

than for certain “safe harbor” modifications specified in Treasury Regulations, the determination of whether a modification is “significant” is based on all of the facts and circumstances. Therefore, it is possible that the Service could take the position that the restructuring of a debt obligation acquired by the Partnership at a discount amounts to a “significant modification” that should be treated as a taxable event even if the Partnership did not so treat the restructuring on its tax return.

Certain Section 1256 Contracts. A Section 1256 Contract includes certain futures contracts, and certain other contracts. Gains and losses from such Section 1256 Contracts are marked to market annually, and generally are characterized as short-term capital gains or losses to the extent of 40% thereof and as long-term capital gains or losses to the extent of 60% thereof. Gains and losses from Section 1256 Contracts will be treated as ordinary income and losses, if such Section 1256 Contracts are held to hedge property which would generate ordinary loss if sold at a loss. In addition, because each of the Partnership and the Master Fund is engaged in a trade or business as a trader in commodities, if such Section 1256 Contract is considered a commodity, the income and loss from such instrument will generally be considered ordinary under the “mark-to-market” rules described under “—Tax Treatment of Partnership Investments - In General.” If an individual taxpayer incurs a net capital loss for a year, the portion thereof, if any, which consists of a net loss on such Section 1256 Contracts may, at the election of the taxpayer, be carried back three years. Losses so carried back may be deducted only against net capital gain to the extent that such gain includes gains on Section 1256 Contracts. A Section 1256 Contract does not include a “securities futures contract” or any option on such a contract, other than a “dealer securities futures contract.”

Generally, a “securities futures contract” is a contract of sale for future delivery of a single security or a narrow-based security index. A “dealer securities futures contract” is treated as a Section 1256 Contract. A “dealer securities futures contract” is a securities futures contract, or an option to enter into such a contract, that (1) is entered into by a dealer (or, in the case of an option, is purchased or granted by the dealer) in the normal course of its trade or business activity of dealing in the contracts and (2) is traded on a qualified board of trade or exchange.

Investments in REITs. The Partnership may invest in REIT securities. Under the Code, a REIT itself is generally not subject to tax to the extent that it distributes its income. REITs generally make distributions that may be expected to give rise to income for the Partners in the form of regular dividends taxable as ordinary income with respect to which an individual may be entitled to the “qualified business income” deduction. Such ordinary REIT dividends are not likely to be “Qualified Dividends” and are not eligible for the corporate dividends received deduction.

Mixed Straddle Election. The Code allows a taxpayer to elect to offset gains and losses from positions which are part of a “mixed straddle.” A “mixed straddle” is any straddle in which one or more but not all positions are Section 1256 Contracts. Pursuant to Temporary Regulations, the Partnership may be eligible to elect to establish one or more mixed straddle accounts for certain of its mixed straddle trading positions. The mixed straddle account rules require a daily “marking to market” of all open positions in the account and a daily netting of gains and losses from positions in the account. At the end of a taxable year, the annual net gains or losses from the mixed straddle account are recognized for tax purposes. The application of the Temporary Regulations’ mixed straddle account rules is not entirely clear. Therefore, there is no assurance that a mixed straddle account election by the Partnership will be accepted by the Service.