

IRC Section 453(l)(2)(B)(i)

Election to Use Installment Method for Dealer Dispositions on Sale of Time Shares and Residential Lots

Overview

Generally, taxpayers who dispose of real or personal property in an installment sale must recognize income from the sale on the installment method. An installment sale is a disposition of property where at least one payment is received after the close of the taxable year in which the disposition occurred. Under the installment method, the income recognized for any taxable year from a disposition is that proportion of the payments received in that year which the gross profit (realized or to be realized when payment is completed) bears to the total contract price.

IRC §453(b)(2) prohibits most dealer dispositions of real or personal property from using the installment method. However, §453(l)(2)(B) permits dealers who sell timeshares or residential lots to elect to use the installment method for certain qualified dispositions on the condition that interest is paid on the installment obligations. No interest is required for any payment received in the year of sale.

A qualified disposition is any disposition in the ordinary course of a taxpayer's trade or business to an individual of:

- a timeshare right to use or a timeshare ownership interest in residential real property for not more than 6 weeks per year, or a right to use specified campgrounds for recreational purposes, or
- any residential lot, but only if the taxpayer (or any related person) is not to make any improvements with respect to such lot.

The election is not applicable to installment obligations which are guaranteed by any person other than an individual.

When to File

Although no regulations have been issued regarding the manner in which to make the election, the election can be made by attaching a statement to the

taxpayer's income tax return for the taxable year in which an installment sale occurs. The election should be made no later than the due date, including extensions, of the taxpayer's return for such year.

Where to File

The election statement should be attached to the taxpayer's timely filed return, which is mailed to the designated Internal Revenue Service Center.

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1. Code Section: 453
2. Topic: Accounting Periods and Methods; Gain/Loss
3. Return Type: 1040, 1065, 1120

Authorities

IRC §453(l)(2)(B)(i)