

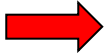
Prop. Reg. Section 1.475(f)-2(a)(3)

Election of mark-to-market accounting for traders in securities or commodities

(a) Securities not held in connection with trading activities.

(1) Taxpayer identification of investment securities. If a trader in securities makes an election under section 475(f)(1)(A) (electing trader) and holds a security other than in connection with that trading business, the electing trader must identify that security in accordance with section 475(f)(1)(B)(ii). If the electing trader is also a dealer in securities, however, the preceding sentence applies only to securities described in section 475(b)(1) (without regard to section 475(b)(2)).

(2) Satisfaction of Commissioner. In no event is the requirement of section 475(f)(1)(B)(i) satisfied unless the electing trader demonstrates by clear and convincing evidence that a security has no connection to its trading activities.



(3) Substantially similar securities held for trading and investment. An electing trader that holds a security other than in connection with its trading business and also trades the same or substantially similar securities in no event satisfies the requirement of section 475(f)(1)(B)(i) unless the security is held in a separate, nontrading account maintained with a third party.

(4) Consequences of failure to identify investment securities. If an electing trader holds a security that is not held in connection with its trading business and fails to identify the security in a manner that satisfies the requirements of section 475(f)(1)(B)(ii)-

(i) The consequences described in section 475(d)(2) apply to the security; and

(ii) The character of the gain or loss with respect to the security is ordinary.

(5) Commissioner identification of investment securities. Notwithstanding paragraph (a)(4) of this section, the Commissioner may treat a security described in that paragraph as meeting the requirements of section 475(f)(1)(B)(i) and (ii).

(b) Character of securities marked to market. The gain or loss with respect to a security that is marked to market under section 475(f)(1)(A) is ordinary.

(c) Application of securities dealer rules to electing traders. Except as otherwise provided in this section or in other guidance prescribed by the Commissioner, the principles of the rules and administrative interpretations under section 475 for dealers in securities apply to traders in securities that make an election under section 475(f)(1).

(d) Same day identification. An identification of a security as exempt from mark-to-market accounting under section 475(f)(1)(B) is not effective unless it is made before the close of the day on which the security was acquired, originated, or entered into.

(e) Application to traders in commodities.

(1) General rule. If a trader in commodities makes an election under section 475(f)(2), paragraphs (a), (b), (c), and (d) of this section apply to the trader in the same manner that they apply to a trader in securities who makes an election under section 475(f)(1).

(2) Coordination with section 1256. If a trader in commodities makes an election under section 475(f)(2) and trades section 1256 contracts that are commodities as defined in section 475(e)(2), then the rules of section 475(f) and paragraph (e)(1) of this section apply to those contracts, and not the capital character rules of section 1256.