

§ 1.1092(b)-5T

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(i) Contain the name, address, and taxpayer identification number of the taxpayer;

(ii) Show that the volume or nature of the taxpayer's activities has changed substantially since the election was made, and that the taxpayer's activities no longer warrant the use of such mixed straddle account; and

(iii) Any other relevant information. If a taxpayer's election for a taxable year is revoked, the taxpayer may not make a new election for the same class of activities under paragraph (f)(1) of this section during the same taxable year.

(g) *Effective date.* The provisions of this section apply to positions held on or after January 1, 1984.

(Secs. 1092(b)(1), 1092(b)(2) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 98 Stat. 627; 26 U.S.C. 1092(b)(1), 1092(b)(2), 7805))

[T.D. 8008, 50 FR 3329, Jan. 24, 1985; 50 FR 12243, Mar. 28, 1985, as amended by T.D. 8058, 50 FR 42013, Oct. 17, 1985]

§ 1.1092(b)-5T Definitions (temporary).

The following definitions apply for purposes of §§1.1092(b)-1T through 1.1092(b)-4T.

(a) *Disposing, disposes, or disposed.* The term *disposing, disposes, or disposed* includes the sale, exchange, cancellation, lapse, expiration, or other termination of a right or obligation with respect to personal property (as defined in section 1092(d)(1)).

(b) *Hedging transaction.* The term *hedging transaction* means a hedging transaction as defined in section 1256(e).

(c) *Identified straddle.* The term *identified straddle* means an identified straddle as defined in section 1092(a)(2)(B).

(d) *Loss.* The term *loss* means a loss otherwise allowable under section 165(a) (without regard to the limitation contained in section 165(f)) and includes a write-down in inventory.

(e) *Mixed straddle.* The term *mixed straddle* means a straddle—

(1) All of the positions of which are held as capital assets;

(2) At least one (but not all) of the positions of which is a section 1256 contract;

(3) For which an election under section 1256(d) has not been made; and

(4) Which is not part of a larger straddle.

(f) *Non-section 1256 position.* The term *non-section 1256 position* means a position that is not a section 1256 contract.

(g) *Offsetting position.* The term *offsetting position* means an offsetting position as defined in section 1092(c)(2).

(h) *Position.* The term *position* means a position as defined in section 1092(d)(2).

(i) [Reserved]

(j) *Related person or flowthrough entity.* The term *related person or flowthrough entity* means a related person or flowthrough entity as defined in sections 1092(d)(4) (B) and (C) respectively.

(k) *Section 1256 contract.* The term *section 1256 contract* means a section 1256 contract as defined in section 1256(b).

(l) [Reserved]

(m) *Straddle.* The term *straddle* means a straddle as defined in section 1092(c)(1).

(n) *Successor position.* The term *successor position* means a position ("P") that is or was at any time offsetting to a second position if—

(1) The second position was offsetting to any loss position disposed of; and

(2) P is entered into during a period commencing 30 days prior to, and ending 30 days after, the disposition of the loss position referred to in paragraph (n)(1) of this section.

(o) *Unrecognized gain.* The term *unrecognized gain* means unrecognized gain as defined in section 1092(a)(3)(A).

(p) *Substantially identical.* The term *substantially identical* has the same meaning as substantially identical in section 1091(a).

(q) *Securities.* The term *security* means a security as defined in section 1236(c).

(Secs. 1092(b) and 7805 of the Internal Revenue Code of 1954 (68A Stat. 917, 95 Stat. 324, 26 U.S.C. 1092(b), 7805) and sec. 102(h) of the Tax Reform Act of 1984 (98 Stat. 625))

[T.D. 8007, 50 FR 3321, Jan. 24, 1985, as amended by T.D. 8070, 51 FR 1788, Jan. 15, 1986]

§ 1.1092(c)-1 Equity options with flexible terms.

(a) *In general.* Section 1092(c)(4) provides an exception to the general rule that a straddle exists if a taxpayer holds stock and writes a call option on that stock. Under section 1092(c)(4), the

ownership of stock and the issuance of a call option meeting certain requirements result in a qualified covered call, which is exempted from the general straddle rules of section 1092. This section addresses the consequences of the availability of equity options with flexible terms under the qualified covered call rules.

(b) *No effect on lowest qualified benchmark for standardized options.* The availability of strike prices for equity options with flexible terms does not affect the determination of the lowest qualified benchmark, as defined in section 1092(c)(4)(D), for an option that is not an equity option with flexible terms.

(c) [Reserved].

(d) *Definitions.* For purposes of this section

(1) *Equity option with flexible terms* means an equity option—

(i) That is described in any of the following Securities Exchange Act Releases—

(A) Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendments by the Chicago Board Options Exchange, Inc. and the Pacific Stock Exchange, Inc., Relating to the Listing of Flexible Equity Options on Specified Equity Securities, Securities Exchange Act Release No. 34-36841 (Feb. 21, 1996); or

(B) Self-Regulatory Organizations; Order Approving Proposed Rule Changes and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2 and 3 to the Proposed Rule Change by the American Stock Exchange, Inc., Relating to the Listing of Flexible Equity Options on Specified Equity Securities, Securities Exchange Act Release No. 34-37336 (June 27, 1996); or

(C) Self-Regulatory Organizations; Order Approving Proposed Rule Change and Notice of Filing and Order Granting Accelerated Approval of Amendment Nos. 2, 4 and 5 to the Proposed Rule Change by the Philadelphia Stock Exchange, Inc., Relating to the Listing of Flexible Exchange Traded Equity and Index Options, Securities Exchange Act Release No. 34-39549 (Jan. 23, 1998); or

(D) Any changes to the SEC releases described in paragraphs (d)(1)(i)(A) through (C) of this section that are approved by the Securities and Exchange Commission; or

(ii) That is traded on any national securities exchange which is registered with the Securities and Exchange Commission (other than those described in the SEC Releases set forth in paragraph (d)(1)(i) of this section) or other market which the Secretary determines has rules adequate to carry out the purposes of section 1092 and is—

(A) Substantially identical to the equity options described in paragraph (d)(1)(i) of this section; and

(B) Approved by the Securities and Exchange Commission in a Securities Exchange Act Release.

(2) *Securities Exchange Act Release* means a release issued by the Securities and Exchange Commission. To determine identifying information for releases referenced in paragraph (d)(1) of this section, including release titles, identification numbers, and issue dates, contact the Office of the Secretary, Securities and Exchange Commission, 450 5th Street, NW., Washington, DC 20549. To obtain a copy of a Securities Exchange Act Release, submit a written request, including the specific release identification number, title, and issue date, to Securities and Exchange Commission, Attention Public Reference, 450 5th Street, NW., Washington, DC 20549.

(e) *Effective date.* These regulations apply to equity options with flexible terms entered into on or after January 25, 2000.

[T.D. 8866, 65 FR 3813, Jan. 25, 2000]

§ 1.1092(d)-1 Definitions and special rules.

(a) *Actively traded.* Actively traded personal property includes any personal property for which there is an established financial market.

(b) *Established financial market*—(1) *In general.* For purposes of this section, an established financial market includes—

(i) A national securities exchange that is registered under section 6 of the Securities Exchange Act of 1934 (15 U.S.C. 78f);