INSTRUCTIONS—(References are to the Internal Revenue Code of 1954)

GAINS AND LOSSES FROM SALES OR EXCHANGES OF PROPERTY.—Report details in schedule on other side.

"Capital assets" defined.—The term "capital assets" means property held by the taxpayer (whether or not connected with his trade or business) but does NOT include-

- (a) stock in trade or other property of a kind properly includible in his inventory if on hand at the close of the taxable year;
- (b) property held by the taxpayer primarily for sale to customers in the ordinary course of his trade or business;
- (c) property used in the trade or business of a character which is subject to the allowance for depreciation provided in section 167;
- (d) real property used in the trade or business of the taxpayer;
- (e) certain government obligations issued on or after March 1, 1941, at a discount, payable without interest and maturing at a fixed date not exceeding one year from date of issue;
- (f) certain copyrights, literary, musical, or artistic compositions, etc.; or
- (g) accounts and notes receivable acquired in the ordinary course of trade or business for services rendered or from the sale of property referred to in (a) or (b) above.

Special rules apply to dealers in securities for determining capital gain or ordinary loss on the sale or exchange of securities. Certain real property subdivided for sale may be treated as capital assets.

Sections 1236 and 1237.

If the total distributions to which an employee is entitled under an employees' pension, bonus, or profit-sharing trust plan, which is exempt from tax under section 501(a), are paid to the employee in one taxable year, on account of the employee's separation from the service, the aggregate amount of such distribution, to the extent it exceeds the amounts contributed by the employee, shall be treated as a long-term capital gain.

Gain on sale of depreciable property between husband and wife or between a shareholder and a "controlled corporation" shall be

treated as ordinary gain.

Gains and losses from transactions described in section 1231 (see below) shall be treated as gains and losses from the sale or exchange of capital assets held for more than 6 months if the total of these gains exceeds the total of these losses. If the total of these gains does not exceed the total of these losses, such gains and losses shall not be treated as gains and losses from the sale or exchange of capital assets. Thus, in the event of a net gain, all these transactions should be entered in the "long-term capital gains and losses" portion of Schedule D. In the event of a net loss, all these transactions should be entered in the "property other than capital assets" portion of Schedule D, or in other applicable schedules on Form 1040.

Section 1231 deals with gains and losses arising from— (a) sale, exchange, or involuntary conversion, of land (including in certain cases unharvested crops sold with the land) and depreciable property if they are used in the trade or business and held for more than 6 months,

(b) sale, exchange, or involuntary conversion of livestock held for draft, breeding, or dairy purposes (but not including poultry) and held for I year or more,

(c) the cutting of timber or the disposal of timber or coal to

which section 631 applies, and

(d) the involuntary conversion of capital assets held more than 6 months.

See sections 1231 and 631 for specific conditions applicable. Description of property listed.—State following facts: (a) For real estate (including owner-occupied residences), location and description of land and improvements; (b) for bonds or other evidences of indebtedness, name of issuing corporation, particular issue, denomination, and amount; and (c) for stocks, name of corporation, class of stock, number of shares, and capital changes affecting basis (including nontaxable distributions).

Basis.—In determining gain or loss in case of property acquired after February 28, 1913, use cost, except as specially provided. The basis of property acquired by gift after December 31, 1920, is the cost or other basis to the donor in the event of gain, but, in the event of loss, it is the lower of either such donor's basis or the fair market value on date of gift. If a gift tax was paid with respect to property received by gift, see section 1015 (d). Generally, the basis of property acquired by inheritance is the fair market value at time of acquisition which usually is the date of death. For special cases involving property acquired from a decedent, see section 1014. In the case of sales and exchanges of automobiles and other property not used in your trade or business, or not used for the production of income, the basis for determining gain is the original cost plus the cost of permanent improvements thereto. No losses are recognized for income tax purposes on the sale and exchange of such properties. In determining GAIN in case of property acquired before March 1, 1913, use the cost or the fair market value as of March 1, 1913, as adjusted, whichever is greater, but in determining LOSS use cost as adjusted.

Sale of a personal residence.—See Form 1040 instructions for special rules applicable to sale or exchange of your residence.

Losses on securities becoming worthless.—If (a) shares of stock become worthless during the year or (b) corporate securities with interest coupons or in registered form become worthless during the year, and are capital assets, the loss therefrom shall be considered as from the sale or exchange of capital assets as of the last day of such taxable year.

Losses on small business stock.—In the case of an individual a loss on section 1244 stock which would (but for that section) be treated as a loss from the sale or exchange of a capital asset shall, to the extent provided in that section, be treated as a loss from the sale or exchange of an asset which is not a capital asset.

Nonbusiness debts.—If a debt, such as a personal loan, becomes totally worthless within the taxable year, the loss resulting therefrom shall be considered a loss from the sale or exchange, during the taxable year, of a capital asset held for not more than 6 months. Enter such loss in column (h) and describe in column (a) in the schedule of short-term capital gains and losses on other side. This does not apply to: (a) a debt evidenced by a corporate security with interest coupons or in registered form and (b) a debt acquired in your trade or business.

Classification of capital gains and losses.—The phrase "short-term" applies to gains and losses from the sale or exchange of capital assets held for 6 months or less; the phrase "long-term"

applies to capital assets held for more than 6 months.

Treatment of capital gains and losses.—Short-term capital gains and losses will be merged to obtain the net short-term capital gain or loss. Long-term capital gains and losses (taken into account at 100 percent) will be merged to obtain the net longterm capital gain or loss. If the net short-term capital gain exceeds the net long-term capital loss, 100 percent of such excess shall be included in income. If the net long-term capital gain exceeds the net short-term capital loss, 50 percent of the amount of such excess is allowable as a deduction from gross income. This deduction is

given effect on line 9 of Schedule D.

Limitation on allowable capital losses.—If the sum of all the capital losses exceeds the sum of all the capital gains (all such gains and losses to be taken into account at 100 percent), then such capital losses shall be allowed as a deduction only to the extent of (1) current year capital gains plus (2) the smaller of either the taxable income of the current year (or adjusted gross income if tax table is used) or \$1,000. For this purpose taxable income is computed without regard to capital gains or losses or the deduction for exemptions. The excess of such allowable losses over the sum of items (1) and (2) above is called "capital loss carryover." in may be carried forward and treated as a short-term capital loss in succeeding years. However, the capital loss carryover of each year should be kept separate, since the law limits the use of such carryover to the five succeeding years. In offsetting your capital gain and income of 1959 by prior year loss carryovers, use any capital loss carryover from 1954 before using any such carryover from 1955 or subsequent years. Any 1954 carryover which cannot be used in 1959 must be excluded in determining total loss carryover to 1960 and subsequent years.

Collapsible corporations.—Gain from the sale or exchange of stock in a collapsible corporation is not a capital gain. Section 341.

"Wash sales" losses.—Losses from the sale or other disposition of stocks or securities are not deductible (unless sustained in connection with the taxpayer's trade or business) if, within 30 days before or after the date of sale or other disposition, the taxpayer has acquired (by purchase or by an exchange upon which the entire amount of gain or loss was recognized by law), or has entered into a contract or option to acquire, substantially identical stock or securities.

Losses in transactions between certain persons.—No deduction is allowable for losses from sales or exchanges of property directly or indirectly between (a) members of a family, (b) a corporation and an individual (or a fiduciary) owning more than 50 percent of the corporation's stock (liquidations excepted), (c) a grantor and fiduciary of any trust, (d) a fiduciary and a beneficiary of the same trust, (e) a fiduciary and a fiduciary or beneficiary of another trust created by the same grantor, or (f) an individual and a tax-exempt organization controlled by the individual or his family. Partners and partnerships see Section 707(b).

Long-term capital gains from regulated investment companies.—Include in income as a long-term capital gain the amount you are notified on Form 2439 which constitutes your share of the undistributed capital gains of a regulated investment company. You are entitled to a credit of 25 percent of this amount which should be claimed on line 5, column (b), page 1, Form 1040. Enter such amount in column (b) and write "Credit from regulated investment company" in the "Where Employed" column. The remaining 75 percent should be added to the basis of your stock. Also include in income as a long-term capital gain any capital gain dividend which is paid to you by such company.

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