When is capital gain or loss short-term? When is it long-term? How is an individual’s “holding period” calculated?

Generally, a capital gain or loss is long-term if the property giving rise to the gain or loss was owned *for more than one year*. It is short-term gain or loss if the property was owned for *one year or less*.[[1]](#footnote-1)

To determine how long a taxpayer has owned property (i.e., his “holding period”), begin counting on the day *after* the property is acquired; the same date in each successive month is the first day of a new month. The date on which the property is disposed of is included (i.e., counted) in the holding period.[[2]](#footnote-2) If property is acquired on the last day of the month, the holding period begins on the first day of the following month. Therefore, if it is sold prior to the first day of the 13th month following the acquisition, the gain or loss will be short-term.[[3]](#footnote-3) According to IRS Pub. 544 (Nov. 1982), if property is acquired *near* the end of the month and the holding period begins on a date that does not occur in every month (e.g., the 29th, 30th, or 31st), the last day of each month that lacks that date is considered to begin a new month; however, later editions of Pub. 544 have omitted this statement.

*Example 1.* Mrs. Copeland bought a capital asset on January 1, 2014. She would begin counting on January 2, 2014. The 2nd day of each successive month would begin a new month. If Mrs. Copeland sold the asset on January 1, 2015, her holding period would not be more than one year. To have a long-term capital gain or loss she would have to sell the asset on or after January 2, 2015.

*Example 2.* Mrs. Brim bought a capital asset on January 30, 2014. She would begin counting on January 31, 2014. Since February does not have 31 days, Mrs. Brim will start a new month on February 28. In months that have only 30 days, the 30th will begin a new month.

Special rules apply in the case of gains or losses on regulated futures contracts, single stock futures, nonequity option contracts, and foreign currency contracts. Furthermore, the short sale rules and tax straddle rules may require a tolling or recalculation of an individual’s holding period.

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# Tacking of Holding Periods

In some cases, such as property received as a gift or in a like-kind exchange, the IRC allows a taxpayer to add another individual’s holding period in the same property, or the taxpayer’s holding period in other property, to the taxpayer’s holding period. This is referred to as “tacking” of holding periods.[[4]](#footnote-4)

For an explanation of how the holding period is determined for stock received by a policyholder or annuity holder in a demutualization transaction see SCA 200131028.[[5]](#footnote-5)

1. IRC Sec. 1222. [↑](#footnote-ref-1)
2. Rev. Rul. 70-598, 1970-2 CB 168. [↑](#footnote-ref-2)
3. Rev. Rul. 66-7, 1966-1 CB 188. [↑](#footnote-ref-3)
4. IRC Sec. 1223(2). [↑](#footnote-ref-4)
5. See SCA 200131028. [↑](#footnote-ref-5)