

Section references are to the Internal Revenue Code unless otherwise noted.

What's New

Qualified Opportunity Investment

If you held a qualified investment in a qualified opportunity fund (QOF) at any time during the year, you must file your return with Form 8997. See the Instructions for Form 8997.

Future Developments

For the latest information about developments related to Form 6781 and its instructions, such as legislation enacted after they were published, go to www.irs.gov/Form6781.

General Instructions

Purpose of Form

Use Form 6781 to report:

- Any capital gain or loss on section 1256 contracts under the mark-to-market rules, and
- Gains and losses under section 1092 from straddle positions.

For details on section 1256 contracts and straddles, see Pub. 550, Investment Income and Expenses.

Section 1256 Contract

A section 1256 contract is any:

- Regulated futures contract,
- Foreign currency contract,
- Nonequity option,
- Dealer equity option, or
- Dealer securities futures contract.

For definitions of these terms and more details, see section 1256(g) and Pub. 550.

A section 1256 contract doesn't include any securities future contract, option on a securities future contract, interest rate swap, currency swap, basis swap, commodity swap, equity swap, equity index swap, credit default swap, interest rate cap, interest rate floor, or similar agreement.

Special rules apply to certain foreign currency contracts. See section 988 and Regulations sections 1.988-1(a)(7) and 1.988-3. If an election is made under section 988(a)(1)(B) or 988(c)(1)(D), attach to your return a list of the contracts covered by the election(s). On the attachment, show the net gain or loss reported from those contracts and identify where the gain or loss is reported on the return. If an election is made under section 988(a)(1)(B), report on Form 6781 the gains and losses from section 1256 contracts that are also section 988 transactions.

Options and commodities dealers must take any gain or loss from the trading of section 1256 contracts into

account in figuring net earnings subject to self-employment tax. See section 1402(i).

Mark-to-Market Rules

Under these rules, each section 1256 contract held at year end is treated as if it were sold at fair market value (FMV) on the last business day of the tax year. The wash sale rules don't apply.

If your section 1256 contracts produce capital gain or loss, gains or losses on section 1256 contracts open at the end of the year, or terminated during the year, are treated as 60% long term and 40% short term, regardless of how long the contracts were held.

The mark-to-market rules don't apply if you properly and timely identified a section 1256 contract as a hedge.

Straddle

A straddle means offsetting positions with respect to personal property of a type that is actively traded.

Offsetting Positions

If there is a substantial decrease in risk of loss to a taxpayer holding a position because that taxpayer or a related party also holds one or more other positions, then those positions are offsetting and may be part of a straddle. However, if an identified straddle is properly established, other positions held by the taxpayer won't be treated as offsetting with respect to any position that is part of the identified straddle.

General Rule for Straddles

If you don't make any of the elections described in box A, B, or C, and you have a loss on the section 1256 contract component, use Part II to reduce the loss by any unrecognized gain on the non-section 1256 contract component before making an entry in Part I. You must also reduce the loss from any section 1256 contract component of a straddle that would be a mixed straddle if the positions had been properly identified as such.

Box A. Mixed Straddle Election

Under section 1256(d), you can elect to have the mark-to-market rules not apply to section 1256 contracts that are part of a mixed straddle. A mixed straddle is any straddle in which at least one but not all of the positions is a section 1256 contract. On the day the first section 1256 contract forming part of the straddle is acquired, each position forming part of the straddle must be clearly identified as being part of such straddle. If you make this election, it will apply for all later years and you can't revoke it without IRS consent. If you are making or have previously made this election, check box A and report the section 1256 contract component in Part II instead of in Part I.

Box B. Straddle-by-Straddle Identification Election

Make this election for mixed straddles according to Temporary Regulations section 1.1092(b)-3T(d) by clearly identifying each position by the earlier of (a) the close of the day the identified mixed straddle is established, or (b) the time the position is disposed of. No straddle-by-straddle identification election may be made for any straddle for which a mixed straddle election was made or if one or more positions are includible in a mixed straddle account. If you are making or have previously made this election, check box B.

If you make this election, any positions you held on the day before the election are deemed sold for their FMV at the close of the last business day before the day of the election. For elections made on or before August 18, 2014, take this gain or loss into account when computing taxable income for the year in which the election was made. For elections made after August 18, 2014, take this gain or loss into account in the year you would have reported the gain or loss if the identified mixed straddle had not been established. In addition, when the gain or loss that accrued prior to the time the identified mixed straddle was established is taken into account, it will have the same character it would have had if the identified mixed straddle had not been established. See Regulations section 1.1092(b)-6 for details.

Each year you hold positions subject to this election, you must mark to market your section 1256 contracts and determine, in accordance with Regulations sections 1.1092(b)-3T and 1.1092(b)-6, whether you have a net gain or loss. If the net gain or loss is attributable to a net non-section 1256 position, then the net gain or loss is treated as a short-term capital gain or loss. Enter it directly on Form 8949 and identify the election. If the net gain or loss is attributable to a section 1256 position, enter the gain or loss on Form 6781, Part I, and identify the election.

Box C. Mixed Straddle Account Election

Make this election according to Temporary Regulations section 1.1092(b)-4T(f) to establish one or more mixed straddle accounts for 2022 by the due date (without extensions) of your 2021 tax return. To make this election, check box C and attach to your return (or your request for an extension of time to file) the statement required by the regulations. Report the annual account net gain or loss from a mixed straddle account in Part II and identify the election. See Temporary Regulations section 1.1092(b)-4T(c)(4) for limits on the total annual account net gain or loss.