

§ 1.1014-5

26 CFR Ch. I (4-1-02 Edition)

the date of the transfer. Thus, for example, if the trustee of a trust created by will transfers to a beneficiary, in satisfaction of a specific bequest of \$10,000, securities which had a fair market value of \$9,000 on the date of the decedent's death (the applicable valuation date) and \$10,000 on the date of the transfer, the trust realizes a taxable gain of \$1,000 and the basis of the securities in the hands of the beneficiary would be \$10,000. As a further example, if the executor of an estate transfers to a trust property worth \$200,000, which had a fair market value of \$175,000 on the date of the decedent's death (the applicable valuation date), in satisfaction of the decedent's bequest in trust for the benefit of his wife of cash or securities to be selected by the executor in an amount sufficient to utilize the marital deduction to the maximum extent authorized by law (after taking into consideration any other property qualifying for the marital deduction), capital gain in the amount of \$25,000 would be realized by the estate and the basis of the property in the hands of the trustees would be \$200,000. If, on the other hand, the decedent bequeathed a fraction of his residuary estate to a trust for the benefit of his wife, which fraction will not change regardless of any fluctuations in value of property in the decedent's estate after his death, no gain or loss would be realized by the estate upon transfer of property to the trust, and the basis of the property in the hands of the trustee would be its fair market value on the date of the decedent's death or on the alternate valuation date.

(b) *Multiple interests.* Where more than one person has an interest in property acquired from a decedent, the basis of such property shall be determined and adjusted without regard to the multiple interests. The basis of computing gain or loss on the sale of any one of such multiple interests shall be determined under § 1.1014-5. Thus, the deductions for depreciation and for depletion allowed or allowable, under sections 167 and 611, to a legal life tenant as if the life tenant were the absolute owner of the property, constitute an adjustment to the basis of the property not only in the hands of the life tenant, but also in the hands of the re-

mainderman and every other person to whom the same uniform basis is applicable. Similarly, the deductions allowed or allowable under sections 167 and 611, both to the trustee and to the trust beneficiaries, constitute an adjustment to the basis of the property not only in the hands of the trustee, but also in the hands of the trust beneficiaries and every other person to whom the uniform basis is applicable. See, however, section 262. Similarly, adjustments in respect of capital expenditures or losses, tax-free distributions, or other distributions applicable in reduction of basis, or other items for which the basis is adjustable are made without regard to which one of the persons to whom the same uniform basis is applicable makes the capital expenditures or sustains the capital losses, or to whom the tax-free or other distributions are made, or to whom the deductions are allowed or allowable. See § 1.1014-6 for adjustments in respect of property acquired from a decedent prior to his death.

(c) *Records.* The executor or other legal representative of the decedent, the fiduciary of a trust under a will, the life tenant and every other person to whom a uniform basis under this section is applicable, shall maintain records showing in detail all deductions, distributions, or other items for which adjustment to basis is required to be made by sections 1016 and 1017, and shall furnish to the district director such information with respect to those adjustments as he may require.

§ 1.1014-5 Gain or loss.

(a) *Sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent.* (1) Except as provided in paragraph (b) of this section with respect to the sale or other disposition after October 9, 1969, of a term interest in property, gain or loss from a sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent is determined by comparing the amount of the proceeds with the amount of that part of the adjusted uniform basis which is assignable to the interest so transferred. The adjusted uniform basis is the uniform basis of the entire property adjusted to

the date of sale or other disposition of any such interest as required by sections 1016 and 1017. The uniform basis is the unadjusted basis of the entire property determined immediately after the decedent's death under the applicable sections of part II of subchapter O of chapter 1 of the Code.

(2) Except as provided in paragraph (b) of this section, the proper measure of gain or loss resulting from a sale or other disposition of an interest in property acquired from a decedent is so much of the increase or decrease in the value of the entire property as is reflected in such sale or other disposition. Hence, in ascertaining the basis of a life interest, remainder interest, or other interest which has been so transferred, the uniform basis rule contemplates that proper adjustments will be made to reflect the change in relative value of the interests on account of the passage of time.

(3) The factors set forth in the tables contained in § 20.2031-7 or, for certain prior periods, § 20.2031-7A, of part 20 of this chapter (Estate Tax Regulations) shall be used in the manner provided therein in determining the basis of the life interest, the remainder interest, or the term certain interest in the property on the date such interest is sold. The basis of the life interest, the remainder interest, or the term certain interest is computed by multiplying the uniform basis (adjusted to the time of the sale) by the appropriate factor. In the case of the sale of a life interest or a remainder interest, the factor used is the factor (adjusted where appropriate) which appears in the life interest or the remainder interest column of the table opposite the age (on the date of the sale) of the person at whose death the life interest will terminate. In the case of the sale of a term certain interest, the factor used is the factor (adjusted where appropriate) which appears in the term certain column of the table opposite the number of years remaining (on the date of sale) before the term certain interest will terminate.

(b) *Sale or other disposition of certain term interests.* In determining gain or loss from the sale or other disposition after October 9, 1969, of a term interest in property (as defined in paragraph (f)(2) of § 1.1001-1) the adjusted basis of

which is determined pursuant, or by reference, to section 1014 (relating to the basis of property acquired from a decedent) or section 1015 (relating to the basis of property acquired by gift or by a transfer in trust), that part of the adjusted uniform basis assignable under the rules of paragraph (a) of this section to the interest sold or otherwise disposed of shall be disregarded to the extent and in the manner provided by section 1001(e) and paragraph (f) of § 1.1001-1.

(c) *Illustrations.* The application of this section may be illustrated by the following examples, in which references are made to the actuarial tables contained in part 20 of this chapter (Estate Tax Regulations):

Example 1. Securities worth \$500,000 at the date of decedent's death on January 1, 1971, are bequeathed to his wife, W, for life, with remainder over to his son, S. W is 48 years of age when the life interest is acquired. The estate does not elect the alternate valuation allowed by section 2032. By reference to § 20.2031-7A(c), the life estate factor for age 48, female, is found to be 0.77488 and the remainder factor for such age is found to be 0.22512. Therefore, the present value of the portion of the uniform basis assigned to W's life interest is \$387,440 ($\$500,000 \times 0.77488$), and the present value of the portion of the uniform basis assigned to S's remainder interest is \$112,560 ($\$500,000 \times 0.22512$). W sells her life interest to her nephew, A, on February 1, 1971, for \$370,000, at which time W is still 48 years of age. Pursuant to section 1001(e), W realizes no loss; her gain is \$370,000, the amount realized from the sale. A has a basis of \$370,000 which he can recover by amortization deductions over W's life expectancy.

Example 2. The facts are the same as in example (1) except that W retains the life interest for 12 years, until she is 60 years of age, and then sells it to A on February 1, 1983, when the fair market value of the securities has increased to \$650,000. By reference to § 20.2031-7A(c), the life estate factor for age 60, female, is found to be 0.63226 and the remainder factor for such age is found to be 0.36774. Therefore, the present value on February 1, 1983, of the portion of the uniform basis assigned to W's life interest is \$316,130 ($\$500,000 \times 0.63226$) and the present value on that date of the portion of the uniform basis assigned to S's remainder interest is \$183,870 ($\$500,000 \times 0.36774$). W sells her life interest for \$410,969, that being the commuted value of her remaining life interest in the securities as appreciated ($\$650,000 \times 0.63226$). Pursuant to section 1001(e), W's gain is \$410,969, the amount realized. A has a basis of \$410,969

which he can recover by amortization deductions over W's life expectancy.

Example 3. Unimproved land having a fair market value of \$18,800 at the date of the decedent's death on January 1, 1970, is devised to A, a male, for life, with remainder over to B, a female. The estate does not elect the alternate valuation allowed by section 2032. On January 1, 1971, A sells his life interest to S for \$12,500. S is not related to A or B. At the time of the sale, A is 39 years of age. By reference to § 20.2031-7A(c), the life estate factor for age 39, male, is found to be 0.79854. Therefore, the present value of the portion of the uniform basis assigned to A's life interest is \$15,012.55 ($\$18,800 \times 0.79854$). This portion is disregarded under section 1001(e). A realizes no loss; his gain is \$12,500, the amount realized. S has a basis of \$12,500 which he can recover by amortization deductions over A's life expectancy.

Example 4. The facts are the same as in example (3) except that on January 1, 1971, A and B jointly sell the entire property to S for \$25,000 and divide the proceeds equally between them. A and B are not related, and there is no element of gift or compensation in the transaction. By reference to § 20.2031-7A(c), the remainder factor for age 39, male, is found to be 0.20146. Therefore, the present value of the uniform basis assigned to B's remainder interest is \$3,787.45 ($\$18,800 \times 0.20146$). On the sale A realizes a loss of \$2,512.55 ($\$15,012.55$ less $\$12,500$), the portion of the uniform basis assigned to his life interest not being disregarded by reason of section 1001(e)(3). B's gain on the sale is \$8,712.55 ($\$12,500$ less $\$3,787.45$). S has a basis in the entire property of \$25,000, no part of which, however, can be recovered by amortization deductions over A's life expectancy.

Example 5. (a) Nondepreciable property having a fair market value of \$54,000 at the date of decedent's death on January 1, 1971, is devised to her husband, H, for life and, after his death, to her daughter, D, for life, with remainder over to her grandson, G. The estate does not elect the alternate valuation allowed by section 2032. On January 1, 1973, H sells his life interest to D for \$32,000. At the date of the sale, H is 62 years of age, and D is 45 years of age. By reference to § 20.2031-7A(c), the life estate factor for age 62, male, is found to be 0.52321. Therefore, the present value on January 1, 1973, of the portion of the adjusted uniform basis assigned to H's life interest is \$28,253 ($\$54,000 \times 0.52321$). Pursuant to section 1001(e), H realizes no loss; his gain is \$32,000, the amount realized from the sale. D has a basis of \$32,000 which she can recover by amortization deductions over H's life expectancy.

(b) On January 1, 1976, D sells both life estates to G for \$40,000. During each of the years 1973 through 1975, D is allowed a deduction for the amortization of H's life interest. At the date of the sale H is 65 years of age,

and D is 48 years of age. For purposes of determining gain or loss on the sale by D, the portion of the adjusted uniform basis assigned to H's life interest and the portion assigned to D's life interest are not taken into account under section 1001(e). However, pursuant to § 1.1001-1(f)(1), D's cost basis in H's life interest, minus deductions for the amortization of such interest, is taken into account. On the sale, D realizes gain of \$40,000 minus an amount which is equal to the \$32,000 cost basis (for H's life estate) reduced by amortization deductions. G is entitled to amortize over H's life expectancy that part of the \$40,000 cost which is attributable to H's life interest. That part of the \$40,000 cost which is attributable to D's life interest is not amortizable by G until H dies.

Example 6. Securities worth \$1,000,000 at the date of decedent's death on January 1, 1971, are bequeathed to his wife, W, for life, with remainder over to his son, S. W is 48 years of age when the life interest is acquired. The estate does not elect the alternate valuation allowed by section 2032. By reference to § 20.2031-7A(c), the life estate factor for age 48, female, is found to be 0.77488, and the remainder factor for such age is found to be 0.22512. Therefore, the present value of the portion of the uniform basis assigned to W's life interest is \$774,880 ($\$1,000,000 \times 0.77488$), and the present value of the portion of the uniform basis assigned to S's remainder interest is \$225,120 ($\$1,000,000 \times 0.22512$). On February 1, 1971, W transfers her life interest to corporation X in exchange for all of the stock of X pursuant to a transaction in which no gain or loss is recognized by reason of section 351. On February 1, 1972, W sells all of her stock in X to S for \$800,000. Pursuant to section 1001(e) and § 1.1001-1(f)(2), W realizes no loss; her gain is \$800,000, the amount realized from the sale. On February 1, 1972, X sells to N for \$900,000 the life interest transferred to it by W. Pursuant to section 1001(e) and § 1.1001-1(f)(1), X realizes no loss; its gain is \$900,000, the amount realized from the sale. N has a basis of \$900,000 which he can recover by amortization deductions over W's life expectancy.

[T.D. 7142, 36 FR 18951, Sept. 24, 1971, as amended by T.D. 8540, 59 FR 30102, June 10, 1994]

§ 1.1014-6 Special rule for adjustments to basis where property is acquired from a decedent prior to his death.

(a) *In general.* (1) The basis of property described in section 1014(b)(9) which is acquired from a decedent prior to his death shall be adjusted for depreciation, obsolescence, amortization, and depletion allowed the taxpayer on such property for the period prior to the decedent's death. Thus, in general,