

810-3-6-.04 Basis of Property Acquired by Gift or Transfer in Trust.

(1) **Property Acquired After December 31, 1997.** The basis of property acquired by gift or by a transfer in trust shall be determined according to 26 U.S.C. §1015. For interpretation of federal statutes adopted by the Alabama Legislature see Rule 810-3-1.1-.01, Operating Rules.

(2) **Property Acquired After March 14, 1985, but before January 1, 1998.** The basis shall be the same as the basis would be in the hands of the donor or the last preceding owner from whom the property was not acquired by gift; except that if such basis is greater than the fair market value of the property then for the purpose of determining the amount of loss the basis shall be the fair market value.

(a) **Donor's Basis Unknown.** If the basis of the property acquired by gift or transfer in trust after March 14, 1985, is unknown to the donee, the Department will attempt to obtain such facts as to determine the basis in the hands of the donor or the last owner who did not receive the property by gift or a transfer in trust. If the Department is unable to obtain such facts, the basis of the property will be determined, according to the best information available to the Department, to be the fair market value of the property at the time acquired by the donor or last preceding owner.

(b) **Transfer in Trust Other Than Gift, Bequest, or Devise.** If the property was acquired by a transfer in trust, other than a transfer in trust by a gift, bequest or devise, the basis shall be the same as in the hands of the grantor, increased by the amount of gain (or decreased by the amount of loss) recognized by the grantor on such transfer of the property.

(3) **Property acquired after December 31, 1932, but prior to March 15, 1985.** The basis shall be the fair market value of the property at the date of acquisition.

(4) **Property acquired prior to January 1, 1933.** The basis shall be the fair market value at the close of December 31, 1932.

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Authority: §§ 40-2A-7(a)(5) and 40-18-6, Code of Alabama 1975.

History: New rule filed April 28, 1999, effective June 2, 1999.