



**460.3 “Call” options.** Taxpayer purchased a “call” on 100 shares of stock. He made two short sales of the stock subject to the call and covered those sales by purchasing equal shares. After six months he sold the “call” option. *Held*, the “call” and the stock subject to call are not substantially identical property within the meaning of section 1233. If the stock subject to call would have been a capital asset in the taxpayer’s hands, gain or loss on sale of the call constitutes a long-term gain or loss. §§1.1233-1, 1.1234-1. (Secs. 1233, 1234; ’86 Code.)

Rev. Rul. 58-384, 1958-2 C.B. 410.

**460.4 Currency futures; losses in hedging transaction.** An international wool dealer, with a large inventory in foreign countries, dealt in foreign currency futures to protect itself from the inventory valuation loss that would result from a rumored devaluation of those currencies. *Held*, the futures transactions were in the nature of bona fide hedging transactions in the course of business and the loss sustained was an ordinary loss deductible in full against gross income. (Secs. 23(f), 117(a), ’39 Code; Secs. 165, 1221, ’86 Code.)

Wool Distributing Corp., 34 T.C. 323, Acq., 1961-1 C.B. 4.

**460.5 Delivery by decedent’s estate to close sale; basis.** A short sale of stock entered into by a decedent during his lifetime while holding identical stock previously purchased was not consummated until the decedent’s estate closed out the transaction by delivering the decedent’s stock to a broker for immediate application to the short sale. The basis of the stock held on the date of the decedent’s death is the fair market value of the stock on such date or the alternate valuation date as provided by section 2032. §1.1233-1. (Sec. 1233, ’86 Code.)

Rev. Rul. 73-524, 1973-2 C.B. 307.

**460.6 Dividends exclusion.** An amount with respect to stock borrowed to cover a short sale, equal to a cash dividend paid to a lender of stock by the “short seller”, is not a dividend for which a lender is entitled an exclusion under section 116. The purchaser in the short sale transaction, the real owner of the stock, is entitled to the partial exclusion with respect to cash dividends received on such stock. §§1.116-1, 1.316-1. (Secs. 116, 316; ’86 Code.)

Rev. Rul. 60-177, 1960-1 C.B. 9.

**460.7 Dividends on borrowed stock.** Amounts paid or incurred by investors or traders in securities with respect to ordinary cash dividends on borrowed stock to cover short sales are deductible expenses and not proper adjustments to the basis of the stock purchased to close the short sale. S.M. 4281 modified. §§1.162-1, 1.212-1, 1.1016-2. (Secs. 162, 212, 1016; ’86 Code.)

Rev. Rul. 62-42, 1962-1 C.B. 133.

**460.8 Loan premium and dividend payments; stock on; liquidating dividend payments.** Loan premiums paid by an investor in securities in the acquisition of stock borrowed to cover short sales and amounts equal to ordinary cash dividends paid with respect to such stock are deductible. However, amounts paid by investors or traders with respect to nontaxable stock dividends or liquidating dividends on such borrowed stock are capital expenditures and are not deductible. I.T. 3989 and Rev. Rul. 60-359 superseded. §§1.212-1, 1.263(a)-1. (Secs. 212, 263; ’86 Code.)

Rev. Rul. 72-521, 1972-2 C.B. 178.

**460.9 Long position in same securities.** A transaction is a valid short sale which will not be considered to be consummated until the date that securities are delivered to close the sale where borrowed securities are delivered to the purchaser by the broker who is prohibited, under a special loan agreement, from borrowing identical securities

from the seller’s accounts for delivery to the purchaser. §1.1233-1. (Sec. 1233, ’86 Code.)

Rev. Rul. 72-478, 1972-2 C.B. 487.

**460.10 Long position in same securities; regulated investment company.** For purposes of section 851(b)(3) a regulated investment company selling stock short that it had held for four months and closing the sale at a gain one month later by delivering the stock held is considered as delivering the stock not held for less than three months. If the sale was closed by delivering the stock held and identical stock was purchased after the short sale, while the sale was still open, a similar result would obtain and the purchased stock would have a holding period that begins on the closing date of the short sale. However, closing the sale by delivering identical stock purchased after the short sale is considered as delivering stock held for less than three months and the holding period of the initial stock held begins on the closing date of the short sale. §§1.851-2, 1.1233-1. (Secs. 851, 1233; ’86 Code.)

Rev. Rul. 74-434, 1974-2 C.B. 195.

**460.11 Option stock; transactions during three-year holding period.** During the three-year holding period for stock obtained through the exercise of a qualified stock option, a short-sale transaction involving identical borrowed stock constitutes a disposition of the option stock. This ruling applies to short-sale transactions entered into after February 20, 1973. §§1.425-1, 301.7805-1. (Secs. 425, 7805; ’86 Code.)

Rev. Rul. 73-92, 1973-1 C.B. 208.

**460.12 Small business investment company stock.** A loss incurred on the closing of a short sale of small business investment company stock with subsequently purchased stock acquired solely to close the short sale is not deductible as an ordinary loss under section 1242. The nature of the loss is determined under section 1233, dealing with gains and losses from short sales. §§1.1233-1, 1.1242-1. (Secs. 1233, 1242; ’86 Code.)

Rev. Rul. 63-65, 1963-1 C.B. 142.

**460.13 Substantially identical stock exchanged.** Where a taxpayer sells short “when issued” common stock of a corporation in which he holds, or later acquires preferred stock which may be used to obtain stock identical to that sold short, the conversion of the preferred stock prior to the closing of the short sale does not constitute, at that time, the acquisition of substantially identical stock. Any gain realized will not be considered gain realized upon the sale or exchange of a capital asset held not more than six months, unless the preferred stock and the “when issued” common stock were substantially identical at the time of the short sale or at the time of the acquisition of the preferred stock where it is acquired after the short sale. §§1.1223-1, 1.1233-1. (Secs. 1223, 1233; ’86 Code.)

Rev. Rul. 62-153, 1962-2 C.B. 186.

## Short sales

**460.1 Arbitrage operations.** The purchase of convertible bonds, which are down in price in relation to the price of the common stock into which they are convertible, and the simultaneous sale of equivalent stock, is an arbitrage operation and constitutes a short sale. §29.117-10. (Sec. 117, ’39 Code; Sec. 1233, ’86 Code.)

Rev. Rul. 154, 1953-2 C.B. 173.

**460.2 Artificial loss created to offset gain.** Neither a short-term capital loss created to minimize the tax consequences of an unrelated short-term capital gain through a series of transactions in silver futures contracts, which result in no real economic loss, nor the related out-of-pocket expenses incurred in connection with creating the loss are deductible. Amplified by Rev. Rul. 78-414. §1.165-1. (Sec. 165, ’86 Code.)

Rev. Rul. 77-185, 1977-1 C.B. 48.