

§ 1.453A-0

26 CFR Ch. I (4-1-02 Edition)

amount of unreaptured section 1250 gain remaining to be taken into account, A's \$800 of ordinary section 1231 installment gain in 1999 is treated as reducing unreaptured section 1250 gain. Therefore, A has \$2200 of unreaptured section 1250 gain remaining to be taken into account.

(iii) In the year 2000, A has \$800 of section 1231 installment gain, resulting in a net section 1231 gain of \$800. A also has \$200 of non-recaptured net section 1231 losses. The \$800 gain is taxed at two rates. First, \$200 is taxed at ordinary rates under section 1231(c), recapturing the \$200 net section 1231 loss sustained in 1999. Second, the remaining \$600 of gain on A's year 2000 installment payment is

taxed at 25 percent. As in *Example 3*, the \$200 of section 1231(c) gain is treated as reducing unreaptured section 1250 gain, rather than adjusted net capital gain. Therefore, A has \$1400 of unreaptured section 1250 gain remaining to be taken into account.

(iv) The gain on A's installment payment received in 2001 is taxed at 25 percent, reducing the remaining unreaptured section 1250 gain to \$600. Of the \$800 of gain on the fourth payment, received in 2002, \$600 is taxed at 25 percent and the remaining \$200 is taxed at 20 percent. The gain on A's remaining six installment payments is taxed at 20 percent. The table is as follows:

	1999	2000	2001	2002	2003	2004-2008	Total gain
Installment gain	800	800	800	800	800	4000	8000
Ordinary gain under section 1231(a)	800	.....	.....	.....	.....	.....	800
Taxed at ordinary rates under section 1231(c) .....	.....	200	.....	.....	.....	.....	200
Taxed at 25% .....	.....	600	800	600	.....	.....	2000
Taxed at 20% .....	.....	.....	.....	200	800	4000	5000
Net section 1231 loss	200	.....	.....	.....	.....	.....	.....
Remaining to be taxed at 25%	2200	1400	600	.....	.....	.....	.....

(e) *Effective date.* This section applies to installment payments properly taken into account after August 23, 1999.

[T.D. 8836, 64 FR 45875, Aug. 23, 1999]

§ 1.453A-0 Table of contents.

This section lists the paragraphs and subparagraphs contained in §§1.453A-1 through 1.453A-3.

§ 1.453A-1 Installment method of reporting income by dealers in personal property.

- (a) In general.
- (b) Effect of security.
- (c) Definition of dealer, sale, and sale on the installment plan.
- (d) Installment plans.
 - (1) Traditional installment plans.
 - (2) Revolving credit plans.
- (e) Installment income of dealers in personal property.
 - (1) In general.
 - (2) Gross profit and total contract price.
 - (3) Carrying charges not included in total contract price.
 - (f) Other accounting methods.
 - (g) Records.
 - (h) Effective date.

§ 1.453A-2 Treatment of revolving credit plans; taxable years beginning on or before December 31, 1986.

- (a) In general.

(b) Coordination with traditional installment plan.

(c) Revolving credit plans.

(d) Effective date.

§ 1.453A-3 Requirements for adoption of or change to installment method by dealers in personal property.

- (a) In general.
- (b) Time and manner of electing installment method reporting.
 - (1) Time for election.
 - (2) Adoption of installation method.
 - (3) Change to installment method.
 - (4) Deemed elections.
- (c) Consent.
- (d) Cut-off method for amounts previously accrued.
- (e) Effective date.

[T.D. 8270, 54 FR 46376, Nov. 3, 1989]

§ 1.453A-1 Installment method of reporting income by dealers on personal property.

(a) *In general.* A dealer (as defined in paragraph (c)(1) of this section) may elect to return the income from the sale of personal property on the installment method if such sale is a sale on the installment plan (as defined in paragraphs (c)(3) and (d) of this section). Under the installment method of accounting, a taxpayer may return as income from installment sales in any

taxable year that proportion of the installment payments actually received in that year which the gross profit realized or to be realized when the property is paid for bears to the total contract price. For this purpose, gross profit means sales less cost of goods sold. See paragraph (d) of this section for additional rules relating to the computation of income under the installment method of accounting. In addition, see § 1.453A-2 for rules treating revolving credit plans as installment plans for taxable years beginning on or before December 31, 1986.

(b) *Effect of security.* A dealer may adopt (but is not required to do so) one of the following four ways of protecting against loss in case of default by the purchaser:

(1) An agreement that title is to remain in the vendor until performance of the purchaser's part of the transaction is completed;

(2) A form of contract in which title is conveyed to the purchaser immediately, but subject to a lien for the unpaid portion of the selling price;

(3) A present transfer of title to the purchaser, who at the same time executes a reconveyance in the form of a chattel mortgage to the vendor; or

(4) A conveyance to a trustee pending performance of the contract and subject to its provisions.

(c) *Definitions of dealer, sale, and sale on the installment plan.* For purposes of the regulations under section 453A—

(1) The term "dealer" means a person who regularly sells or otherwise disposes of personal property on the installment plan;

(2) The term "sale" includes sales and other dispositions; and

(3) Except as provided in paragraph (d)(2) of this section, the term "sale on the installment plan" means—

(i) A sale of personal property by the taxpayer under any plan for the sale of personal property, which plan, by its terms and conditions, contemplates that each sale under the plan will be paid for in two or more payments; or

(ii) A sale of personal property by the taxpayer under any plan for the sale of personal property—

(A) Which plan, by its terms and conditions, contemplates that such sale

will be paid for in two or more payments; and

(B) Which sale is in fact paid for in two or more payments.

(d) *Installment plans—(1) Traditional installment plans.* A traditional installment plan usually has the following characteristics:

(i) The execution of a separate installment contract for each sale or disposition of personal property; and

(ii) The retention by the dealer of some type of security interest in such property.

Normally, a sale under a traditional installment plan meets the requirements of paragraph (c)(3)(i) of this section.

(2) *Revolving credit plans.* Sales under a revolving credit plan (within the meaning of § 1.453A-2(c)(1))—

(i) Are treated, for taxable years beginning on or before December 31, 1986, as sales on the installment plan to the extent provided in § 1.453A-2, which provides for the application of the requirements of paragraph (c)(3)(ii) of this section to sales under revolving credit plans; and

(ii) Are not treated as sales on the installment plan for taxable years beginning after December 31, 1986.

(e) *Installment income of dealers in personal property—(1) In general.* The income from sales on the installment plan of a dealer may be ascertained by treating as income that proportion of the total payments received in the taxable year from sales on the installment plan (such payments being allocated to the year against the sales of which they apply) which the gross profit realized or to be realized on the total sales on the installment plan made during each year bears to the total contract price of all such sales made during that respective year. However, if the dealer demonstrates to the satisfaction of the district director that income from sales on the installment plan is clearly reflected, the income from such sales may be ascertained by treating as income that proportion of the total payments received in the taxable year from sales on the installment plan (such payments being allocated to the year against the sales of which they apply) which either:

(i) The gross profit realized or to be realized on the total credit sales made

§ 1.453A-2

26 CFR Ch. I (4-1-02 Edition)

during each year bears to the total contract price of all credit sales during that respective year, or

(ii) The gross profit realized or to be realized on all sales made during each year bears to the total contract price of all sales made during that respective year.

A dealer who desires to compute income by the installment method shall maintain accounting records in such a manner as to enable an accurate computation to be made by such method in accordance with the provisions of this section, section 446, and §1.446-1.

(2) *Gross profit and total contract price.* For purposes of paragraph (e)(1) of this section, in computing the gross profit realized or to be realized on the total sales on the installment plan, there shall be included in the total selling price and, thus, in the total contract price of all such sales.

(i) The amount of carrying charges or interest which is determined at the time of each sale and is added to the established cash selling price of such property and is treated as part of the selling price for customer billing purposes, and

(ii) In the case of sales made in taxable years beginning on or after January 1, 1960, the amount of carrying charges or interest determined with respect to such sales which are added contemporaneously with the sale on the books of account of the seller but are treated as periodic service charges for customer billing purposes.

Any change in the amount of the carrying charges or interest in a year subsequent to the sale will not affect the computation of the gross profit for the year of sale but will be taken into account at the time the carrying charges or interest are adjusted. The application of this paragraph (e)(2) to carrying charges or interest described in paragraph (e)(2)(ii) of this section may be illustrated by the following example:

Example. X Corporation makes sales on the traditional installment plan. The customer's order specifies that the total price consists of a cash price plus a "time price differential" of 1½ percent per month on the outstanding balance in the customer's account, and the customer is billed in this manner. On its books and for purposes of reporting to stockholders, X Corporation consistently

makes the following entries each month when it records its sales. A debit entry is made to accounts receivable (for the total price) and balancing credit entries are made to sales (for the established selling price) and to a reserve account for collection expense (for the amount of the time price differential). In computing the gross profit realized or to be realized on the total sales on the installment plan, the total selling price and, thus, the total contract price for purposes of this paragraph (e) would, with respect to sales made in taxable years beginning on or after January 1, 1960, include the time price differential.

(3) *Carrying charges not included in total contract price.* In the case of sales by dealers in personal property made during taxable years beginning after December 31, 1963, the income from which is returned on the installment method, if the carrying charges or interest with respect to such sales is not included in the total contract price, payments received with respect to such sales shall be treated as applying first against such carrying charges or interest.

(f) *Other accounting methods.* If the vendor chooses as a matter of consistent practice to return the income from installment sales on an accrual method (.) such a course is permissible.

(g) *Records.* In adopting the installment method of accounting the seller must maintain such records as are necessary to clearly reflect income in accordance with this section, section 446 and §1.446-1.

(h) *Effective date.* This section applies for taxable years beginning after December 31, 1953, and ending after August 16, 1954, but generally does not apply to sales made after December 31, 1987, in taxable years ending after such date. For sales made after December 31, 1987, sales made by a dealer in personal or real property shall not be treated as sales on the installment plan. (However, see section 453(1)(2) for exceptions to this rule.)

[T.D. 8270, 54 FR 46377, Nov. 3, 1989]

§ 1.453A-2 Treatment of revolving credit plans; taxable years beginning on or before December 31, 1986.

(a) *In general.* If a dealer sells or otherwise disposes of personal property under a revolving credit plan—