

**[§ 1022. Repealed. Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300]**

Section, added Pub. L. 107-16, title V, §542(a), June 7, 2001, 115 Stat. 76, related to treatment of property acquired from a decedent dying after Dec. 31, 2009.

**PRIOR PROVISIONS**

A prior section 1022, added Pub. L. 88-272, title II, §225(j)(1), Feb. 26, 1964, 78 Stat. 92, dealt with the increase in basis with respect to certain foreign personal holding company stock or securities, prior to repeal by Pub. L. 94-455, title XIX, §1901(a)(126), Oct. 4, 1976, 90 Stat. 1784, applicable with respect to stock or securities acquired from a decedent dying after Oct. 4, 1976.

Another prior section 1022, act Aug. 16, 1954, ch. 736, 68A Stat. 302, relating to cross references, was renumbered section 1023.

**EFFECTIVE DATE OF REPEAL**

Repeal of section applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

**§ 1023. Cross references**

**(1) For certain distributions by a corporation which are applied in reduction of basis of stock, see section 301(c)(2).**

**(2) For basis in case of construction of new vessels, see chapter 533 of title 46, United States Code.**

(Aug. 16, 1954, ch. 736, 68A Stat. 302, §1022; renumbered §1023, Pub. L. 88-272, title II, §225(j)(1), Feb. 26, 1964, 78 Stat. 92; renumbered §1024 and amended Pub. L. 94-455, title XIX, §1901(a)(127), title XX, §2005(a)(2), Oct. 4, 1976, 90 Stat. 1784, 1872; renumbered §1023, Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299; Pub. L. 96-589, §6(i)(4), Dec. 24, 1980, 94 Stat. 3410; Pub. L. 109-304, §17(e)(4), Oct. 6, 2006, 120 Stat. 1708.)

**PRIOR PROVISIONS**

A prior section 1023, added Pub. L. 94-455, title XX, §2005(a)(2), Oct. 4, 1976, 90 Stat. 1872; amended Pub. L. 95-600, title V, §515(3), (4), title VII, §702(c)(2)-(4), (6)-(8), Nov. 6, 1978, 92 Stat. 2884, 2926-2928, related to carryover basis for certain property acquired from a decedent dying after Dec. 31, 1979, prior to repeal by Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299. The repeal was achieved by repealing section 2005(a)(2) of Pub. L. 94-455 and the amendment made thereby, which had enacted prior section 1023.

**AMENDMENTS**

2006—Par. (2). Pub. L. 109-304 substituted “chapter 533 of title 46, United States Code” for “section 511 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1161)”.

1980—Pub. L. 96-589 redesignated par. (3) as (2). Former par. (2), which provided reference to sections 670, 796, and 922 of Title 11, Bankruptcy, for basis of property in case of certain reorganizations and arrangements under the Bankruptcy Act, was struck out.

1976—Par. (4). Pub. L. 94-455, §1901(a)(127), struck out par. (4) which referred to section 405 of the Defense Production Act of 1950 for rules applicable in case of payments in violation of that Act.

**EFFECTIVE DATE OF 1980 AMENDMENT AND REVIVAL OF PRIOR LAW**

Amendment by Pub. L. 96-589 effective Oct. 1, 1979, but not to apply to proceedings under Title 11, Bankruptcy, commenced before Oct. 1, 1979, see section 7(e) of Pub. L. 96-589, set out as an Effective Date of 1980 Amendment note under section 108 of this title.

Pub. L. 96-223, title IV, §401(b), Apr. 2, 1980, 94 Stat. 299, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: “Except to the extent necessary to carry out subsection (d) [set out as a note under section 1014 of this title], the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall be applied and administered as if the provisions repealed by subsection (a), and the amendments made by those provisions [enacting this section and sections 6039A and 6698A of this title, redesignating former section 1023 as section 1024 of this title, and amending sections 306, 691, 1001, 1014, 1016, 1223, and 1246 of this title], had not been enacted.”

Pub. L. 96-223, title IV, §401(e), Apr. 2, 1980, 94 Stat. 301, provided that: “The amendments made by this section [amending sections 306, 691, 1001, 1014, 1016, 1040, 1223, 1246, and 2614 of this title, repealing former section 1023 and sections 6039A and 6698A of this title, redesignating former section 1024 of this title as 1023, and enacting provisions set out as notes under this section and section 1014 of this title] shall apply in respect of decedents dying after December 31, 1976.”

**EFFECTIVE DATE OF 1976 AMENDMENT**

Amendment by section 1901(a)(127) of Pub. L. 94-455 applicable with respect to taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

**REPEALS**

Pub. L. 94-455, §1901(a)(127), cited as a credit to this section, which renumbered this section as section 1024 of this title, was repealed by Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299, resulting in the redesignation of this section as section 1023 of this title. See Effective Date of 1980 Amendments and Revival of Prior Law note set out above.

**[§ 1024. Renumbered § 1023]**

**PART III—COMMON NONTAXABLE EXCHANGES**

Sec.	
1031.	Exchange of real property held for productive use or investment.
1032.	Exchange of stock for property.
1033.	Involuntary conversions.
[1034.]	Repealed.]
1035.	Certain exchanges of insurance policies.
1036.	Stock for stock of same corporation.
1037.	Certain exchanges of United States obligations.
1038.	Certain reacquisitions of real property.
[1039.]	Repealed.]
1040.	Transfer of certain farm, etc., real property.
1041.	Transfers of property between spouses or incident to divorce.
1042.	Sales of stock to employee stock ownership plans or certain cooperatives.
1043.	Sale of property to comply with conflict-of-interest requirements.
[1044.]	Repealed.]
1045.	Rollover of gain from qualified small business stock to another qualified small business stock.

**AMENDMENTS**

2017—Pub. L. 115-97, title I, §§13303(b)(6), 13313(a), Dec. 22, 2017, 131 Stat. 2124, 2133, substituted “Exchange of real property held for productive use or investment” for “Exchange of property held for productive use or investment” in item 1031 and struck out item 1044 “Roll-over of publicly traded securities gain into specialized small business investment companies”.

2010—Pub. L. 111-312, title III, §301(a), Dec. 17, 2010, 124 Stat. 3300, amended analysis to read as if amendment by Pub. L. 107-16, §542(d)(2), had never been enacted. See 2001 Amendment note below.

2001—Pub. L. 107-16, title V, §542(d)(2), June 7, 2001, 115 Stat. 84, substituted “Use of appreciated carryover basis property to satisfy pecuniary bequest” for “Transfer of certain farm, etc., real property” in item 1040.

1997—Pub. L. 105-34, title III, §§312(d)(15), 313(b)(3), Aug. 5, 1997, 111 Stat. 841, 842, struck out item 1034 “Rollover of gain on sale of principal residence” and added item 1045.

1993—Pub. L. 103-66, title XIII, §13114(c), Aug. 10, 1993, 107 Stat. 431, added item 1044.

1990—Pub. L. 101-508, title XI, §11801(b)(8), Nov. 5, 1990, 104 Stat. 1388-522, struck out item 1039 “Certain sales of low-income housing projects”.

1989—Pub. L. 101-194, title V, §502(b)(3), Nov. 30, 1989, 103 Stat. 1755, added item 1043.

1986—Pub. L. 99-514, title XVIII, §1854(a)(12), Oct. 22, 1986, 100 Stat. 2878, substituted “employee stock ownership plans or certain cooperatives” for “employees” in item 1042.

1984—Pub. L. 98-369, div. A, title IV, §421(c), title V, §541(b)(3), July 18, 1984, 98 Stat. 794, 890, added items 1041 and 1042.

1981—Pub. L. 97-34, title IV, §421(j)(2)(C), Aug. 13, 1981, 95 Stat. 312, substituted “Transfer of certain farm, etc., real property” for “Use of farm, etc., real property to satisfy pecuniary bequest” in item 1040.

1980—Pub. L. 96-223, title IV, §401(a), (c)(2)(B), Apr. 2, 1980, 94 Stat. 299, 300, amended item 1040 generally and repealed Pub. L. 94-455, §2005(e)(1), and the amendment made thereby. See 1976 Amendment note below.

1978—Pub. L. 95-600, title IV, §405(c)(2), Nov. 6, 1978, 92 Stat. 2871, substituted “Rollover of gain on sale of principal residence” for “Sale or exchange of residence” in item 1034.

1976—Pub. L. 94-455, title XX, §2005(e)(2), Oct. 4, 1976, 90 Stat. 1878, which added item 1040, was repealed by Pub. L. 96-223, §401(a). See section 401(b), (e) of Pub. L. 96-223, set out as an Effective Date of 1980 Amendments and Revival of Prior Law note under section 1023 of this title.

1969—Pub. L. 91-172, title IX, §910(c), Dec. 30, 1969, 83 Stat. 722, added item 1039.

1964—Pub. L. 88-570, §2(b), Sept. 2, 1964, 78 Stat. 856, added item 1038.

1959—Pub. L. 86-346, title II, §201(b), Sept. 22, 1959, 73 Stat. 623, added item 1037.

### **§ 1031. Exchange of real property held for productive use or investment**

#### **(a) Nonrecognition of gain or loss from exchanges solely in kind**

##### **(1) In general**

No gain or loss shall be recognized on the exchange of real property held for productive use in a trade or business or for investment if such real property is exchanged solely for real property of like kind which is to be held either for productive use in a trade or business or for investment.

##### **(2) Exception for real property held for sale**

This subsection shall not apply to any exchange of real property held primarily for sale.

##### **(3) Requirement that property be identified and that exchange be completed not more than 180 days after transfer of exchanged property**

For purposes of this subsection, any property received by the taxpayer shall be treated as property which is not like-kind property if—

(A) such property is not identified as property to be received in the exchange on or be-

fore the day which is 45 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

(B) such property is received after the earlier of—

(i) the day which is 180 days after the date on which the taxpayer transfers the property relinquished in the exchange, or

(ii) the due date (determined with regard to extension) for the transferor's return of the tax imposed by this chapter for the taxable year in which the transfer of the relinquished property occurs.

#### **(b) Gain from exchanges not solely in kind**

If an exchange would be within the provisions of subsection (a), of section 1035(a), of section 1036(a), or of section 1037(a), if it were not for the fact that the property received in exchange consists not only of property permitted by such provisions to be received without the recognition of gain, but also of other property or money, then the gain, if any, to the recipient shall be recognized, but in an amount not in excess of the sum of such money and the fair market value of such other property.

#### **(c) Loss from exchanges not solely in kind**

If an exchange would be within the provisions of subsection (a), of section 1035(a), of section 1036(a), or of section 1037(a), if it were not for the fact that the property received in exchange consists not only of property permitted by such provisions to be received without the recognition of gain or loss, but also of other property or money, then no loss from the exchange shall be recognized.

#### **(d) Basis**

If property was acquired on an exchange described in this section, section 1035(a), section 1036(a), or section 1037(a), then the basis shall be the same as that of the property exchanged, decreased in the amount of any money received by the taxpayer and increased in the amount of gain or decreased in the amount of loss to the taxpayer that was recognized on such exchange. If the property so acquired consisted in part of the type of property permitted by this section, section 1035(a), section 1036(a), or section 1037(a), to be received without the recognition of gain or loss, and in part of other property, the basis provided in this subsection shall be allocated between the properties (other than money) received, and for the purpose of the allocation there shall be assigned to such other property an amount equivalent to its fair market value at the date of the exchange. For purposes of this section, section 1035(a), and section 1036(a), where as part of the consideration to the taxpayer another party to the exchange assumed (as determined under section 357(d)) a liability of the taxpayer, such assumption shall be considered as money received by the taxpayer on the exchange.

#### **(e) Application to certain partnerships**

For purposes of this section, an interest in a partnership which has in effect a valid election under section 761(a) to be excluded from the application of all of subchapter K shall be treated as an interest in each of the assets of such partnership and not as an interest in a partnership.