

§ 1.1014-9

(ii) The basis of the remainder interest immediately prior to the remainderman's death.

(2) The basis of any property distributed to the heir, legatee, or devisee upon termination of a trust (or legal life estate) or at any other time (unless included in the gross income of the legatee or devisee) shall be determined by adding to (or subtracting from) the adjusted uniform basis of the property thus distributed the difference between—

(i) The value of the remainder interest in the property included in the remainderman's estate, and

(ii) The basis of the remainder interest in the property immediately prior to the remainderman's death.

(b) The provisions of paragraph (a) of this section are illustrated by the following examples:

Example 1. Assume that, under the will of a decedent, property consisting of common stock with a value of \$1,000 at the time of the decedent's death is transferred in trust, to pay the income to A for life, remainder to B or to B's estate. B predeceases A and bequeaths the remainder interest to C. Assume that B dies on January 1, 1956, and that the value of the stock originally transferred is \$1,600 at B's death. A's age at that time is 37. The value of the remainder interest included in B's estate is \$547 (0.34185, remainder factor age 37, ×\$1,600), and hence \$547 is C's basis for the remainder interest immediately after B's death. Assume that C sells the remainder interest on January 1, 1961, when A's age is 42. C's basis for the remainder interest at the time of such sale is \$596, computed as follows:

Basis of remainder interest computed with respect to uniform basis of entire property (0.39131, remainder factor age 42, ×\$1,000, uniform basis of entire property)	\$391
plus	
Value of remainder interest included in B's estate	\$547
less	
Basis of remainder interest immediately prior to B's death (0.34185, remainder factor age 37, ×\$1,000)	342
	205
Basis of C's remainder interest at the time of sale	596

Example 2. Assume the same facts as in example (1), except that C does not sell the remainder interest. Upon A's death terminating the trust, C's basis for the stock distributed to him is computed as follows:

Uniform basis of the property, adjusted to date of termination of the trust	\$1,000
plus	
Value of remainder interests in the property at the time of B's death	\$547

	less	
B's share of uniform basis of the property at the time of his death	342	
	205	
C's basis for the stock distributed to him upon the termination of the trust		1,205

Example 3. Assume the same facts as in example (2), except that the property transferred is depreciable. Assume further that \$100 of depreciation was allowed prior to B's death and that \$50 of depreciation is allowed between the time of B's death and the termination of the trust. Upon A's death terminating the trust, C's basis for the property distributed to him is computed as follows:

Uniform basis of the property, adjusted to date of termination of the trust:		
Uniform basis immediately after decedent's death	\$1,000	
Depreciation allowed following decedent's death	150	
	\$350	
plus		
Value of remainder interest in the property at the time of B's death	547	
less		
B's share of uniform basis of the property at the time of his death (0.34185×\$900, uniform basis at B's death)	308	
	239	
C's basis for the property distributed to him upon the termination of the trust		1,089

(c) The rules stated in paragraph (a) of this section do not apply where the basis of the remainder interest in the hands of the remainderman's transferee is determined by reference to its cost to such transferee. See also paragraph (a) of § 1.1014-4. Thus, if, in example (1) of paragraph (b) of this section B sold his remainder interest to C for \$547 in cash, C's basis for the stock distributed to him upon the death of A terminating the trust is \$547.

§ 1.1014-9 Special rule with respect to DISC stock.

(a) *In general.* If property consisting of stock of a DISC or former DISC (as defined in section 992(a) (1) or (3) as the case may be) is considered to have been acquired from a decedent (within the meaning of paragraph (a) or (b) of § 1.1014-2), the uniform basis of such stock under section 1014, as determined pursuant to §§ 1.1014-1 through 1.1014-8 shall be reduced as provided in this section. Such uniform basis shall be reduced by the amount (hereinafter referred to in this section as the amount

of reduction), if any, which the decedent would have included in his gross income under section 995(c) as a dividend if the decedent had lived and sold such stock at its fair market value on the estate tax valuation date. If the alternate valuation date for Federal estate tax purposes is elected under section 2032, in computing the gain which the decedent would have had if he had lived and sold the stock on the alternate valuation date, the decedent's basis shall be determined with reduction for any distributions with respect to the stock which may have been made, after the date of the decedent's death and on or before the alternate valuation date, from the DISC's previously taxed income (as defined in section 996(f)(2)). For this purpose, the last sentence of section 996(e)(2) (relating to reductions of basis of DISC stock) shall not apply. For purposes of this section, if the corporation is not a DISC or former DISC at the date of the decedent's death but is a DISC for a taxable year which begins after such date and on or before the alternate valuation date, the corporation will be considered to be a DISC or former DISC only if the alternate valuation date is elected. The provisions of this paragraph apply with respect to stock of a DISC or former DISC which is included in the gross estate of the decedent, including but not limited to property which—

(1) Is acquired from the decedent before his death, and the entire property is subsequently included in the decedent's gross estate for estate tax purposes, or

(2) Is acquired property described in paragraph (d) of § 1.1014-3.

(b) *Portion of property acquired from decedent before his death included in decedent's gross estate—(1) In general.* In cases where, due to the operation of the estate tax, only a portion of property which consists of stock of a DISC or former DISC and which is acquired from a decedent before his death is included in the decedent's gross estate, the uniform basis of such stock under section 1014, as determined pursuant to §§ 1.1014-1 through 1.1014-8, shall be reduced by an amount which bears the same ratio to the amount of reduction which would have been determined under paragraph (a) of this section if

the entire property consisting of such stock were included in the decedent's gross estate as the value of such property included in the decedent's gross estate bears to the value of the entire property.

(2) *Example.* The provisions of this paragraph may be illustrated by the following example:

Example: The decedent creates a trust during his lifetime to pay the income to A for life, remainder to B or his estate. The trust instrument further provides that if the decedent shall survive A, the income shall be paid to the decedent for life. The decedent predeceases A, so that, due to the operation of the estate tax, only the present value of the remainder interest is included in the decedent's gross estate. The trust consists of 100 shares of the stock of X corporation (which is a DISC at the time the shares are transferred to the trust and at the time of the decedent's death) with an adjusted basis immediately prior to the decedent's death of \$10,000 (as determined under section 1015). At the time of the decedent's death the value of the stock is \$20,000, and the value of the remainder interest in the hands of B is \$8,000. Applying the principles of paragraph (b)(3)(i) of § 1.1014-6, the uniform basis of the entire property following the decedent's death, prior to reduction pursuant to this paragraph, is \$14,000. The amount of reduction which would have been determined under paragraph (a) of this section if the entire property consisting of such stock of X corporation were included in the decedent's gross estate is \$5,000. The uniform basis of the entire property following the decedent's death, as reduced pursuant to this paragraph, is \$12,000, computed as follows:

Uniform basis under section 1014(a), prior to reduction pursuant to this paragraph	\$14,000
Less decrease in uniform basis (determined by the following formula)	2,000
	12,000

[Reduction in uniform basis (to be determined)/ \$5,000 (amount of reduction if paragraph (a) applied)] =
 [\$8,000 (value of property included in gross estate)/\$20,000 (value of entire property)]

Uniform basis under section 1014(a) reduced pursuant to this paragraph	12,000
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(c) *Estate tax valuation date.* For purposes of section 1014(d) and this section, the estate tax valuation date is the date of the decedent's death or, in the case of an election under section 2032, the applicable valuation date prescribed by that section.

(d) *Examples.* The provisions of this section may be illustrated by the following examples:

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Example 1. At the date of A's death, his DISC stock has a fair market value of \$100. The estate does not elect the alternate valuation allowed by section 2032, and A's basis in such stock is \$60 at the date of his death. The person who acquires such stock from the decedent will take as a basis for such stock its fair market value at A's death (\$100), reduced by the amount which would have been included in A's gross income under section 995(c) as a dividend if A had sold stock on the date he died. Thus, if the amount that would have been treated as a dividend under section 995(c) were \$30, such person will take a basis of \$70 for such stock (\$100, reduced by \$30). If such person were immediately to sell the DISC stock so received for \$100, \$30 of the proceeds from the sale would be treated as a dividend by such person under section 995(c).

Example 2. Assume the same facts as in example (1) except that the estate elects the alternate valuation allowed by section 2032, the DISC stock has a fair market value of \$140 on the alternate valuation date, the amount that would have been treated as a dividend under section 995(c) in the event of a sale on such date is \$50 and the DISC has \$20 of previously taxed income which accrued after the date of the decedent's death and before the alternate valuation date. The basis of the person who acquires such stock will be \$90 determined as follows:

(1) Fair market value of DISC stock at alternate valuation date	\$140
(2) Less: Amount which would have been treated as a dividend under section 995(c)	50
(3) Basis of person who acquires DISC stock	90

If a distribution of \$20 attributable to such previously taxed income had been made by the DISC on or before the alternate valuation date (with the DISC stock having a fair market value of \$120 after such distribution), the basis of the person who acquires such stock will be \$70 determined as follows:

(1) Fair market value of DISC stock at alternate valuation date	\$120
(2) Less: Amount which would have been treated as a dividend under section 995(c)	50
(3) Basis of person who acquires DISC stock	70

[T.D. 7283, 38 FR 20825, Aug. 3, 1973]

§ 1.1015-1 Basis of property acquired by gift after December 31, 1920.

(a) *General rule.* (1) In the case of property acquired by gift after December 31, 1920 (whether by a transfer in trust or otherwise), the basis of the property for the purpose of determining gain is the same as it would be in the hands of the donor or the last

preceding owner by whom it was not acquired by gift. The same rule applies in determining loss unless the basis (adjusted for the period prior to the date of gift in accordance with sections 1016 and 1017) is greater than the fair market value of the property at the time of the gift. In such case, the basis for determining loss is the fair market value at the time of the gift.

(2) The provisions of subparagraph (1) of this paragraph may be illustrated by the following example.

Example: A acquires by gift income-producing property which has an adjusted basis of \$100,000 at the date of gift. The fair market value of the property at the date of gift is \$90,000. A later sells the property for \$95,000. In such case there is neither gain nor loss. The basis for determining loss is \$90,000; therefore, there is no loss. Furthermore, there is no gain, since the basis for determining gain is \$100,000.

(3) If the facts necessary to determine the basis of property in the hands of the donor or the last preceding owner by whom it was not acquired by gift are unknown to the donee, the district director shall, if possible, obtain such facts from such donor or last preceding owner, or any other person cognizant thereof. If the district director finds it impossible to obtain such facts, the basis in the hands of such donor or last preceding owner shall be the fair market value of such property as found by the district director as of the date or approximate date at which, according to the best information the district director is able to obtain, such property was acquired by such donor or last preceding owner. See paragraph (e) of this section for rules relating to fair market value.

(b) *Uniform basis; proportionate parts of.* Property acquired by gift has a single or uniform basis although more than one person may acquire an interest in such property. The uniform basis of the property remains fixed subject to proper adjustment for items under sections 1016 and 1017. However, the value of the proportionate parts of the uniform basis represented, for instance, by the respective interests of the life tenant and remainderman are adjustable to reflect the change in the relative values of such interest on account of the lapse of time. The portion