

# Basis of Inherited Property

(Non-contributing Non-spouse Survivor of a Joint Tenancy)

# Technical Analysis

- [TR 20.2040-1\(a\)\(2\)](#) provides that if a decedent furnished the entire consideration for a property held as a joint tenancy, the entire fair market value of the property is included in his/her taxable estate upon death.

## Example:

- Dad purchased Whiteacre (his primary residence) in 2010 for \$200K. In 2015, he adds his son, Junior, to the deed to Whiteacre as a joint tenant with rights of survivorship. Under local law, Junior now owns an undivided 50% interest in Whiteacre. In 2020, Dad dies at a time when Whiteacre is worth \$400K. Dad's taxable estate includes \$400K, the full fair market value of Whiteacre upon his death.
- See also [Section 2040\(a\)](#).

# Technical Analysis (Continued)

- [Section 1015](#) generally provides that a donee receives the basis that the donor had in the transferred property in situations where the gifted property has not declined in value. Example:
  - Dad purchased Whiteacre (his primary residence) in 2010 for \$200K. In 2015, he adds his son, Junior, to the deed to Whiteacre as a joint tenant with rights of survivorship. Under local law, Junior now owns an undivided 50% interest in Whiteacre. Whiteacre has not declined in value between 2010 and the transfer to Junior. Junior takes a \$100K basis in his interest in Whiteacre.

# Technical Analysis (Continued)

- [Section 1014\(b\)\(9\)](#) overrides Section 1015 upon the donor's death, changing the donee's basis in the portion of the joint tenancy received as a gift during the donor's lifetime. It provides that, upon the donor's death, the donee gets a basis determined by the fair market value of the property **which the donor was required to include in his/her taxable estate (see TR 20.2040-1(a)(2))**. Example:
  - Dad purchased Whiteacre (his primary residence) in 2010 for \$200K. In 2015, he adds his son, Junior, to the deed to Whiteacre as a joint tenant with rights of survivorship. Under local law, Junior now owns an undivided 50% interest in Whiteacre. Dad dies in 2020 when Whiteacre is worth \$400K. Junior's basis in Whiteacre upon Dad's death is determined as follows:
    - \$200K in the half he inherits from Dad (see Section 1014(a)(1)), plus
    - \$200K in the half he already owns. Dad was required to include that half (\$200K) under TR 20.2040-1(a)(2)) in his taxable estate. Thus, under Section 1014(b)(9), Junior gets a \$200K basis in that half as well.

# Technical Analysis (Continued)

- [IRS Publication 551](#) (revised December 2018) provides a detailed example of how the rule of Section 1014(b)(9) works on page 10.
- Stewart W. Fleisher wrote an [article](#) detailing how basis is stepped-up after the death of the contributing joint tenant.
  - He wrote *“If mom deeds her home into joint tenancy with her daughter, there will only be a step up in basis on mom's one-half.’ Not true. The inclusion rule for non-spouses considers contribution. Assuming daughter did not contribute to the acquisition of the home, there is 100% inclusion on mom's death, and thus 100% step up in basis.”*