

CHAPTER 8014
DEPARTMENT OF REVENUE
INCOME TAX DIVISION
DETERMINATION OF BASIS

8014.0100	ADJUSTMENTS TO BASIS.	8014.1500	SPECIAL RULE FOR ADJUSTMENTS TO BASIS WHERE PROPERTY IS ACQUIRED FROM A DECEDENT PRIOR TO HIS DEATH.
8014.1000	BASIS OF PROPERTY ACQUIRED FROM A DECEDENT.	8014.1600	DEFINITION OF GROSS ESTATE FOR MINNESOTA INHERITANCE TAX PURPOSES.
8014.1100	PROPERTY ACQUIRED FROM A DECEDENT.	8014.2000	BASIS FOR DETERMINING GAIN OR LOSS ON PROPERTY ACQUIRED PRIOR TO JANUARY 1, 1933.
8014.1200	OTHER BASIS RULES.		
8014.1300	UNIFORMITY OF BASIS; ADJUSTMENT TO BASIS.		
8014.1400	GAIN OR LOSS ON LIFE OR REMAINDER INTEREST.		

8014.0100 ADJUSTMENTS TO BASIS.

Subpart 1. **In general.** The cost or other basis shall be properly adjusted for any expenditure, receipt, loss, or other item, properly chargeable to the capital account, including the cost of improvements and betterments made to the property. Carrying charges, such as taxes and interest, are not properly chargeable to the capital account even though they have not been taken as a deduction by the taxpayer and even though they were incurred on unimproved and unproductive real property.

The cost or other basis must also be decreased by the amount of the deductions for exhaustion, wear and tear, obsolescence, amortization, and depletion allowed or allowable under the Minnesota Income Tax Act. Such amount shall not be less than the amount allowable. A taxpayer is not permitted to take advantage in a later year of his prior failure to take any depreciation allowance or of his action in taking an allowance plainly inadequate under the facts known at the time. In addition, if the property was acquired before January 1, 1933, the basis (if other than the fair market value as of January 1, 1933) shall be diminished by the depreciation actually sustained before January 1, 1933. For example, if a taxpayer sells non-income-producing property such as his residence which has not been subject to the depreciation allowance under the Minnesota Income Tax Act, the basis need not be diminished because of the depreciation sustained after January 1, 1933. However, the basis must be diminished for depreciation actually sustained prior to January 1, 1933.

If a person or organization was not subject to taxation under the Minnesota Income Tax Act during some period after December 31, 1932, but subsequently became subject to taxation, such person or organization must adjust the cost or other basis of its property for the exhaustion, wear and tear, obsolescence, amortization, and depletion actually sustained during the period it was not subject to taxation. This requirement applies to all taxable years beginning after December 31, 1954. If such person or organization acquired property prior to January 1, 1933, the basis of such property (if the basis is other than fair market value as of January 1, 1933) must also be adjusted for depreciation, etc., actually sustained during the period beginning on the date of acquisition of the property and ending December 31, 1932.

In the case of the stock of a subsidiary company, the basis thereof must be adjusted for the amount of the subsidiary company's loss for the years in which consolidated returns were made.

Subp. 2. **Period for which adjustments are applicable.** If, in accordance with the provisions of Minnesota Statutes, sections 290.14 and 290.15, the basis used

is the cost of the property, then such basis must be adjusted as provided in Minnesota Statutes, section 290.12, subdivision 2, for the period from the date of purchase (by the taxpayer or otherwise) to the date of sale or other disposition.

However, if the basis used is the fair market value of the property as of a certain date (as provided in Minnesota Statutes, sections 290.14 and 290.15), then such adjustments must be made only from the date for which the fair market value was determined to the date of sale or other disposition.

These rules are applied in the following example: A realizes a gain on disposition of property in 1940 which he acquired by gift from B in 1930. B had paid \$2,000 for the property in January 1925. A, in computing the gain realized, elects to use cost as the basis. Under the provisions of Minnesota Statutes, section 290.15 the amount B paid for the property in 1925 is deemed to be A's cost, and, therefore, such cost must be adjusted as provided in this part from January 1925, to the date of sale. If A had elected or was required under the provisions of Minnesota Statutes, sections 290.14 and 290.15 to use as a basis the fair market value of the property as of January 1, 1933, or other date, then the adjustments are applicable only from such date to the date of sale or other disposition.

Subp. 3. Reduction in basis of new residence. A reduction of the basis of a new residence shall be made, where the purchase of a new residence results, under Minnesota Statutes, section 290.13, in the nonrecognition of any part of the gain realized upon the sale of an old residence. The adjustment to basis shall include a reduction by an amount equal to the amount of the gain which was not recognized upon the sale of the old residence. Such a reduction is not to be made for the purpose of determining the adjusted basis of the new residence as of any time preceding the sale of the old residence. For the purpose of this determination, the amount of the gain not recognized under this part upon the sale of the old residence includes only so much of the gain as is not recognized because of the taxpayer's cost, up to the date of the determination of the adjusted basis, of purchasing the new residence.

For example: On January 1, 1953, the taxpayer buys a new residence for \$10,000. On March 1, 1953, he sells for \$15,000 his old residence which has an adjusted basis to him of \$5,000. During April a wing is constructed on the new house at a cost of \$5,000 and in May he builds a garage at a cost of \$2,000. The basis of the new residence during January and February is the cost of \$10,000. This basis is reduced to \$5,000 on March 1. This reduced basis represents the difference between the cost of \$10,000 and \$5,000 which is the portion of the gain which at this point has been reinvested in the new residence. The adjusted basis during April remains \$5,000, because the additional investment of \$5,000 in the improvement to the new residence offsets the remaining \$5,000 of the gain. The basis during May and the following months is increased to \$7,000 by the investment of \$2,000 in the garage.

Subp. 4. Adjustments where property is acquired by exchange and wash sale transactions. In the case of the sale or other disposition of property acquired in an exchange of the kind specified in Minnesota Statutes, section 290.13, subdivision 1, the adjustments to the basis as provided in Minnesota Statutes, section 290.12, subdivision 2, must be made to the extent to which the taxpayer would be required to make them were he selling or otherwise disposing of the property exchanged in any such transaction.

Subp. 5. Gain realized in cases where property is not sold or disposed of. Even though property is not sold or otherwise disposed of, gain (includible in gross income under Minnesota Statutes, section 290.01, subdivision 20) is realized if the sum of all the amounts received which are required by this part to be applied against the basis of the property exceeds such basis. Such amounts must be included in gross income to the extent that the basis is exceeded in the year received.

Statutory Authority: *MS s 290.52*

8014.1000 BASIS OF PROPERTY ACQUIRED FROM A DECEDENT:

Subpart 1. **General rule.** The purpose of Minnesota Statutes, section 290.14, clause (4) is, in general, to provide a basis for property acquired from a decedent which is equal to the value placed upon such property for purposes of the Minnesota inheritance tax. Accordingly, the general rule is that the basis of property acquired from a decedent is the fair market value of such property at the date of the decedent's death. Property acquired from a decedent includes, principally, property acquired by bequest, devise, or inheritance, and, in the case of decedents dying after December 31, 1956, property required to be included in determining the value of the decedent's gross estate under any provision of the Minnesota Inheritance Tax Act. The general rule governing basis of property acquired from a decedent, as well as other rules prescribed elsewhere in this chapter, shall have no application if the property is sold, exchanged, or otherwise disposed of before the decedent's death by the person who acquired the property from the decedent.

Subp. 2. **Scope and application.** With certain limitations, the general rule described in subpart 1 is applicable to the classes of property described in part 8014.1100.

Subp. 3. **Property to which Minnesota Statutes, section 290.14, clause (4) does not apply.** Minnesota Statutes, section 290.14, clause (4) shall have no application to the following classes of property:

A. property which constitutes a right to receive an item of income in respect of a decedent under Minnesota Statutes, section 290.077; and

B. restricted stock options described in Minnesota Statutes, section 290.078 which the employee has not exercised at death, regardless of the date on which the employee died.

Statutory Authority: MS s 290.52

NOTE: Minnesota Statutes, section 290.078, was repealed by Laws of Minnesota 1965, chapter 677, section 2.

8014.1100 PROPERTY ACQUIRED FROM A DECEDENT.

Subpart 1. **In general.** The following property, except where otherwise indicated, is considered to have been acquired from a decedent and the basis thereof is determined in accordance with the general rule in part 8014.1000:

A. without regard to the date of the decedent's death, property acquired by bequest, devise, or inheritance, or by the decedent's estate from the decedent, whether the property was acquired under the decedent's will or under the law governing the descent and distribution of the property of decedents;

B. without regard to the date of the decedent's death, property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent, with the right reserved to the decedent at all times before his death to revoke the trust;

C. in the case of decedent's property transferred by the decedent during his lifetime in trust to pay the income for life to or on the order or direction of the decedent with the right reserved to the decedent at all times before his death to make any change in the enjoyment thereof through the exercise of a power to alter, amend, or terminate the trust;

D. without regard to the date of the decedent's death, property passing without full and adequate consideration under a general power of appointment exercised by the decedent by will.

Subp. 2. **Property acquired from a decedent dying after December 31, 1956.** In addition to the property described in subpart 1, and except as otherwise provided in subpart 3, in the case of a decedent dying after December 31, 1956, property shall also be considered to have been acquired from the decedent to the extent that both of the following conditions are met:

A. the property was acquired from the decedent by reason of death, form

MINNESOTA RULES 1987

8014.1100 DETERMINATION OF BASIS

7340

of ownership, or other conditions (including property acquired through the exercise or nonexercise of a power of appointment); and

B. the property is includible in the decedent's gross estate for Minnesota inheritance tax purposes because of such acquisition.

The basis of such property in the hands of the person who acquired it from the decedent shall be determined in accordance with the general rule in part 8014.1000. See, however, part 8014.1500 for special adjustments if such property is acquired before the death of the decedent. See also subpart 3 for a description of property not within the scope of this subpart.

Except as provided in subpart 3, this subpart generally includes all property acquired from a decedent, which is includible in the gross estate for Minnesota inheritance tax purposes of the decedent if the decedent died after December 31, 1956. It is not necessary for the application of this subpart that an inheritance tax return be required to be filed for the estate of the decedent or that an inheritance tax be payable. Property acquired prior to the death of a decedent which is includible in the decedent's gross estate, for Minnesota inheritance tax purposes such as property transferred by a decedent in contemplation of death, and property held by a taxpayer and the decedent as joint tenants or as tenants by the entireties is within the scope of this subpart. Also, this subpart includes property acquired through the exercise or nonexercise of a power of appointment where such property is includible in the decedent's gross estate for Minnesota inheritance tax purposes. It does not include property not so included for Minnesota inheritance tax purposes such as property not situated in the state.

Subp. 3. Exceptions. The rules in subpart 2 are not applicable to the following property: annuities described in Minnesota Statutes, section 290.08, subdivision 4.

Statutory Authority: *MS s 290.52*

8014.1200 OTHER BASIS RULES.

Subpart 1. Fair market value. For purposes of this part and part 8014.1000 the value of property as of the date of the decedent's death as appraised for the purpose of the Minnesota inheritance tax shall be deemed to be its fair market value.

Subp. 2. Property acquired from a decedent dying before January 1, 1933. If the decedent died before January 1, 1933, the fair market value on that date is taken in lieu of the fair market value on the date of death, but only to the same extent and for the same purposes as the fair market value on January 1, 1933, is taken under Minnesota Statutes, section 290.15.

Subp. 3. Reinvestments by a fiduciary. The basis of property acquired after the death of the decedent by a fiduciary as an investment is the cost or other basis of such property to the fiduciary, and not the fair market value of such property at the death of the decedent.

For example, the executor of an estate purchases stock of X company at a price of \$100 per share with the proceeds of the sale of property acquired from a decedent. At the date of the decedent's death the fair market value of such stock was \$98 per share. The basis of such stock to the executor or to a legatee, assuming the stock is distributed, is \$100 per share.

Subp. 4. Reinvestments of property transferred during life. Where property is transferred by a decedent during life and the property is sold, exchanged, or otherwise disposed of before the decedent's death by the person who acquired the property from the decedent, the general rule stated in part 8014.1000, subpart 1 shall not apply to such property.

However, in such a case, the basis of any property acquired by such donee in exchange for the original property, or of any property acquired by the donee through reinvesting the proceeds of the sale of the original property, shall be the

fair market value of the property thus acquired at the date of the decedent's death if the property thus acquired is properly included in the decedent's gross estate for Minnesota inheritance tax purposes. These rules also apply to property acquired by the donee in any further exchanges or in further reinvestments.

For example, on January 1, 1956, the decedent made a gift of real property to a trust for the benefit of his children, reserving to himself the power to revoke the trust at will. Prior to the decedent's death the trustee sold the real property and invested the proceeds in stock of the Y company at \$50 per share. At the time of the decedent's death the value of such stock was \$75 per share. The corpus of the trust was required to be included in the decedent's gross estate for Minnesota inheritance tax purposes owing to his reservation of the power of revocation. The basis of the Y company stock following the decedent's death is \$75 per share. Moreover, if the trustee sold the Y company stock before the decedent's death for \$65 a share and reinvested the proceeds in Z company stock which increased in value to \$85 per share at the time of the decedent's death, the basis of the Z company stock following the decedent's death would be \$85 per share.

Statutory Authority: *MS s 290.52*

8014.1300 UNIFORMITY OF BASIS; ADJUSTMENT TO BASIS.

Subpart 1. Uniform basis of property acquired from decedent. The basis of property acquired from a decedent, as determined under Minnesota Statutes, section 290.14, clause (4), is uniform in the hands of every person having possession or enjoyment of the property at any time under the will or other instrument or under the laws of descent and distribution. The principle of uniform basis means that the basis of the property (to which proper adjustments must, of course, be made) will be the same, or uniform, whether the property is possessed or enjoyed by the executor or administrator, the heir, the legatee or devisee, or the trustee or beneficiary of a trust created by a will or an inter vivos trust. In determining the amount allowed or allowable to a taxpayer in computing taxable income as deductions for depreciation or depletion under Minnesota Statutes, section 290.16, subdivision 1, the uniform basis of the property shall at all times be used and adjusted. The sale, exchange, or other disposition by a life tenant or remainderman of his interest in property will, for purposes of this part, have no effect upon the uniform basis of the property in the hands of those who acquired it from the decedent. Thus, gain or loss on sale of trust assets by the trustee will be determined without regard to the prior sale of any interest in the property. Moreover, any adjustment for depreciation shall be made to the uniform basis of the property without regard to such prior sale, exchange, or other disposition.

Subp. 2. Relation back. Under the law governing wills and the distribution of the property of decedents, all titles to property acquired by bequest, devise, or inheritance relate back to the death of the decedent, even though the interest of the person taking the title was, at the date of death of the decedent, legal, equitable, vested, contingent, general, specific, residual, conditional, executory, or otherwise. Accordingly, there is a common acquisition date for all titles to property acquired from a decedent within the meaning of Minnesota Statutes, section 290.14, clause (4), and, for this reason, a common or uniform basis for all such interests. For example, if distribution of personal property left by a decedent is not made until one year after his death, the basis of such property in the hands of the legatee is its fair market value at the time when the decedent died, and not when the legatee actually received the property. If the bequest is of the residue to trustees in trust, and the executors do not distribute the residue to such trustees until five years after the death of the decedent, the basis of each piece of property left by the decedent and thus received, in the hands of the trustees, is its fair market value at the time when the decedent dies. If the bequest is to trustees in trust to pay to A during his lifetime the income of the property

bequeathed, and after his death to distribute such property to the survivors of a class, and upon A's death the property is distributed to the taxpayer as the sole survivor, the basis of such property, in the hands of the taxpayer, is its fair market value at the time when the decedent died. The purpose of Minnesota Statutes, chapter 290, in prescribing a general uniform basis rule for property acquired from a decedent is, on the one hand, to tax the gain, in respect of such property, to him who realizes it (without regard to the circumstance that at the death of the decedent it may have been quite uncertain whether the taxpayer would take or gain anything); and, on the other hand, not to recognize as gain any element of value resulting solely from the circumstance that the possession or enjoyment of the taxpayer was postponed. Such postponement may be, for example, until the administration of the decedent's estate is completed, until the period of the possession or enjoyment of another has terminated, or until an uncertain event has happened. It is the increase or decrease in the value of property reflected in a sale or other disposition which is recognized as the measure of gain or loss.

Subp. 3. Sale or exchange of property acquired from a decedent. The principles stated in subparts 1 and 2 do not apply to property transferred by an executor, administrator, or trustee, to an heir, legatee, devisee, or beneficiary under circumstances such that the transfer constitutes a sale or exchange. In such a case, gain or loss must be recognized by the transferor to the extent required by the income tax laws, and the transferee acquires a basis equal to the fair market value of the property on the date of the transfer. Thus, for example, if the trustee of a trust created by will transfers to a beneficiary, in satisfaction of a specific bequest of \$10,000, securities which had a fair market value of \$9,000 on the date of the decedent's death and \$10,000 on the date of the transfer, the trust realizes a taxable gain of \$1,000 and the basis of the securities in the hands of the beneficiary would be \$10,000. As a further example, if the executor of an estate transfers to a trust property worth \$200,000, which had a fair market value of \$175,000 on the date of the decedent's death, in satisfaction of the decedent's bequest in trust for the benefit of his wife of cash or securities to be selected by the executor in an amount sufficient to utilize the marital deduction under the Internal Revenue Code to the maximum extent authorized by law (after taking into consideration any other property qualifying for the marital deduction), capital gain in the amount of \$25,000 would be realized by the estate and the basis of the property in the hands of the trustees would be \$200,000. If, on the other hand, the decedent bequeathed a fraction of his residuary estate to a trust for the benefit of his wife, which fraction will not change regardless of any fluctuations in value of property in the decedent's estate after his death, no gain or loss would be realized by the estate upon transfer of property to the trust, and the basis of the property in the hands of the trustees would be its fair market value on the date of the decedent's death.

Subp. 4. Multiple interests. Where more than one person has an interest in property acquired from a decedent, the basis of such property shall be determined and adjusted without regard to the multiple interests. The basis for computing gain or loss on the sale of any one of such multiple interests shall be determined under part 8014.1400. Thus, the deductions for depreciation and for depletion allowed or allowable, under Minnesota Statutes, section 290.09, subdivisions 7 and 8, to a legal life tenant as if the life tenant were the absolute owner of the property, constitute an adjustment to the basis of the property not only in the hands of the life tenant, but also in the hands of the remainderman and every other person to whom the same uniform basis is applicable. Similarly, the deductions allowed or allowable under Minnesota Statutes, section 290.09, subdivisions 7 and 8, both to the trustee and to the trust beneficiaries, constitute an adjustment to the basis of the property not only in the hands of the trustee, but also in the hands of the trust beneficiaries and every other person to whom the uniform basis is applicable. Similarly, adjustments in respect of capital expenditures or losses, tax-free distributions, or other distributions applicable in reduc-

MINNESOTA RULES 1987

7343

DETERMINATION OF BASIS 8014.1400

tion of basis, or other items for which the basis is adjustable are made without regard to which one of the persons to whom the same uniform basis is applicable makes the capital expenditures or sustains the capital losses, or to whom the tax-free or other distributions are made, or to whom the deductions are allowed or allowable. See part 8014.1500 for adjustments in respect of property acquired from a decedent prior to his death.

Subp. 5. **Records.** The executor or other legal representative of the decedent, the fiduciary of a trust under a will, the life tenant, and every other person to whom a uniform basis under this section is applicable, shall maintain records showing in detail all deductions, distributions, or other items for which adjustment to basis is required to be made by Minnesota Statutes, sections 290.08, subdivision 20, and 290.12, subdivision 2, and shall furnish to the commissioner such information with respect to those adjustments as he may require.

Statutory Authority: *MS s 290.52*

8014.1400 GAIN OR LOSS ON LIFE OR REMAINDER INTEREST.

Subpart 1. **Sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent.** The gain or loss from a sale or other disposition of a life interest, remainder interest, or other interest in property acquired from a decedent is determined by comparing the amount of the proceeds with the amount of that part of the adjusted uniform basis which is assignable to the interest sold or otherwise disposed of. The adjusted uniform basis is the uniform basis of the entire property adjusted to the time of sale or other disposition of any such interest as required by Minnesota Statutes, sections 290.08, subdivision 20, and 290.12, subdivision 2. The uniform basis is the unadjusted basis of the entire property determined immediately after the decedent's death. The proper measure of gain or loss resulting from a sale or other disposition of an interest in property acquired from a decedent is so much of the increase or decrease in the value of the entire property as is reflected in such sale or other disposition. Hence, in ascertaining the basis of a life interest, remainder interest, or other interest which is sold or otherwise disposed of, the uniform basis rule contemplates that proper adjustments will be made to reflect the change in relative value of the interests on account of the passage of time. Where a remainder interest is subject to a life interest in one person only, the factors set forth in the table which appears in this part shall be used in determining the basis of the life interest or the remainder interest in the property at the time such interest is sold. The basis of the life interest or the remainder interest is computed by multiplying the uniform basis (adjusted to the time of the sale) by the appropriate factor. In the case of the sale of a life interest or a remainder interest, the factor used is the factor which appears in the life interest or the remainder interest column of the table opposite the age (at the time of the sale) of the person at whose death the life interest will terminate.

Age of measuring life	Factor for life interest	Factor for remainder interest
21	0.78203	0.21797
22	.77576	.22424
23	.76930	.23070
24	.76266	.23734
25	.75582	.24418
26	.74880	.25120
27	.74157	.25843
28	.73416	.26584
29	.72653	.27347
30	.71871	.28129
31	.71068	.28932

MINNESOTA RULES 1987

8014.1400 DETERMINATION OF BASIS

7344

32	.70245	.29755
33	.69401	.30599
34	.68536	.31464
35	.67650	.32350
36	.66743	.33257
37	.65815	.34185
38	.64867	.35133
39	.63898	.36102
40	.62908	.37092
41	.61899	.38101
42	.60869	.39131
43	.59820	.40180
44	.58751	.41249
45	.57664	.42336
46	.56559	.43441
47	.55436	.44564
48	.54297	.45703
49	.53141	.46859
50	.51970	.48030
51	.50785	.49215
52	.49587	.50413
53	.48377	.51623
54	.47157	.52843
55	.45926	.54074
56	.44688	.55312
57	.43442	.56558
58	.42191	.57809
59	.40936	.59064
60	.39679	.60321
61	.38422	.61578
62	.37165	.62835
63	.35911	.64089
64	.34663	.65337
65	.33420	.66580
66	.32186	.67814
67	.30962	.69038
68	.29750	.70250
69	.28552	.71448
70	.27370	.72630
71	.26205	.73795
72	.25059	.74941
73	.23934	.76066
74	.22831	.77169
75	.21752	.78248
76	.20698	.79302
77	.19670	.80330
78	.18671	.81329
79	.17700	.82300
80	.16759	.83241

Subp. 2. Computation of interest value in other situations. In cases in which the value of an interest cannot be determined from the above table, for example, cases in which the interest to be valued is dependent upon the continuation or termination of more than one life, or there is a term-certain concurrent with one or more lives, the factor is to be computed upon the basis of the Makehamized mortality table and interest at the rate of 3-1/2 percent a year, compounded annually. This table appears as Table 38 of United States Life Tables and Actuarial Tables 1939-1941, published by the United States Department of Commerce, Bureau of the Census.

Subp. 3. **Application illustrated.** The application of this part may be illustrated by the following example: Improved realty having a fair market value of \$20,000 at the date of the decedent's death on January 1, 1956, is devised to A for life, with remainder over to B. On January 1, 1960, A sells his life interest for \$12,500. During each of the years 1956 to 1959, inclusive, A was allowed a deduction of \$300 for depreciation. Thus, the adjusted uniform basis of the property is \$18,800 (\$20,000 minus \$1,200 depreciation). At the time of the sale, A was 39 years of age. The life factor to be used here is 0.63898. The portion of the uniform basis (adjusted to the time of the sale) assigned to A's life interest is \$12,012.82 ($0.63898 \times \$18,800$). A's gain on the sale is \$487.18 ($\$12,500 - \$12,012.82$).

Statutory Authority: *MS s 290.52*

8014.1500 SPECIAL RULE FOR ADJUSTMENTS TO BASIS WHERE PROPERTY IS ACQUIRED FROM A DECEDENT PRIOR TO HIS DEATH.

Subpart 1. **In general.** The basis of property described in Minnesota Statutes, section 290.14, clause (4) which is acquired from a decedent prior to his death shall be adjusted for depreciation, obsolescence, amortization, and depletion allowed the taxpayer on such property for the period prior to the decedent's death. Thus, in general, the adjusted basis of such property will be its fair market value at the decedent's death, less the amount allowed (determined with regard to Minnesota Statutes, section 290.09, subdivisions 7 and 8) to the taxpayer as deductions for exhaustion, wear and tear, obsolescence, amortization, and depletion for the period held by the taxpayer prior to the decedent's death. The deduction allowed for a taxable year in which the decedent dies shall be an amount properly allocable to that part of the year prior to his death. For a discussion of the basis adjustment required where property is held in trust, see subpart 5.

Subp. 2. **Spousal deductions.** Where property coming within the purview of subpart 1 was held by the decedent and his surviving spouse as tenants by the entirety or as joint tenants with right of survivorship, and joint income tax returns were filed by the decedent and the surviving spouse in which the deductions referred to in subpart 1 were taken, there shall be allocated to the surviving spouse's interest in the property that proportion of the deductions allowed for each period for which the joint returns were filed which her income from the property bears to the total income from the property.

Subp. 3. **Examples.** The application of subparts 1 and 2 may be illustrated by the following examples:

A. The taxpayer acquired income-producing property by gift on January 1, 1956. The property had a fair market value of \$50,000 on the date of the donor's death, January 1, 1958, and was included in his gross estate for Minnesota inheritance tax purposes at that amount for inheritance tax purposes as a transfer in contemplation of death. Depreciation in the amount of \$750 per year was allowable for each of the taxable years 1956 and 1957. However, the taxpayer claimed depreciation in the amount of \$500 for each of these years (resulting in a reduction in his taxes) and his income tax returns were accepted as filed. The adjusted basis of the property as of the date of the decedent's death is \$49,000 (\$50,000, the fair market value at the decedent's death, less \$1,000, the total of the amounts actually allowed as deductions).

B. On July 1, 1956, H purchased for \$30,000 income-producing property which he conveyed to himself and W, his wife, as joint tenants. Each spouse was entitled to one-half of the income therefrom. H died on January 1, 1959, at which time the fair market value of the property was \$40,000. The entire value of the property was included in H's gross estate for Minnesota inheritance tax purposes. H and W filed joint income tax returns for the years 1956 and 1957, and 1958. The total depreciation allowance for the year 1956 was \$500 and for

each of the other years 1957 and 1958 was \$1,000. One-half of the \$2,500 depreciation will be allocated to W. The adjusted basis of the property in W's hands of January 1, 1959, was \$38,750 (\$40,000, value on the date of H's death, less \$1,250, depreciation allocated to W for periods before H's death).

Subp. 4. Multiple interests in property described in Minnesota Statutes, section 290.14, clause (4)(e) and acquired from a decedent prior to his death. Where more than one person has an interest in property described in Minnesota Statutes, section 290.14, clause (4)(e) which was acquired from a decedent before his death, the basis of such property and of each of the several interests therein shall, in general, be determined and adjusted in accordance with the principles contained in parts 8014.1300 and 8014.1400, relating to the uniformity of basis rules. Application of these principles to the determination of basis under Minnesota Statutes, section 290.14, clause (4)(e) is shown below in connection with certain commonly encountered situations involving multiple interests in property acquired from a decedent before his death.

Where property is acquired from a decedent before his death, and the entire property is subsequently included in the decedent's gross estate for Minnesota inheritance tax purposes, the uniform basis of the property, as well as the basis of each of the several interests in the property, shall be determined by taking into account the basis adjustments required by Minnesota Statutes, section 290.14, clause (4) owing to such inclusion of the entire property in the decedent's gross estate for Minnesota inheritance tax purposes.

For example, suppose that the decedent transfers property in trust, with a life estate to A, and the remainder to B or his estate. The transferred property consists of 100 shares of the common stock of X corporation, with a basis of \$10,000 at the time of the transfer. At the time of the decedent's death the value of the stock is \$20,000. The transfer is held to have been made in contemplation of death and the entire value of the trust is included in the decedent's gross estate for Minnesota inheritance tax purposes. Under Minnesota Statutes, section 290.14, clause (4), the uniform basis of the property in the hands of the trustee, the life tenant, and the remainderman, is \$20,000. If immediately prior to the decedent's death, A's share of the uniform basis of \$10,000 was \$6,000, and B's share was \$4,000, then, immediately after the decedent's death, A's share of the uniform basis of \$20,000 is \$12,000, and B's share is \$8,000.

Subp. 5. Adjustments for deductions allowed prior to the decedent's death. As stated in subpart 1, Minnesota Statutes, section 290.14, clause (4)(e) requires a reduction in the uniform basis of property acquired from a decedent before his death for certain deductions allowed in respect of such property during the decedent's lifetime. In general, the amount of the reduction in basis required by Minnesota Statutes, section 290.14, clause (4)(e) shall be the aggregate of the deductions allowed in respect of the property, but shall not include deductions allowed in respect of the property to the decedent himself. In cases where, owing to the operation of the inheritance tax, only a part of the value of the entire property is included in the decedent's gross estate, for Minnesota inheritance tax purposes, the amount of the reduction required by Minnesota Statutes, section 290.14, clause (4)(e) shall be an amount which bears the same relation to the total of all deductions (described in subparts 1, 2, and 3) allowed in respect of the property as the value of the property included in the decedent's gross estate, for Minnesota inheritance tax purposes bears to the value of the entire property.

The application of this paragraph may be illustrated by the following example:

The decedent creates a trust to pay the income to A for life, remainder to B or his estate. The property transferred in trust consists of an apartment building with a basis of \$50,000 at the time of the transfer. The decedent dies two years after the transfer is made and the gift is held to have been made in contemplation of death. Depreciation on the property was allowed in the amount of \$1,000

MINNESOTA RULES 1987

7347

DETERMINATION OF BASIS 8014.2000

annually. At the time of the decedent's death the value of the property is \$58,000. The uniform basis of the property in the hands of the trustee, the life tenant, and the remainderman, immediately after the decedent's death is \$56,000 (\$58,000, fair market value of the property immediately after the decedent's death, reduced by \$2,000, deductions for depreciation allowed prior to the decedent's death).

Statutory Authority: *MS s 290.52*

8014.1600 DEFINITION OF GROSS ESTATE FOR MINNESOTA INHERITANCE TAX PURPOSES.

For the purposes of parts 8014.1000 to 8014.1500 the phrase, "gross estate for Minnesota inheritance tax purposes" means all probate and nonprobate assets of the decedent, which are subject to inheritance tax or would be subject to such tax were it not for exemptions.

Statutory Authority: *MS s 290.52*

8014.2000 BASIS FOR DETERMINING GAIN OR LOSS ON PROPERTY ACQUIRED PRIOR TO JANUARY 1, 1933.

Subpart 1. **Cost; definition and general rule.** In general, "cost" (as defined below) is used as the basis to determine the gain or loss resulting from the sale or other disposition of property acquired prior to January 1, 1933.

A. With respect to property acquired by purchase, "cost" is the total consideration paid for the property.

B. With respect to property acquired by gift, "cost" is deemed to be the basis which would be used if the property were being disposed of by the last preceding owner not acquiring the property by gift. (See 2014 (2).)

C. With respect to property acquired through an inter vivos transfer in trust, "cost" is deemed to be the same as if the property were being disposed of by the grantor. (See 2014 (3).)

D. With respect to property acquired by devise, bequest, or inheritance, or by the estate of a decedent from such decedent, "cost" is the fair market value of the property at the date of the decedent's death, regardless of the time when the taxpayer comes into possession or enjoyment of the property. (See parts 8014.1000 to 8014.1600.)

In all cases where "cost" is used as the basis for determining gain or loss, proper adjustments must be made in accordance with the provisions of Minnesota Statutes, section 290.12 and part 8014.0100, subparts 1 and 2.

For determining gain from the sale or other disposition of property acquired before January 1, 1933, the taxpayer, in lieu of the basis described above, has the option of using the fair market value of the property as of January 1, 1933, where such value can be established. If this basis is used, proper adjustments must be made for the period from January 1, 1933, to the date of the sale. (See Minnesota Statutes, section 290.12 and part 8014.0100, subparts 1 and 2.)

For determining loss from the sale or other disposition of property acquired before January 1, 1933, the taxpayer does not have the option of using the fair market value as of January 1, 1933, as a basis. For determining loss, cost as defined in items A to D must be used.

The following example illustrates the rule:

Cost	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000	\$10,000
January 1, 1933 value	15,000	8,000	15,000	8,000	3,000	15,000
Selling price	20,000	20,000	5,000	5,000	5,000	12,000

MINNESOTA RULES 1987

8014.2000 DETERMINATION OF BASIS

7348

Taxable gain

or loss 5,000 10,000 (5,000) (5,000) (5,000) 0

Subp. 2. Fair market value defined. The "fair market value" of property is the amount which would induce a willing seller to sell and a willing buyer to purchase, both having reasonable knowledge of the facts, and neither being obliged to buy or sell.

The determination of the fair market value of property as of January 1, 1933, or any other basic date, is a question of fact to be established by competent evidence. It has been recognized that men of equally wise judgment will differ widely in their opinion as to the fair market value merely because there may be a considerable divergence of opinion as to its value.

Statutory Authority: *MS s 290.52*

NOTE: Regulations 2014 (2) and 2014 (3) have been repealed.