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Internal Revenue Code Section 1016

Adjustments to basis

(a) General rule.

Proper adjustment in respect of the property shall in all cases be made-

(1) for expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made-

(A) for-

(i) taxes or other carrying charges described in section 266 ; or

(ii) expenditures described in section 173 (relating to circulation expenditures), for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior taxable years; or

(B) for mortality, expense, or other reasonable charges incurred under an annuity or life insurance contract;

(2) in respect of any period since February 28, 1913, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent of the amount-

(A) allowed as deductions in computing taxable income under this subtitle or prior income tax laws, and

(B) resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under this subtitle (other than chapter 2, relating to tax on self-employment income), or prior income, war-profits, or excess-profits tax laws,

but not less than the amount allowable under this subtitle or prior income tax laws. Where no method has been adopted under section 167 (relating to depreciation deduction), the amount allowable shall be determined under the straight line method. Subparagraph (B) of this paragraph shall not apply in respect of any period since February 28, 1913, and before January 1, 1952, unless an election has been made under section 1020 (as in effect before the date of the enactment of the Tax Reform Act of 1976). Where for any taxable year before the taxable year 1932 the depletion allowance was based on discovery value or a percentage of income, then the adjustment for depletion for such year shall be based on the depletion which would have been allowable for such year if computed without reference to discovery value or a percentage of income;

(3) in respect of any period-

(A) before March 1, 1913,

(B) since February 28, 1913, during which such property was held by a person or an organization not subject to income taxation under this chapter or prior income tax laws,

(C) since February 28, 1913, and before January 1, 1958, during which such property was held by a person subject to tax under part I of subchapter L (or the corresponding provisions of prior income tax laws), to the extent that paragraph (2) does not apply, and

(D) since February 28, 1913, during which such property was held by a person subject to tax under part II of subchapter L as in effect prior to its repeal by the Tax Reform Act of 1986 (or the corresponding provisions of prior income tax laws), to the extent that paragraph (2) does not apply,

for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained;

(4) in the case of stock (to the extent not provided for in the foregoing paragraphs) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax-free or were applicable in reduction of basis (not including distributions made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 (40 Stat. 1057), or the Revenue Act of 1921 (42 Stat. 227), out of its earnings or profits which were taxable in accordance with the provisions of section 218 of the Revenue Act of 1918 or 1921);

(5) in the case of any bond (as defined in section 171(d)) the interest on which is wholly exempt from the tax imposed by this subtitle, to the extent of the amortizable bond premium disallowable as a deduction pursuant to section 171(a)(2) , and in the case of any other bond (as defined in section 171(d)) to the extent of the deductions allowable pursuant to section 171(a)(1) (or the amount applied to reduce interest payments under section 171(e)(2)) with respect thereto;

(6) in the case of any municipal bond (as defined in section 75(b)), to the extent provided in section 75(a)(2) ;

(7) in the case of a residence the acquisition of which resulted, under section 1034 (as in effect on the day before the date of enactment [8/5/97] of the Taxpayer Relief Act of 1997), in the nonrecognition of any part of the gain realized on the sale, exchange, or involuntary conversion of another residence, to the extent provided in section 1034(e) (as so in effect);

(8) in the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to section 77 , and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability;

- (9) for amounts allowed as deductions as deferred expenses under section 616(b) (relating to certain expenditures in the development of mines) and resulting in a reduction of the taxpayer's taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years;
- (10) Repealed.
- (11) for deductions to the extent disallowed under section 268 (relating to sale of land with unharvested crops), notwithstanding the provisions of any other paragraph of this subsection ;
- (12) Repealed.
- (13) Repealed.
- (14) for amounts allowed as deductions under section 174 or 174A(c) and resulting in a reduction of the taxpayers' taxes under this subtitle, but not less than the amounts allowable under such section for the taxable year and prior years;
- (15) for deductions to the extent disallowed under section 272 (relating to disposal of coal or domestic iron ore), notwithstanding the provisions of any other paragraph of this subsection ;
- (16) in the case of any evidence of indebtedness referred to in section 811(b) (relating to amortization of premium and accrual of discount in the case of life insurance companies), to the extent of the adjustments required under section 811(b) (or the corresponding provisions of prior income tax laws) for the taxable year and all prior taxable years;
- (17) to the extent provided in section 1367 in the case of stock of, and indebtedness owed to, shareholders of an S corporation;
- (18) to the extent provided in section 961 in the case of stock in controlled foreign corporations (or foreign corporations which were controlled foreign corporations) and of property by reason of which a person is considered as owning such stock;
- (19) to the extent provided in section 50(c) , in the case of expenditures with respect to which a credit has been allowed under section 38 ;
- (20) for amounts allowed as deductions under section 59(e) (relating to optional 10-year writeoff of certain tax preferences);
- (21) to the extent provided in section 1059 (relating to reduction in basis for extraordinary dividends);
- (22) in the case of qualified replacement property the acquisition of which resulted under section 1042 in the nonrecognition of any part of the gain realized on the sale or exchange of any property, to the extent provided in section 1042(d) ,

(23) in the case of property the acquisition of which resulted under section 1043 , 1045 , or 1397B in the nonrecognition of any part of the gain realized on the sale of other property, to the extent provided in section 1043(c) , 1045(b)(3) , or 1397B(b)(4) , as the case may be,

(24) Repealed.

(25) Repealed.

(26) to the extent provided in sections 23(g) and 137(e) ,

(27) Repealed.

(28) in the case of a facility with respect to which a credit was allowed under section 45F , to the extent provided in section 45F(f)(1) ,

(29) in the case of railroad track with respect to which a credit was allowed under section 45G, to the extent provided in section 45G(e)(3) ,

(30) to the extent provided in section 179B(c) ,

(31) to the extent provided in section 179D(e) ,

(32) to the extent provided in section 45L(e) , in the case of amounts with respect to which a credit has been allowed under section 45L ,

(33) to the extent provided in section 25C(g) , in the case of amounts with respect to which a credit has been allowed under section 25C ,

(34) to the extent provided in section 25D(f) , in the case of amounts with respect to which a credit has been allowed under section 25D ,

(35) to the extent provided in section 30B(h)(4) ,

(36) to the extent provided in section 30C(e)(1) ,

(37) to the extent provided in section 30D(f)(1) , and

(38) to the extent provided in subsections (b)(2) and (c) of section 1400Z-2 .

(b) Substituted basis.

Whenever it appears that the basis of property in the hands of the taxpayer is a substituted basis, then the adjustments provided in subsection (a) shall be made after first making in respect of such substituted basis proper adjustments of a similar nature in respect of the period during which the property was held by the transferor, donor, or grantor, or during which the other property was held by the person for whom the basis is to be determined. A similar rule shall be applied in the case of a series of substituted bases.

(c) Increase in basis of property on which additional estate tax is imposed.

(1) Tax imposed with respect to entire interest.

If an additional estate tax is imposed under section 2032A(c)(1) with respect to any interest in property and the qualified heir makes an election under this subsection with respect to the imposition of such tax, the adjusted basis of such interest shall be increased by an amount equal to the excess of-

(A) the fair market value of such interest on the date of the decedent's death (or the alternate valuation date under section 2032, if the executor of the decedent's estate elected the application of such section), over

(B) the value of such interest determined under section 2032A(a).

(2) Partial dispositions.

(A) In general. In the case of any partial disposition for which an election under this subsection is made, the increase in basis under paragraph (1) shall be an amount-

(i) which bears the same ratio to the increase which would be determined under paragraph (1) (without regard to this paragraph) with respect to the entire interest, as

(ii) the amount of the tax imposed under section 2032A(c)(1) with respect to such disposition bears to the adjusted tax difference attributable to the entire interest (as determined under section 2032A(c)(2)(B)).

(B) Partial disposition. For purposes of subparagraph (A), the term "partial disposition" means any disposition or cessation to which subsection (c)(2)(D), (h)(1)(B), or (i)(1)(B) of section 2032A applies.

(3) Time adjustment made.

Any increase in basis under this subsection shall be deemed to have occurred immediately before the disposition or cessation resulting in the imposition of the tax under section 2032A(c)(1).

(4) Special rule in the case of substituted property.

If the tax under section 2032A(c)(1) is imposed with respect to qualified replacement property (as defined in section 2032A(h)(3)(B)) or qualified exchange property (as defined in section 2032A(i)(3)), the increase in basis under paragraph (1) shall be made by reference to the property involuntarily converted or exchanged (as the case may be).

(5) Election.

(A) In general. An election under this subsection shall be made at such time and in such manner as the Secretary shall by regulations prescribe. Such an election, once made, shall be irrevocable.

(B) Interest on recaptured amount. If an election is made under this subsection with respect to any additional estate tax imposed under section 2032A(c)(1), for purposes of section 6601 (relating to interest on underpayments), the last date prescribed for payment of such tax shall be deemed to be the last date prescribed for payment of the tax imposed by section 2001 with respect to the estate of the decedent (as determined for purposes of section 6601).

(d) Reduction in basis of automobile on which gas guzzler tax was imposed.

If-

(1) the taxpayer acquires any automobile with respect to which a tax was imposed by section 4064 , and

(2) the use of such automobile by the taxpayer begins not more than 1 year after the date of the first sale for ultimate use of such automobile,

the basis of such automobile shall be reduced by the amount of the tax imposed by section 4064 with respect to such automobile. In the case of importation, if the date of entry or withdrawal from warehouse for consumption is later than the date of the first sale for ultimate use, such later date shall be substituted for the date of such first sale in the preceding sentence.

(e) Cross reference.

For treatment of separate mineral interests as one property, see section 614 .