

§ 1.1336-1

26 CFR Ch. I (4-1-09 Edition)

months following the date of the making of such election by the taxpayer.

[T.D. 6500, 25 FR 12047, Nov. 26, 1960]

§ 1.1336-1 Basis of recovered property.

(a) *General rule.* (1) Under section 1336(a), the unadjusted basis of any war loss property which is recovered and the unadjusted basis of any property which is recovered in lieu of or on account of any such war loss property is considered the fair market value of such recovered property upon the date of its recovery with the following adjustments:

(i) If the sum of the recoveries for the day such property is recovered and of all previous recoveries exceeds the aggregate of the allowable deductions for prior taxable years on account of war losses, so that a portion of the recoveries for such day is treated as gain on the involuntary conversion of property, such fair market value of the property is reduced by the total gain, if any, for such day derived from such recovered property as determined under paragraph (b) of § 1.1332-1.

(ii) Such fair market value, as reduced under subdivision (i) of this subparagraph, is increased by the portion, if any, of the recognized gain resulting from the recoveries for such day which is allocable to such recovered property, as determined under paragraph (b) of § 1.1332-1.

In effect, the unadjusted basis of such property is its fair market value upon the date of its recovery, reduced by the amount of nonrecognized gain attributable to such recovery under the provisions of paragraph (b) of § 1.1332-1.

(2) If the respective bases of several properties of a taxpayer determined under section 1336(a) are greatly disproportionate to their adjusted bases immediately before their treatment as war loss properties, the taxpayer may apply to the Commissioner for the allocation of the aggregate of the bases of such properties among them in the proportion of their adjusted bases immediately before the destruction or seizure of such properties determined under section 127(a) of the Internal Revenue Code of 1939. The amount so allocated to any such property, in an application approved by the Commis-

sioner, shall be the unadjusted basis of such property in lieu of the amount determined under subparagraph (1) of this paragraph.

(3) The application to the Commissioner shall set forth a list of all the properties of the taxpayer having an unadjusted basis determined under this section, a description of each such property together with a statement as to the amount of its adjusted basis immediately before the destruction or seizure of such property determined under section 127(a) of the Internal Revenue Code of 1939, and a statement as to whether there has been any substantial change in the use or nature of the property chosen for the allocation from its nature or use immediately before the time it was treated as destroyed or seized. Such application will be allowed unless there has been such a substantial change in the nature or use of such property that the allocation of the bases would produce an arbitrary result, or unless the taxpayer has obtained such tax benefits by reason of the basis determined under subparagraph (1) of this paragraph, that it would be inequitable to change his basis. Thus, the allocation will not be allowed if it would give the taxpayer an unadjusted basis with respect to any property which is less than the amount of the adjustments in reduction of the basis of such property which are allowable after its recovery. For example, when property A is recovered it has an unadjusted basis of \$100. After \$70 depreciation has been allowed on A, an allocation is sought which would give A an unadjusted basis of \$60. Since this is less than the depreciation which is an adjustment against such basis, the allocation will not be permitted.

(4) The amount of any adjustments to the unadjusted basis determined under subparagraph (1) of this paragraph shall, upon the allocation of the bases, be taken as an adjustment to the allocated unadjusted basis. Thus, if \$30 depreciation was allowed upon a \$100 basis determined under subparagraph (1) of this paragraph and if the unadjusted basis upon allocation is \$75, such \$30 depreciation is allowed against such allocated unadjusted basis, so that the adjusted basis of the property is then \$45.

(5) The taxpayer may choose any group of recovered properties for allocation, except that if any such recovered properties form one economic unit, such properties may not be separated but all or none must be included in the group. For example, a building may not be separated from the land on which it stands if both are recovered property, nor may one block of stock in a corporation be separated from other stock in such corporation or from bonds in such corporation which are also treated as a recovery. If the taxpayer has once been permitted to allocate the bases of any group of properties, he may obtain another allocation with respect to such properties only if all the properties in the original group are included together with other recovered properties not included in the original group. For example, if the bases of properties A and B are allocated, a second allocation will be made for properties A, B, and C, but not for A and C or B and C.

(b) *Property recovered in taxable year to which section 1333 is applicable.* If, pursuant to an election made by the taxpayer under section 1335 and paragraph (a) of § 1.1335-1, the provisions of section 1333 are applicable to any taxable year in which the taxpayer recovered property in respect of a war loss under section 127(a) of the Internal Revenue Code of 1939, the unadjusted basis of such property shall be the fair market value of such property determined as of the date of the recovery, reduced by the amount of nonrecognized gain attributable to such recovery under the provisions of paragraph (b) of § 1.1333-1. However, if the property recovered is the same war loss property, and if the taxpayer under section 1333(1) includes such property in the amount of the recovery at its adjusted basis (for determining loss) in his hands on the date such property was considered under section 127(a) of the Internal Revenue Code of 1939 as destroyed or seized, the unadjusted basis of such property shall be such adjusted basis, reduced by the amount of nonrecognized gain attributable to such recovery under the provisions of paragraph (b) of § 1.1333-1. The fair market value of any property recovered, or the adjusted basis for determining loss)

of such property if the same property treated as war loss property is recovered, shall not be reduced in determining the unadjusted basis of such property by the amount of the obligations or liabilities with respect to such property in respect of which the recovery was received, if the taxpayer for any previous taxable year chose under section 127(b)(2) of the Internal Revenue Code of 1939 to treat such obligations or liabilities as discharged or satisfied out of such property but such obligations or liabilities were not so discharged or satisfied prior to the date of the recovery.

[T.D. 6500, 25 FR 12048, Nov. 26, 1960]

§ 1.1337-1 Determination of tax benefits from allowable deductions.

(a) That part of the aggregate of the deductions allowed a taxpayer for any taxable year on account of war losses under section 127(a) of the Internal Revenue Code of 1939 which, if disallowed, would not result in an increase in the normal tax, surtax (including the tax imposed by section 102 of the Internal Revenue Code of 1939), or victory tax of taxpayer, or of any tax imposed in lieu of such taxes or of any tax imposed by chapter 2 of the Internal Revenue Code of 1939, for the taxable year in which such deductions are allowed or in any other taxable year, such as a taxable year in which the taxpayer's income tax is computed by reference to a carryover or carryback of net operating losses from the taxable year in which such deductions are allowed, is considered, for the purposes of section 127(a) of the Internal Revenue Code of 1939 an allowable deduction for the taxable year which did not result in a reduction of any tax of the taxpayer under chapter 1 or 2 of the Internal Revenue Code of 1939. In the case of recoveries of war losses and other items to which the recovery exclusion provisions of section 111 apply, such as bad debts, the determination of the tax benefit should be made in accordance with section 111(b) and the regulations thereunder. The deductions allowed a taxpayer for any taxable year on account of war losses are all the deductions on account of war losses which were claimed by the taxpayer in a return, in a claim for credit or refund