

sale or exchange of property. The Committee Reports indicate clearly that original issue discount was viewed as interest income; the phrase "gain from the sale or exchange of property which is not a capital asset" employed in section 1232(a)(2) to describe the treatment of income to which the new provisions applied was intended to assure that earned discount would be reported as ordinary income and not as capital gain. H. Rep. No. 1337, 83d Cong., 2d Sess. 83, A277 (1954); S. Rep. No. 1622, 83d Cong., 2d Sess. 112 (1954).

For example, the Senate Finance Committee stated that:

"In these cases, that part of the amount received on a sale or exchange which may represent a partial recovery of discount on original issue *is a form of interest income and in fact is deductible as an interest payment by the issuing corporation.*" S. Rep. No. 1622 at page 112, emphasis supplied; see also H. Rept. No. 1337 at page 83, embodying the italicized language.

Section 1232(a)(2)(B)(i), which excepts discount upon tax exempt obligations from the ordinary income treatment provided by Section 1232, further demonstrates that Congress viewed original issue discount as a form of interest.

Section 483 of the Code also illustrates that Congress views original issue discount and interest income as virtually identical for tax purposes. This section, enacted in 1964, requires, under certain circumstances, that the difference between the present value of an obligation and the face amount thereof (an amount analogous to original issue discount) be reported as interest income when installment paper received in exchange for property bears an unrealistically low interest rate, or no interest at all. H. Rep. No. 749, 88th Cong. 1st Sess. 73, A84 (1963); S. Rep. No. 830, 88th Cong. 2d. Sess. 101-102 (1964).

Section 483 classifies the imputed discount factor as interest, whereas Section 1232 prescribes that original issue discount is to be taxed as "gain from the sale or exchange of property which is not a capital asset". The difference in terminology is due to the difference between the factors which led to enactment of the respective sections, and not to a distinction in the nature of the income. The confused history of Section 117(f) of the 1939 Code, which had been enacted to ensure that retirement of a bond would be treated as a sale or exchange, but which had been interpreted by some courts to mean that original issue discount was a capital asset, prompted Congress to enact subsections 1232(a)(2) and (b) in 1954. Litigation in which the Internal Revenue Service sought unsuccessfully to impute interest when a contract did not call for it led to the enactment of Section 483. See *Kingsford Company*, 41 T.C. 646, 659 (1964), and cases cited therein. Although Section 483 was intended to halt "manipulation of the capital gains provisions,"<sup>4</sup> it was more appropriate to couch the section in terms of interest than in the language of the capital gains and loss sections because it—

- (1) Applied to buyers as well as sellers,
- (2) Included transactions resulting in a loss as well as those producing gain, and
- (3) Included detailed standards for the determination of un-stated interest.

<sup>4</sup> Statement by Secretary of Treasury, submitted to House Ways and Means Committee on February 6, 1963, CCH Report 12, vol. 50, pp. 89-90; Part I, Hearings, February 6, 7, and 8, 1963, at pp. 152-156.