on a share in an open-end investment company before the decedent's death but payable to shareholders of record on a date after his death and the share is quoted ''exdividend'' on the date of the decedent's death, the amount of the dividend is added to the ex-dividend quotation in determining the fair market value of the share as of the date of the decedent's death. As used in this paragraph, the term ''open-end investment company'' includes only a company which on the applicable valuation date was engaged in offering its shares to the public in the capacity of an open-end investment company.

(2) The provisions of this paragraph shall apply with respect to estates of decedents dying after August 16, 1954.

[T.D. 6680, 28 FR 10872, Oct. 10, 1963, as amended by T.D. 7319, 39 FR 26723, July 23, 1974]

§ 20.2031–9 Valuation of other property.

The valuation of any property not specifically described in §§ 20.2031–2 to 20.2031–8 is made in accordance with the general principles set forth in § 20.2031–1. For example, a future interest in property not subject to valuation in accordance with the actuarial principles set forth in § 20.2031–7 is to be valued in accordance with the general principles set forth in § 20.2031–1.

§ 20.2032–1 Alternate valuation.

(a) *In general.* In general, section 2032 provides for the valuation of a decedent's gross estate at a date other than the date of the decedent's death. More specifically, if an executor elects the alternate valuation method under section 2032, the property included in the decedent's gross estate on the date of his death is valued as of whichever of the following dates is applicable:

(1) Any property distributed, sold, exchanged, or otherwise disposed of within 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death is valued as of the date on which it is first distributed, sold, exchanged, or otherwise disposed of;

(2) Any property not distributed, sold, exchanged, or otherwise disposed of within 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death is valued as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after the date of the decedent's death;

(3) Any property, interest, or estate which is affected by mere lapse of time is valued as of the date of the decedent's death, but adjusted for any difference in its value not due to mere lapse of time as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after the decedent's death, or as of the date of its distribution, sale, exchange, or other disposition, whichever date first occurs.

(b) *Method and effect of election*—(1) *In general.* The election to use the alternate valuation method is made on the return of tax imposed by section 2001. For purposes of this paragraph (b), the term *return of tax imposed by section 2001* means the last estate tax return filed by the executor on or before the due date of the return (including extensions of time to file actually granted) or, if a timely return is not filed, the first estate tax return filed by the executor after the due date, provided the return is filed no later than 1 year after the due date (including extensions of time to file actually granted). Once the election is made, it is irrevocable, provided that an election may be revoked on a subsequent return filed on or before the due date of the return (including extensions of time to file actually granted). The election may be made only if it will decrease both the value of the gross estate and the sum (reduced by allowable credits) of the estate tax and the generation-skipping transfer tax payable by reason of the decedent's death with respect to the property includible in the decedent's gross estate. If the election is made, the alternate valuation method applies to all property included in the gross estate and cannot be applied to only a portion of the property.

(2) *Protective election.* If, based on the return of tax as filed, use of the alternate valuation method would not result in a decrease in both the value of the gross estate and the sum (reduced by allowable credits) of the estate tax and the generation-skipping transfer tax liability payable by reason of the decedent's death with respect to the

property includible in the decedent's gross estate, a protective election may be made to use the alternate valuation method if it is subsequently determined that such a decrease would occur. A protective election is made on the return of tax imposed by section 2001. The protective election is irrevocable as of the due date of the return (including extensions of time actually granted). The protective election becomes effective on the date on which it is determined that use of the alternate valuation method would result in a decrease in both the value of the gross estate and in the sum (reduced by allowable credits) of the estate tax and generation-skipping transfer tax liability payable by reason of the decedent's death with respect to the property includible in the decedent's gross estate.

(3) *Requests for extension of time to make the election.* A request for an extension of time to make the election or protective election pursuant to §§ 301.9100–1 and 301.9100–3 of this chapter will not be granted unless the return of tax imposed by section 2001 is filed no later than 1 year after the due date of the return (including extensions of time actually granted).

(c) *Meaning of ''distributed, sold, exchanged, or otherwise disposed of''.* (1) The phrase ''distributed, sold, exchanged, or otherwise disposed of'' comprehends all possible ways by which property ceases to form a part of the gross estate. For example, money on hand at the date of the decedent's death which is thereafter used in the payment of funeral expenses, or which is thereafter invested, falls within the term ''otherwise disposed of.'' The term also includes the surrender of a stock certificate for corporate assets in complete or partial liquidation of a corporation pursuant to section 331. The term does not, however, extend to transactions which are mere changes in form. Thus, it does not include a transfer of assets to a corporation in exchange for its stock in a transaction with respect to which no gain or loss would be recognizable for income tax purposes under section 351. Nor does it include an exchange of stock or securities in a corporation for stock or securities in the same corporation or another corporation in a transaction, such as a merger, recapitalization, reorganization or other transaction described in section 368 (a) or 355, with respect to which no gain or loss is recognizable for income tax purposes under section 354 or 355.

(2) Property may be ''distributed'' either by the executor, or by a trustee of property included in the gross estate under section 2035 through 2038, or section 2041. Property is considered as ''distributed'' upon the first to occur of the following:

(i) The entry of an order or decree of distribution, if the order or decree subsequently becomes final;

(ii) The segregation or separation of the property from the estate or trust so that it becomes unqualifiedly subject to the demand or disposition of the distributee; or

(iii) The actual paying over or delivery of the property to the distributee.

(3) Property may be ''sold, exchanged, or otherwise disposed of'' by:

(i) The executor;

(ii) A trustee or other donee to whom the decedent during his lifetime transferred property included in his gross estate under sections 2035 through 2038, or section 2041;

(iii) An heir or devisee to whom title to property passes directly under local law;

(iv) A surviving joint tenant or tenant by the entirety; or

(v) Any other person.

If a binding contract for the sale, exchange, or other disposition of property is entered into, the property is considered as sold, exchanged, or otherwise disposed of on the effective date of the contract, unless the contract is not subsequently carried out substantially in accordance with its terms. The effective date of a contract is normally the date it is entered into (and not the date it is consummated, or the date legal title to the property passes) unless the contract specifies a different effective date.

(d) *''Included property'' and ''excluded property''.* If the executor elects the alternate valuation method under section 2432, all property interests existing at the date of decedent's death which form a part of his gross estate as determined under sections 2033 through 2044 are valued in accordance with the provisions of this section. Such property interests are referred to in this section as ''included property''. Furthermore, such property interests remain ''included property'' for the purpose of valuing the gross estate under the alternate valuation method even though they change in form during the alternate valuation period by being actually received, or disposed of, in whole or in part, by the estate. On the other hand, property earned or accrued (whether received or not) after the date of the decedent's death and during the alternate valuation period with respect to any property interest existing at the date of the decedent's death, which does not represent a form of ''included property'' itself or the receipt of ''included property'' is excluded in valuing the gross estate under the alternate valuation method. Such property is referred to in this section as ''excluded property''. Illustrations of ''included property'' and ''excluded property'' are contained in the subparagraphs (1) to (4) of this paragraph:

(1) *Interest-bearing obligations.* Interest-bearing obligations, such as bonds or notes, may comprise two elements of ''included property'' at the date of the decedent's death, namely, (i) the principal of the obligation itself, and (ii) interest accrued to the date of death. Each of these elements is to be separately valued as of the applicable valuation date. Interest accrued after the date of death and before the subsequent valuation date constitutes ''excluded property''. However, any part payment or principal made between the date of death and the subsequent valuation date, or any advance payment of interest for a period after the subsequent valuation date made during the alternate valuation period which has the effect of reducing the value of the principal obligation as of the subsequent valuation date, will be included in the gross estate, and valued as of the date of such payment.

(2) *Leased property.* The principles set forth in subparagraph (1) of this paragraph with respect to interest- bearing obligations also apply to leased realty or personalty which is included in the gross estate and with respect to which an obligation to pay rent has been reserved. Both the realty or personalty itself and the rents accrued to the date of death constitute ''included property'', and each is to be separately valued as of the applicable valuation date. Any rent accrued after the date of death and before the subsequent valuation date is ''excluded property''. Similarly, the principle applicable with respect to interest paid in advance is equally applicable with respect to advance payments of rent.

(3) *Noninterest-bearing obligations.* In the case of noninterest-bearing obligations sold at a discount, such as savings bonds, the principal obligation and the discount amortized to the date of death are property interests existing at the date of death and constitute ''included property''. The obligation itself is to be valued at the subsequent valuation date without regard to any further increase in value due to amortized discount. The additional discount amortized after death and during the alternate valuation period is the equivalent of interest accruing during that period and is, therefore, not to be included in the gross estate under the alternate valuation method.

(4) *Stock of a corporation.* Shares of stock in a corporation and dividends declared to stockholders of record on or before the date of the decedent's death and not collected at the date of death constitute ''included property'' of the estate. On the other hand, ordinary dividends out of earnings and profits (whether in cash, shares of the corporation, or other property) declared to stockholders of record after the date of the decedent's death are ''excluded property'' and are not to be valued under the alternate valuation method. If, however, dividends are declared to stockholders of record after the date of the decedent's death with the effect that the shares of stock at the subsequent valuation date do not reasonably represent the same ''included property'' of the gross estate as existed at the date of the decedent's death, the dividends are ''included property'', except to the extent that they are out of earnings of the corporation after the date of the decedent's death. For example, if a corporation makes a distribution in partial liquidation to stockholders of record during the alternate valuation period which is

not accompanied by a surrender of a stock certificate for cancellation, the amount of the distribution received on stock included in the gross estate is itself ''included property'', except to the extent that the distribution was out of earnings and profits since the date of the decedent's death. Similarly, if a corporation, in which the decedent owned a substantial interest and which possessed at the date of the decedent's death accumulated earnings and profits equal to its paid-in capital, distributed all of its accumulated earnings and profits as a cash dividend to shareholders of record during the alternate valuation period, the amount of the dividends received on stock includible in the gross estate will be included in the gross estate under the alternate valuation method. Likewise, a stock dividend distributed under such circumstances is ''included property''.

(e) *Illustrations of ''included property'' and ''excluded property''.* The application of paragraph (d) of this section may be further illustrated by the following example in which it is assumed that the decedent died on January 1, 1955:

Description	Subsequent valuation date	Alternate value	Value at date of death
Bond, par value $1,000, bearing interest at 4 percent payable quarterly on Feb. 1, May 1, Aug. 1, and Nov. 1. Bond distributed to legatee on Mar. 1, 1955.	Mar. 1, 1955	$1,000.00	$1,000.00
Interest coupon of $10 attached to bond and not cashed at date of death although due and payable Nov. 1, 1954. Cashed by executor on Feb. 1, 1955.	Feb. 1, 1955	10.00	10.00
Interest accrued from Nov. 1, 1954, to Jan. 1, 1955, collected on Feb. 1, 1955	Feb. 1, 1955	6.67	6.67
Real estate, not disposed of within year following death. Rent of $300 due at the end of each quarter, Feb. 1, May 1, Aug. 1, and Nov. 1.	Jan. 1, 1956	11,000.00	12,000.00
Rent due for quarter ending Nov. 1, 1954, but not collected until Feb. 1, 1955	Feb. 1, 1955	300.00	300.00
Rent accrued for November and December 1954, collected on Feb. 1, 1955	Feb. 1, 1955	200.00	200.00
Common stock, X Corporation, 500 shares, not disposed of within year following decedent's death.	Jan. 1, 1956	47,500.00	50,000.00
Dividend of $2 per share declared Dec. 10, 1954, and paid on Jan. 10, 1955, to holders of record on Dec. 30, 1954.	Jan. 10, 1955	1,000.00	1,000.00

(f) *Mere lapse of time.* In order to eliminate changes in value due only to mere lapse of time, section 2032(a)(3) provides that any interest or estate ''affected by mere lapse of time'' is included in a decedent's gross estate under the alternate valuation method at its value as of the date of the decedent's death, but with adjustment for any difference in its value as of the subsequent valuation date not due to mere lapse of time. Properties, interests, or estates which are ''affected by mere lapse of time'' include patents, estates for the life of a person other than the decedent, remainders, reversions, and other like properties, interests, or estates. The phrase ''affected by mere lapse of time'' has no reference to obligations for the payment of money, whether or not interest-bearing, the value of which changes with the passing of time. However, such an obligation, like any other property, may become affected by lapse of time when made the subject of a bequest or transfer which itself is creative of an interest or estate so affected. The application of this paragraph is illustrated in subparagraphs (1) and (2) of this paragraph:

(1) [Reserved] Further guidance, see § 20.2032–1T(f)(1).

(2) *Patents.* To illustrate the alternate valuation of a patent, assume that the decedent owned a patent which, on the date of the decedent's death, had an unexpired term of ten years and a value of $78,000. Six months after the date of the decedent's death, the patent was sold, because of lapse of time and other causes, for $60,000. The alternate value thereof would be obtained by dividing $60,000 by 0.95 (ratio of the remaining life of the patent at the alternate date to the remaining life of the patent at the date of the decedent's death), and would, therefore, be $63,157.89.

(g) *Effect of election on deductions.* If the executor elects the alternate valuation method under section 2032, any deduction for administration expenses under section 2053(b) (pertaining to property not subject to claims) or losses under section 2054 (or section

2106(a)(1), relating to estates of nonresidents not citizens) is allowed only to the extent that it is not otherwise in effect allowed in determining the value of the gross estate. Furthermore, the amount of any charitable deduction under section 2055 (or section 2106(a)(2), relating to the estates of nonresidents not citizens) or the amount of any marital deduction under section 2056 is determined by the value of the property with respect to which the deduction is allowed as of the date of the decedent's death, adjusted, however, for any difference in its value as of the date 6 months (1 year, if the decedent died on or before December 31, 1970) after death, or as of the date of its distribution, sale, exchange, or other disposition, whichever first occurs. However, no such adjustment may take into account any difference in value due to lapse of time or to the occurrence or nonoccurrence of a contingency.

(h) *Effective date.* Paragraph (b) of this section is applicable to decedents dying on or after January 4, 2005. However, pursuant to section 7805(b)(7), taxpayers may elect to apply paragraph (b) of this section retroactively if the period of limitations for filing a claim for a credit or refund of Federal estate or generation-skipping transfer tax under section 6511 has not expired.

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 7238, 37 FR 28718, Dec. 29, 1972; T.D. 7955, 49 FR 19995, May 11, 1984; T.D. 8540, 59 FR 30103, June 10, 1994; T.D. 8819, 64 FR 23229, Apr. 30, 1999; T.D. 9172, 70 FR 296, Jan. 4, 2005; 74 FR 27080, June 8, 2009]

§ 20.2032–1T Alternate valuation (temporary).

(a) through (e) [Reserved] For further guidance, see § 20.2032–1(a) through (e).

(f) [Reserved] For further guidance, see § 20.2032–1(f).

(1) *Life estates, remainders, and similar interests.* The values of life estates, remainders, and similar interests are to be obtained by applying the methods prescribed in § 20.2031–7, using (i) the age of each person, the duration of whose life may affect the value of the interest, as of the date of the decedent's death, and (ii) the value of the property as of the alternate valuation date. For example, assume that the decedent, or the decedent's estate, was entitled to receive certain property worth $50,000 upon the death of A, who was entitled to the income for life. At the time of the decedent's death, on or after May 1, 2009, A was 47 years and 5 months old. In the month in which the decedent died, the section 7520 rate was 6.2 percent. The value of the decedent's remainder interest at the date of the decedent's death would, as illustrated in *Example 1* of § 20.2031–7T(d)(5), be $9,336.00 ($50,000 × .18672). If, because of economic conditions, the property declined in value and was worth only $40,000 on the date that was 6 months after the date of the decedent's death, the value of the remainder interest would be $7,468.80 ($40,000 × .18672), even though A would be 48 years old on the alternate valuation date.

(f)(2) through (g) [Reserved] For further guidance, see § 20.2032–1(f)(2) through (g).

(h) *Effective/applicability date.* Paragraph (f)(1) applies on or after May 1, 2009.

(i) *Expiration date.* Paragraph (f)(1) expires on or before May 1, 2012.

[T.D. 9448, 74 FR 21509, May 7, 2009]

§ 20.2032A–3 Material participation requirements for valuation of certain farm and closely-held business real property.

(a) *In general.* Under section 2032A, an executor may, for estate tax purposes, make a special election concerning valuation of qualified real property (as defined in section 2032A(b)) used as a farm for farming purposes or in another trade or business. If this election is made, the property will be valued on the basis of its value for its qualified use in farming or the other trade or business, rather than its fair market value determined on the basis of highest and best use (irrespective of whether its highest and best use is the use in farming or other business). For the special valuation rules of section 2032A to apply, the deceased owner and/or a member of the owner's family (as defined in section 2032A (e) (2)) must materially participate in the operation of the farm or other business. Whether the required material participation occurs is a factual determination, and the types of activities and financial risks which will support such a finding