

§ 1.165-10

(2) The loss allowed under this paragraph upon the sale of the property shall be the excess of the adjusted basis prescribed in § 1.1011-1 for determining loss over the amount realized from the sale. For this purpose, the adjusted basis for determining loss shall be the lesser of either of the following amounts, adjusted as prescribed in § 1.1011-1 for the period subsequent to the conversion of the property to income-producing purposes:

- (i) The fair market value of the property at the time of conversion, or
- (ii) The adjusted basis for loss, at the time of conversion, determined under § 1.1011-1 but without reference to the fair market value.

(3) For rules relating to casualty losses of property converted from personal use, see paragraph (a)(5) of § 1.165-7. To determine the basis for depreciation in the case of such property, see § 1.167(g)-1. For limitations on the loss from the sale of a capital asset, see paragraph (c)(3) of § 1.165-1.

(c) *Examples.* The application of paragraph (b) of this section may be illustrated by the following examples:

Example (1). Residential property is purchased by the taxpayer in 1943 for use as his personal residence at a cost of \$25,000, of which \$15,000 is allocable to the building. The taxpayer uses the property as his personal residence until January 1, 1952, at which time its fair market value is \$22,000, of which \$12,000 is allocable to the building. The taxpayer rents the property from January 1, 1952, until January 1, 1955, at which time it is sold for \$16,000. On January 1, 1952, the building has an estimated useful life of 20 years. It is assumed that the building has no estimated salvage value and that there are no adjustments in respect of basis other than depreciation, which is computed on the straight-line method. The loss to be taken into account for purposes of section 165(a) for the taxable year 1955 is \$4,200, computed as follows:

Basis of property at time of conversion for purposes of this section (that is, the lesser of \$25,000 cost or \$22,000 fair market value)	\$22,000
Less: Depreciation allowable from January 1, 1952, to January 1, 1955 (3 years at 5 percent based on \$12,000, the value of the building at time of conversion, as prescribed by § 1.167(g)-1)	1,800
	20,200
Adjusted basis prescribed in § 1.1011-1 for determining loss on sale of the property	20,200
Less: Amount realized on sale	16,000

Loss to be taken into account for purposes of section 165(a)	4,200
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In this example the value of the building at the time of conversion is used as the basis for computing depreciation. See example (2) of this paragraph wherein the adjusted basis of the building is required to be used for such purpose.

Example (2). Residential property is purchased by the taxpayer in 1940 for use as his personal residence at a cost of \$23,000, of which \$10,000 is allocable to the building. The taxpayer uses the property as his personal residence until January 1, 1953, at which time its fair market value is \$20,000, of which \$12,000 is allocable to the building. The taxpayer rents the property from January 1, 1953, until January 1, 1957, at which time it is sold for \$17,000. On January 1, 1953, the building has an estimated useful life of 20 years. It is assumed that the building has no estimated salvage value and that there are no adjustments in respect of basis other than depreciation, which is computed on the straight-line method. The loss to be taken into account for purposes of section 165(a) for the taxable year 1957 is \$1,000, computed as follows:

Basis of property at time of conversion for purposes of this section (that is, the lesser of \$23,000 cost or \$20,000 fair market value)	\$20,000
Less: Depreciation allowable from January 1, 1953, to January 1, 1957 (4 years at 5 percent based on \$10,000, the cost of the building, as prescribed by § 1.167(g)-1)	2,000
	\$18,000
Adjusted basis prescribed in § 1.1011-1 for determining loss on sale of the property	\$18,000
Less: Amount realized on sale	17,000
	1,000
Loss to be taken into account for purposes of section 165(a)	1,000

[T.D. 6500, 25 FR 11402, Nov. 26, 1960, as amended by T.D. 6712, 29 FR 3652, Mar. 24, 1964]

§ 1.165-10 Wagering losses.

Losses sustained during the taxable year on wagering transactions shall be allowed as a deduction but only to the extent of the gains during the taxable year from such transactions. In the case of a husband and wife making a joint return for the taxable year, the combined losses of the spouses from wagering transactions shall be allowed to the extent of the combined gains of the spouses from wagering transactions.