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**90 DTR G-1**

**Basis**

**Rules on Basis of Interests in CRTs  
On Horizon, Treasury Official Says**



By Diane Freda

The next estate and trust project out of the gate for the Treasury Department will be final rules on basis of interests in charitable remainder trusts under tax code Section 1014, Catherine Hughes, Treasury estate and gift tax attorney-adviser, said.

In proposed rules (REG-154890-03) issued in January, the Internal Revenue Service said that the basis in these cases will be reduced by the portion of the sum of the undistributed amount of net ordinary income described in Section 664(b)(1) and the amount of undistributed net capital gain described in Section 664(b)(2) (12 DTR G-1, 1/17/14).

The IRS and Treasury have become aware of transactions in which sale or other disposition of all interests in a CRT subsequent to the contribution of appreciated assets to and their reinvestment by, the CRT results in the grantor or taxable beneficiary receiving the value of the beneficiary's trust interest while claiming to recognize little or no gain. Some of the transactions have been designated transactions of interest to the government.

The next project after that is likely to be guidance under Section 2801 on the tax imposed on U.S. citizens and residents who receive gifts or bequests from certain expatriates, Hughes told attorneys at the American Bar Association Section of Taxation May meeting in Washington.

**Carryover Basis Rules Released**

Of perhaps less importance to some practitioners were proposed rules (REG-107595-11) released May 8, on carryover basis for decedents who made such an election in 2010, so that references to Section 1022 could be made.

"Even though that was only in effect for a year, people will be holding property whose basis was determined under 1022 for potentially a long time," Hughes said.

"In 2010, some people died and their assets didn't get the step up in basis because they took the 'no estate tax option,'" Beth Kaufman, member with Caplin & Drysdale told Bloomberg BNA May 8.

The code section (now repealed) that denied the fresh basis for 2010 decedents was Section 1022.

Now there are many heirs whose basis wasn't determined under Section 1014 (step up at death), but various provisions in the regulations assume that if a taxpayer inherited assets, they got a fresh basis under that section, she said.

The project was intended to amend every place in the regulations where it referred to basis under Section 1014 in order to make a reference to the fact that basis might be determined under Section 1022 instead.

"This is in many ways a housekeeping project and it clearly only applies to a very limited pool of people, those who inherited assets in 2010 from a decedent who opted out of the estate tax," Kaufman said.

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**For More Information**

Text of the proposed rules is in TaxCore.

**BNA Snapshot**

**What Happened:** Rules will clarify dispositions of CRT interests where beneficiaries receive the trust's interest with no gain.

**What It Means:** Some transactions have been designated transactions of interest.

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