

(iii) *Death resulting from common accidents.* The mortality component prescribed under section 7520 may not be used to determine the present value of an annuity, income interest, remainder interest, or reversionary interest if the decedent, and the individual who is the measuring life, die as a result of a common accident or other occurrence.

(4) *Examples.* The provisions of paragraph (b)(3) of this section are illustrated by the following examples:

Example 1. Terminal illness. The decedent bequeaths \$1,000,000 to a trust under the terms of which the trustee is to pay \$103,000 per year to a charitable organization during the life of the decedent's child. Upon the death of the child, the remainder in the trust is to be distributed to the decedent's grandchild. The child, who is age 60, has been diagnosed with an incurable illness, and there is at least a 50 percent probability of the child dying within 1 year. Assuming the presumption provided for in paragraph (b)(3)(i) of this section does not apply, the

standard life annuity factor for a person age 60 may not be used to determine the present value of the charitable organization's annuity interest because there is at least a 50 percent probability that the child, who is the measuring life, will die within 1 year. Instead, a special section 7520 annuity factor must be computed that takes into account the projection of the child's actual life expectancy.

Example 2. Deaths resulting from common accidents, etc. The decedent's will establishes a trust to pay income to the decedent's surviving spouse for life. The will provides that, upon the spouse's death or, if the spouse fails to survive the decedent, upon the decedent's death the trust property is to pass to the decedent's children. The decedent and the decedent's spouse die simultaneously in an accident under circumstances in which it was impossible to determine who survived the other. Even if the terms of the will and applicable state law presume that the decedent died first with the result that the property interest is considered to have passed in trust for the benefit of the spouse for life, after which the remainder is to be distributed to the decedent's children,

the spouse's life income interest may not be valued by use of the mortality component described under section 7520. The result would be the same even if it was established that the spouse survived the decedent.

(5) *Additional limitations.* Section 7520 does not apply to the extent as may otherwise be provided by the Commissioner.

(c) * * * The provisions of paragraph (b) of this section are effective with respect to estates of decedents dying after December 13, 1995.

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Par. 5. The authority citation for part 25 continues to read in part as follows:

Authority: 26 U.S.C. 7805 * * *.

Par. 6. In the list below, for each section indicated in the left column, remove the language in the middle column and add the language in the right column:

Section	Remove	Add
25.2522(c)-3(c)(2)(i) 6th sentence	(e)(2) (ii), (iii), and (iv)	(c)(2) (ii), (iii), and (iv).
25.2522(c)-3(c)(2) (vi)(a) 2nd sentence	Subdivision (v)	Paragraph (c)(2)(vi).
25.2522(c)-3(c)(2) (vii)(a) 2nd sentence	Subdivision (vi)	Paragraph (c)(2)(vii).
25.2522(c)-3(d)(2) introductory text	Subdivision (iv), (v), or (vi) of paragraph (c)(2) ..	Paragraph (c)(2) (v), (vi), or (vii).
25.2522(c)-3(d)(2) (iv) 1st sentence	Paragraph (c)(2)(v)	Paragraph (c)(2)(vi).
25.2522(c)-3(d)(2)(iv), <i>Example (1)</i> 1st sentence.	Paragraph (c)(2)(v)	Paragraph (c)(2)(vi).
25.2522(c)-3(d)(2)(iv), <i>Example (2)</i> 1st sentence.	Paragraph (c)(2)(v)	Paragraph (c)(2)(vi).
25.2522(c)-3(d)(2)(iv), <i>Example (3)</i> 1st sentence (each place it appears).	Paragraph (c)(2)(v)	Paragraph (c)(2)(vi).
25.2522(c)-3(d)(2)(iv), <i>Example (4)</i> last sentence.	Paragraph (c)(2)(v)(e)	Paragraph (c)(2)(vi)(e)
25.2522(c)-3(d)(2)(v)	Paragraph (c)(2)(vi)	Paragraph (c)(2)(vii).

Par. 7. Section 25.7520-3 is amended by revising paragraph (b) and adding a sentence at the end of paragraph (c) to read as follows:

§ 25.7520-3 Limitation on the application of section 7520.

* * * * *

(b) *Other limitations on the application of section 7520—(1) In general—(i) Ordinary beneficial interests.* For purposes of this section:

(A) An *ordinary annuity interest* is the right to receive a fixed dollar amount at the end of each year during one or more measuring lives or for some other defined period. A standard section 7520 annuity factor for an ordinary annuity interest represents the present worth of the right to receive \$1.00 per year for a defined period, using the interest rate prescribed under section 7520 for the appropriate month. If an annuity interest is payable more often than annually or is payable at the beginning of each period, a special adjustment

must be made in any computation with a standard section 7520 annuity factor.

(B) An *ordinary income interest* is the right to receive the income from or the use of property during one or more measuring lives or for some other defined period. A standard section 7520 income factor for an ordinary income interest represents the present worth of the right to receive the use of \$1.00 for a defined period, using the interest rate prescribed under section 7520 for the appropriate month. However, in the case of certain gifts made after October 8, 1990, if the donor does not retain a qualified annuity, unitrust, or reversionary interest, the value of any interest retained by the donor is considered to be zero if the remainder beneficiary is a member of the donor's family. See § 25.2702-2.

(C) An *ordinary remainder or reversionary interest* is the right to receive an interest in property at the end of one or more measuring lives or some

other defined period. A standard section 7520 remainder factor for an ordinary remainder or reversionary interest represents the present worth of the right to receive \$1.00 at the end of a defined period, using the interest rate prescribed under section 7520 for the appropriate month.

(ii) *Certain restricted beneficial interests.* A *restricted beneficial interest* is an annuity, income, remainder, or reversionary interest that is subject to any contingency, power, or other restriction, whether the restriction is provided for by the terms of the trust, will, or other governing instrument or is caused by other circumstances. In general, a standard section 7520 annuity, income, or remainder factor may not be used to value a restricted beneficial interest. However, a special section 7520 annuity, income, or remainder factor may be used to value a restricted beneficial interest under some circumstances. See paragraphs