

§ 1.1071-3

26 CFR Ch. I (4-1-02 Edition)

exchanged. Securities of such a corporation other than stock, or securities of a corporation not operating a radio broadcasting station, do not constitute property similar or related in service or use to the property sold or exchanged. If the taxpayer exercises the election referred to in paragraph (a)(1)(i) of this section, the gain realized upon such sale or exchange shall be recognized to the extent of that part of the money received upon the sale or exchange which is not expended in the manner prescribed in section 1033 and the regulations thereunder. If, however, the taxpayer exercises the elections referred to in paragraph (a)(1)(ii) of this section, the amount of the gain which would be recognized, determined in the same manner as in the case of an election under paragraph (a)(1)(i) of this section, shall not be recognized but shall be applied to reduce the basis of property, remaining in the hands of the taxpayer after such sale or exchange or acquired by him during the same taxable year, which is of a character subject to the allowance for depreciation under section 167. Such reduction of basis shall be made in accordance with and under the conditions prescribed by § 1.1071-3.

(2) In the application of section 1033 to determine the recognized gain and the basis of property acquired as a result of a sale or exchange pursuant to an election under paragraph (a)(1)(i) or (ii) of this section, the entire amount of the proceeds of such sale or exchange shall be taken into account.

(c) *Example.* The application of the provisions of section 1071 may be illustrated by the following example:

Example: A, who makes his return on a calendar year basis, sold in 1954, for \$100,000 cash, stock of X Corporation, which operates a radio broadcasting station. A's basis of this stock was \$75,000. The sale was certified by the Federal Communications Commission as provided in section 1071. Soon after, in the same taxable year, A used \$50,000 of the proceeds of the sale to purchase stock in Y Corporation, which operates a radio broadcasting station. A elected in his 1954 return to treat such sale and purchase as an involuntary conversion subject to the provisions of section 1033. He also elected at the same time to reduce the basis of depreciable property by the amount of the gain that otherwise would be recognized under the provisions of section 1033, as made applicable by

section 1071. The sale results in a recognized gain of \$25,000 under section 1033. However, this gain is not recognized in this case because the taxpayer elected to reduce the basis of other property by the amount of the gain. This may be shown as follows:

(1) Sale price of X Corporation stock ..	\$100,000
Basis for gain or loss	75,000
	25,000
Gain realized	25,000
Proceeds of sale	100,000
Amount expended to replace property sold	50,000
	50,000
Amount not expended in manner prescribed in section 1033	50,000
Realized gain, recognized under section 1033 (not to exceed the unexpended portion of proceeds of sale)	25,000
Less: Amount applied as a reduction of basis of depreciable property	25,000
	None
Recognized gain for tax purposes	None

(2) The basis of Y Corporation stock in the hands of A is \$50,000, computed in accordance with section 1033 and the regulations prescribed under that section. The \$50,000 basis is computed as follows:

Basis of property sold (converted)	\$75,000
Less: Amount of proceeds not expended	50,000
	25,000
Balance	25,000
Plus amount of gain recognized under section 1033	25,000
	50,000
Basis of Y Corporation stock in A's hands	50,000

§ 1.1071-3 Reduction of basis of property pursuant to election under section 1071.

(a) *General rule.* (1) In addition to the adjustments provided in section 1016 and other applicable provisions of chapter 1 of the Code which adjustments are required to be made with respect to the cost or other basis of property, a further adjustment shall be made in the amount of the unrecognized gain under section 1071, if the taxpayer so elects. Such further adjustment shall be made only with respect to the cost or other basis of property which is of a character subject to the allowance for depreciation under section 167 (whether or not used in connection with a broadcasting business), and which remains in the hands of the taxpayer immediately after the sale or exchange in respect of which the election is made, or which is acquired by the taxpayer in the same taxable year in which such sale or exchange occurs. If the property is in the hands of the

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taxpayer immediately after the sale or exchange, the time of reduction of the basis is the date of the sale or exchange; in all other cases the time of reduction of the basis is the date of acquisition.

(2) The reduction of basis under section 1071 in the amount of the unrecognized gain shall be made in respect of the cost or other basis, as of the time prescribed, of all units of property of the specified character. The cost or other basis of each unit shall be decreased in an amount equal to such proportion of the unrecognized gain as the adjusted basis (for determining gain, determined without regard to this section) of such unit bears to the aggregate of such adjusted bases of all units of such property, but the amount of the decrease shall not be more than the amount of such adjusted basis. If in the application of such rule the adjusted basis of any unit is reduced to zero, the process shall be repeated to reduce the adjusted basis of the remaining units of property by the portion of the unrecognized gain which is not absorbed in the first application of the rule. For such purpose the *adjusted basis* of the remaining units shall be the adjusted basis for determining gain reduced by the amount of the adjustment previously made under this section. The process shall be repeated until the entire amount of the unrecognized gain has been absorbed.

(3) The application of the provisions of this section may be illustrated by the following example:

Example: Using the facts given in the example set forth in §1.1071-2(c), except that the taxpayer elects to reduce the basis of depreciable property in accordance with paragraph (a)(1)(iii) of §1.1071-2, the computation may be illustrated as follows:

Sale price of X Corporation stock	\$100,000
Basis for gain or loss	75,000
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Realized gain (recognized except for the election under § 1.1071-1)	\$25,000
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Adjusted basis of other depreciable property in hands of A immediately after sale:	
Building	80,000
Transmitter	16,000
Fixtures	4,000
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Total	100,000

Computation of reduction:	
Building (80,000/100,000)×\$25,000 (gain)	20,000
Transmitter (16,000/100,000)×\$25,000	4,000
Fixtures (4,000/100,000)×\$25,000 ...	1,000
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Total reduction	25,000
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New basis of assets:	
Building (\$80,000 minus \$20,000) ...	60,000
Transmitter (\$16,000 minus \$4,000)	12,000
Fixtures (\$4,000 minus \$1,000)	3,000
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Total adjusted basis after reduction under section 1071	75,000
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Realized gain upon sale of X Corporation stock	25,000
Less: Amount applied as a reduction to basis of depreciable property	25,000
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Recognized gain for tax purposes	None

(b) *Special cases.* With the consent of the Commissioner, the taxpayer may, however, have the basis of the various units of property of the class specified in section 1071 and this section adjusted in a manner different from the general rule set forth in paragraph (a) of this section. Variations from such general rule may, for example, involve adjusting the basis of only certain units of such property. The request for variations from such general rule should be filed by the taxpayer with his return for the taxable year in which he elects to have the basis of property reduced under section 1071. Agreement between the taxpayer and the Commissioner as to any variations from such general rule shall be effective only if incorporated in a closing agreement entered into under the provisions of section 7121.

§ 1.1071-4 Manner of election.

(a) An election under the provisions of section 1071 shall be in the form of a written statement and shall be executed and filed in duplicate. Such statement shall be signed by the taxpayer or his authorized representative. In the case of a corporation, the statement shall be signed with the corporate name, followed by the signature and title of an officer of the corporation empowered to sign for the corporation, and the corporate seal must be affixed. An election under section 1071 to reduce the basis of property and an election under such section to treat the