

Summary of Court Cases

This summary is based upon the criteria used by most of the courts in the cases presented.

Case - Result	Intent	Nature of Income	Frequency and Regularity
Cameron - Investor	Court recognized short-term profit motive	Short-term profits - holding periods of less than 61 days	Did not trade 5 days/week and only traded 10 days/month two times during two year period 2002 - 46 buys, 14 sells 2003 - 109 buys, 103 sells
Mayer - Investor	Gave investment managers three years to make profits Focused on long-term appreciation	Weighted average holding period was 317, 439 & 415 days over three year period	Averaged over 1,000 trades/year over three year period Court concluded he met the substantial trading requirement
Paoli - Investor	Short-term profit 1 day holding period for some stocks	Stocks not held long enough to earn dividends	326 sales; \$9.8 million in gross proceeds with \$10.8 million in cost Sch D was 22 pages 40% of transactions during one-month period Also employed as engineer
Steffler - Investor	Setup a business with name, cards, separate bank account Wrote software to analyze commodity markets	Sought to profit from short-term swings in commodity prices Positions were covered within two months of opening	Traded 16, 18 & 47 contracts in each of three years on 7, 8 & 12 days of those years, respectively
Chen - Investor	Short-term profit	Trading profits from short-term trades and covering short positions	323 trades in one year with 303 occurring in three months, 20 in another three months and none in six month period Employed full-time as engineer Court concluded that Chen met criteria for three months but not entire year
Moller - Investor	Long-term	Invested for long-term growth and dividends	Spent 40-42 hours/week researching stocks 83 buys and 41 sells one year 76 buys and 30 sells in next year
Yaeger - Investor	Sought undervalued companies and waited for their value to be reflected in their stock price	No interest or dividend income but longer-term appreciation	Pursued investment activity full-time and worked 7 days/week; Contacted company management and attempted mergers & acquisitions 1,176 buys and 86 sells one year 1,088 buys and 39 sells next year Court concluded that although extensive time involved, Yaeger managed securities rather than traded

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Holsinger - Investor	To capture short-term market swings	Rarely held stocks less than 31 days and hardly bought and sold on the same day	Setup "trading" business but continued to use his name and social security number on brokerage accounts 289 trades one year 372 trades the next year Traded on 40% and 45% of trading days respectively
Higgins - Investor	Long-term	Sought "permanent" holdings and did not replace securities when sold	Extensively "managed" those who managed his real estate and security investments Court concluded that real estate activities rose to the level of a trade or business but investments did not
Levin - Trader	No mention is actually made of the intent or nature of income except that he "traded"		Substantial research Spent whole day working on stock transactions Conducted 332 transactions representing 112,400 shares with value of \$3.45 million Court said "sheer quantity of transactions" supports the conclusion of a trade or business
Vines - Trader	Short-term day trader	Short-term swings in market	Although this case pertained to a late mark-to-market election, one must be a "trader" to make the election Court concluded that "volume and frequency" of trading substantiated trader status Vines was also allowed a late MTM election utilizing 9100 relief
Arberg - Investor	Value/position trader Traded as a mark-to-market trader	Attempted to profit from undervalued securities; holding period based on value recovery	Traded from Feb to Sep and Feb to Oct next year; Trading 17 securities with gross proceeds of \$32.4 million Traded spouse's account in a non-community property state Spouse's account constituted all short-term trades
Jamie - Trader	Short-term day trader	Short-term swings in market No attempt to earn dividends or interest from securities traded	This case pertained to reflecting MTM tax treatment without making a MTM election IRS (and Court) apparently concluded that dollar volume of trading activity rose to the level of a trader Maximum trades in one year during 3 year period was 118 but dollar amount was \$14.8 million

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Kay - Investor	Short-term Made mark-to-market election	No day-trading activity but securities held short-term	313 transactions one year, followed by 72 the next year and 84 the next Traded on 73 days, 18 days and 21 days over three years
Van der Lee - Investor	Price appreciation <i>Note: Taxpayer's recordkeeping consisted primarily of credit card statements with expenses circled. This was found not to satisfy the substantiation threshold required by IRS.</i>	Capital appreciation from longer-term holdings No day trading	148 transactions in one brokerage account and 11 in another during year Traded on 7 of 252 trading days
Endicott - Investor	Option premium hedged with stock + dividends	Short-term gains from option premium, some long-term gains plus dividends Significant margin interest	204 trades, 303 trades and 1,543 trades in subsequent years Trading not regular and continuous