts and section 1041 transfers.
 - (f) Special rules for a corporation that was formerly an S corporation or formerly a C corporation.
 - (1) Section 1254 costs of an S corporation that was formerly a C corporation.
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 - (g) Determination of a shareholder's section 1254 costs upon certain stock transactions
 - (1) Issuance of stock.
 - (2) Natural resource recapture property acquired in exchange for stock.
 - (3) Treatment of nonvested stock.
 - (4) Exception.
 - (5) Aggregate of S corporation shareholders' section 1254 costs with respect to natural resource recapture property held by the S corporation.
 - (6) Examples.

§ 1.1254-5 Special rules for partnerships and their partners.

- (a) In general.

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(b) Determination of gain treated as ordinary income under section 1254 upon the disposition of natural resource recapture property by a partnership.

(1) General rule.

(2) Exception to partner level recapture in the case of abusive allocations.

(3) Examples.

(c) Section 1254 costs of a partner.

(1) General rule.

(2) Section 1254 costs of a transferee partner after certain acquisitions.

(d) Property distributed to a partner.

(1) In general.

(2) Aggregate of partners' section 1254 costs with respect to natural resource recapture property held by a partnership.

§ 1.1254-6 Effective date of regulations.

[T.D. 8586, 60 FR 2501, Jan. 10, 1995, as amended by T.D. 8684, 61 FR 53063, Oct. 10, 1996]

§ 1.1254-1 Treatment of gain from disposition of natural resource recapture property.

(a) *In general.* Upon any disposition of section 1254 property or any disposition after December 31, 1975 of oil, gas, or geothermal property, gain is treated as ordinary income in an amount equal to the lesser of the amount of the section 1254 costs (as defined in paragraph (b)(1) of this section) with respect to the property, or the amount, if any, by which the amount realized on the sale, exchange, or involuntary conversion, or the fair market value of the property on any other disposition, exceeds the adjusted basis of the property. However, any amount treated as ordinary income under the preceding sentence is not included in the taxpayer's *gross income from the property* for purposes of section 613. Generally, the lesser of the amounts described in this paragraph (a) is treated as ordinary income even though, in the absence of section 1254(a), no gain would be recognized upon the disposition under any other provision of the Internal Revenue Code. For the definition of the term *section 1254 costs*, see paragraph (b)(1) of this section. For the definition of the terms *section 1254 property*, *oil, gas, or geothermal property*, and *natural resource recapture property*, see paragraph (b)(2) of this section. For rules relating to the *disposition* of natural resource recapture property, see paragraphs (b)(3), (c), and (d) of this section. For excep-

tions and limitations to the application of section 1254(a), see § 1.1254-2.

(b) *Definitions*—(1) *Section 1254 costs*—(i) *Property placed in service after December 31, 1986.* With respect to any property placed in service by the taxpayer after December 31, 1986, the term *section 1254 costs* means—

(A) The aggregate amount of expenditures that have been deducted by the taxpayer or any person under section 263, 616, or 617 with respect to such property and that, but for the deduction, would have been included in the adjusted basis of the property or in the adjusted basis of certain depreciable property associated with the property; and

(B) The deductions for depletion under section 611 that reduced the adjusted basis of the property.

(ii) *Property placed in service before January 1, 1987.* With respect to any property placed in service by the taxpayer before January 1, 1987, the term *section 1254 costs* means—

(A) The aggregate amount of costs paid or incurred after December 31, 1975, with respect to such property, that have been deducted as intangible drilling and development costs under section 263(c) by the taxpayer or any other person (except that section 1254 costs do not include costs incurred with respect to geothermal wells commenced before October 1, 1978) and that, but for the deduction, would be reflected in the adjusted basis of the property or in the adjusted basis of certain depreciable property associated with the property; reduced by

(B) The amount (if any) by which the deduction for depletion allowed under section 611 that was computed either under section 612 or sections 613 and 613A, with respect to the property, would have been increased if the costs (paid or incurred after December 31, 1975) had been charged to capital account rather than deducted.

(iii) *Deductions under section 59 and section 291.* Amounts capitalized pursuant to an election under section 59(e) or pursuant to section 291(b) are treated as section 1254 costs in the year in which an amortization deduction is claimed under section 59(e)(1) or section 291(b)(2).