

“put”) the same quantity of a security at the same price during the same period of time.

If a person grants a multiple option (a put plus a call plus one or more additional puts or calls) it is intended that the grantor of the multiple option must identify in his records which two of the component options constitute the straddle, if it is not clear from the options themselves. It is contemplated that the method of identification will be specified in regulations issued by the Secretary of the Treasury or his delegate. If there is no identification by the writer, this provision relating to straddles is not to apply. As a result, in such a case the gain on the lapsed option (or options) would result in ordinary income.

A corporate security for purposes of the definition of a straddle is the same as defined in section 1236(c) of the code—i.e., stocks, bonds, notes, etc. Accordingly, the term securities does not include commodity futures.

*Effective date.*—The amendments described above are to apply to straddles written after January 25, 1965, in taxable years ending after such date.

*11. Tax treatment of per-unit retain allocations (sec. 211 of the act and secs. 1382, 1383, 1385, 1388, and 6044 of the code)*

*Prior law.*—Although the practices of cooperatives are not uniform in this regard, generally a per-unit retain certificate is issued by a cooperative to a patron to reflect the retention by the cooperative of a portion of the proceeds from the marketing of products for the patron. These amounts are retained pursuant to an authorization (usually in the bylaws of the cooperative) and are computed on the basis of units of products marketed.

Prior to 1962, the Internal Revenue Code permitted cooperatives to deduct amounts paid to patrons as patronage dividends. Patronage dividends are limited by definition to amounts which are “determined with reference to the net earnings” of the cooperative. The treatment of per-unit retains, however, was not specifically dealt with in the code. The Revenue Act of 1962 substantially revised the income tax treatment of cooperatives and their patrons but the new provisions by their terms were applicable only to “patronage dividends.” Because per-unit retain allocations are determined on the basis of units of products marketed for the patrons rather than with reference to net earnings, the new provisions were generally considered as not being applicable to them. However by regulations issued on October 14, 1965, the Treasury Department provided for the income tax treatment of per-unit retain certificates in a manner that was in many respects parallel to the treatment prescribed in the Revenue Act of 1962 with respect to patronage dividends.

The per-unit retains may be considered as contributions to capital by patrons. For this to be true they first must have been considered as paid out by the cooperative. However, because the per-unit retain certificates issued by cooperatives may have a fair market value considerably less than their face amount, and in some cases have only a negligible fair market value, it was questioned whether they may be considered as paid out by the cooperatives and whether the patrons can be required to include them in their gross income.