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Rev. Rul. 74-218

The purpose of this Revenue Ruling is to update and restate, under the current statute and regulations, the position set forth in I.T. 1552, II-1 C.B. 96 (1923).

The specific question is whether foreign currencies are "securities" within the meaning of section 1091 of the Internal Revenue Code of 1954, relating to losses from wash sales of stock or securities.

On June 1, 1973, the taxpayer purchased currency of foreign country M in a transaction entered into for profit. On June 22, 1973, the taxpayer converted the currency of M into United States dollars, incurring a loss on the exchange. On July 10, 1973, the taxpayer purchased more currency of country M.

Section 1091(a) of the Code and the Income Tax Regulations thereunder provide, in part, that in the case of any loss claimed to have been sustained from any sale or other disposition of shares of stock or securities where it appears that, within a period beginning 30 days before the date of such sale or disposition and ending 30 days after such date, the taxpayer has acquired (by purchase or by an exchange on which the entire amount of gain or loss was recognized by law), or has entered into a contract or option so to acquire, substantially identical stock or securities, then no deduction for the loss shall be allowed under section 165(c)(2); nor shall such deduction be allowed a corporation under section 165(a) unless it is a dealer in stocks or securities, and the loss is sustained in a transaction made in the ordinary course of its business.

The wash sale provision first appeared as section 214(a)(5) of the Revenue Act of 1921. It was intended to prevent a broker from selling securities one day and buying the securities back several days thereafter in order to establish a loss. See Congressional Proceedings and Debates on H. R. 8245, 67th Cong., 1st Sess., 61 Cong. Rec. 5203 (1921).

The term "security" is defined in section 1236(c) of the Code to mean any share of stock in any corporation, certificate of stock or interest in any corporation, note, bond, debenture, or evidence of indebtedness, or any evidence of an interest in or right to subscribe <Page 203> to or purchase any of the foregoing.

Currency in its usual and ordinary acceptance means gold, silver, other metals or paper used as a circulating medium of exchange, and does not embrace bonds, evidences of debt, or other personal property or real estate.

It is held that foreign currencies are not securities within the meaning of section 1091 of the Code. Therefore, any loss resulting from the disposition of, or conversion of, foreign currency into United States dollars is not subject to the provisions of section 1091.

I.T. 1552, II-1 C.B. 96 (1923), is hereby superseded, since the position set forth therein is updated and restated under the current statute and regulations in this Revenue Ruling.

1 ¶ Prepared pursuant to Rev. Proc. 67-6, 1967-1 C.B. 576.