

**701—86.11 (450) Valuation—special problem areas.**

**86.11(1) Valuation of life estate and remainder interests—in general.** Life or term estates and remainders in property cannot be valued separately for inheritance tax purposes without reference to the value of the property in which the life or term estate and remainder exists. The first valuation step is to determine the value of the property as a whole. This rule applies equally to fair market value in the ordinary course of trade, whether it be valued at death or on the alternate valuation date six months after death, or at its special use value under Iowa Code chapter 450B. The second step is to apply the life estate-remainder or term tables in rule 701—86.7(450) to the whole value of the property in which the life estate-remainder or term exists. Iowa Code section 450.51 requires that value of annuities, life or term, deferred or future estates in property be computed on the basis that the use of the property is worth a return of 4 percent per year. The life estate-remainder tables in rule 701—86.7(450) make no distinction between the life expectancy of males and females. See *City of Los Angeles v. Manhart*, 435 U.S. 702, 98 S.Ct. 1370, 55 L.Ed. 657 (1978) and *Arizona Governing Committee for Tax Deferred Annuity and Deferred Compensation Plans v. Norris*, 51 U.S. Law Week 5243, 77 L.Ed.2d 1238 (1983) for the requirement that retirement annuities must not discriminate on the basis of sex. However, the actual life expectancy of the particular person receiving the life estate is not relevant in determining the value of the life estate for inheritance tax purposes. *In re Estate of Evans*, 255 N.W.2d 99 (Iowa 1977), appeal dismissed, 434 U.S. 805, 98 S.Ct. 34, 54 L.Ed.2d 62.

**86.11(2) Single life estate and remainder.** The value of a single life estate and remainder in property is computed by first determining the value of the property as a whole. The life estate is then computed by multiplying the value of the property as a whole by the life estate factor in rule 701—86.7(450) for the age of the life tenant. The value of property remaining after the value of the life estate is subtracted is the value of the remainder interest in the property.

The computation of the value of a single life estate and remainder in property is illustrated by the following:

EXAMPLE: Decedent A, by will, devised to surviving spouse B, aged 68, a life estate in a 160-acre farm, with the remainder at B's death to niece C. Special use value and the alternate value were not elected. The 160-acre farm at the time of the decedent's death had a fair market value of \$2,000 per acre, or \$320,000.

COMPUTATION OF B's LIFE ESTATE: The life estate factor for a life tenant aged 68 under 701—86.7(450) is .43306; that is, the use of the \$320,000 for life at the statutory rate of return of 4 percent is worth 43.306 percent of the value of the farm. Niece C's remainder factor is .56694. The life estate-remainder factors when combined equal 100 percent of the value of the property. It is the age of the life tenant which governs the value of the remainder. The age of the person receiving the remainder is not relevant.

<u>Value of B's Life Estate</u>	$\$320,000 \times .43306 =$	\$138,579.20
<u>Value of C's Remainder</u>	$\$320,000 \times .56694 =$	\$181,420.80
Total Value		<u>\$320,000.00</u>

**86.11(3) Joint and succeeding life estates.** If property includable in the gross estate is subject to succeeding or joint life estates, the following general rules shall govern their valuation:

*a.* There can be no greater value assigned to all of the life estate interests than the value of the life estate of the youngest life tenant. The value of the life estate of the youngest life tenant fixes the value of the remainder interest in the property.

b. If two or more persons share in a life estate, the life tenants are presumed to share equally in the life estate during the life of the older life tenant, unless the will or trust instrument specifically directs that the income or use may be allocated otherwise.

c. The age of a life tenant alone determines the value of that life tenant's interest in the property. The life tenant's state of health is not relevant to valuation. *In re Estate of Evans*, 225 N.W.2d 99 (Iowa 1977), appeal dismissed, 434 U.S. 805, 98 S.Ct. 34, 54 L.Ed.62. As a result, if a succeeding life tenant is older than the preceding life tenant, the value of the succeeding life estate is zero. These general rules can be illustrated by the following examples:

EXAMPLE 1. Decedent A, by will, devised a 160-acre farm to surviving spouse B, aged 68, for life, and upon B's death, to daughter C, aged 45, for life, and the remainder upon C's death to nephews D and E in equal shares. The 160-acre farm had a fair market value at A's death of \$320,000. Neither the alternate valuation date nor special use value was elected.

#### COMPUTATION OF THE SUCCEEDING LIFE ESTATES AND REMAINDER

1. Value of B's Life Estate:

Life estate factor for age 68 is .43306	
	\$138,579.20
$\$320,000 \times .43306 =$	

2. Value of C's Succeeding Life Estate

Life estate factor for age 45 is .71463	
	\$228,681.60
$\$320,000 \times .71463 =$	
Less: B's life estate	<u>\$138,579.20</u>
Value of C's life estate	\$ 90,102.40

3. Value of D's ½ remainder

Remainder factor for a life tenant aged 45 is .28537	
	\$ 91,318.40
as ½ of $\$320,000 \times .28537 =$	

4. Value of E's ½ remainder

½ of $\$320,000 \times .28537$	\$ 91,318.40
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Total Value — life estates and remainders	<u>\$320,000.00</u>
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NOTE: In this example, the value of C's succeeding life estate is reduced by the value of B's preceding life estate because C does not have the use of the farm during B's lifetime. The value of the remainder to D and E is fixed by the age of C, the succeeding life tenant.

EXAMPLE 2: Joint and survivorship life estates and remainder. In this example, the estate elected both the alternate valuation date and special use value. This is permitted by Federal Revenue Ruling 83-31 (1983) if the gross estate and the real estate are otherwise qualified.

Decedent A, a widow, by will devised her 240-acre Iowa farm to her nephew, B, aged 52, and the nephew's wife, C, aged 48, for their joint lives and for the life of the survivor, with the remainder to D and E in equal shares. The farm had a fair market value at death of \$2,200 per acre, or \$528,000; the alternate value of the farm six months after death was \$2,100 per acre, or \$504,000. Its special use value is \$1,000 per acre or \$240,000. The life estates and the remainder are computed on the basis of the special use value of \$240,000.

COMPUTATION OF JOINT LIFE ESTATE — REMAINDER VALUES

1. <u>B's share of joint life estate.</u>		
	\$153,806.40	
\$240,000 × .64086 (life estate factor, age 52) =		
½ as B's share =		\$ 76,903.20
2. <u>C's share of joint life estate.</u>		
	\$164,323.20	
\$240,000 × .68468 (life estate factor, age 48) =		
Less: ½ value of life estate for B's life	\$ 76,903.20	\$ 87,420.00
3. <u>Value of the remainder.</u>		
The value of the remainder is computed by using the remainder factor at the age of the youngest life tenant. In this example, it is .31532, based on C's age of 48.		
<u>D's share of the remainder.</u>		
½ \$240,000 × .31532 =		\$ 37,838.40
<u>E's share of the remainder.</u>		
Same as D's		
		\$ 37,838.40
		<u>\$240,000.00</u>
Total value of joint life estates and the remainder		

NOTE: In this example, B and C share equally in the life use of the farm during the life of B, who is the eldest. As a result, each life tenant's share during B's life is worth \$76,903.20. Since C is younger than B, the difference between the value of the life estates for B and C is set off to C alone. The age of the youngest life tenant (C in this example) fixes the value of the remainder interest in the farm.

**86.11(4)** *Fixed sum annuity for life or for a term of years.* The value of an annuity for a fixed sum of money, either for the life of the annuitant or for a specific period of time, shall be computed by determining the present value of the future annuity payments using the 4 percent annuity tables in rule 701—86.7(450). A fixed sum annuity, either for life or for a term of years, is to be distinguished from a life estate and remainder in property. A life estate in property is the use of property, and the present value of the life use cannot exceed the value of the property in which the life estate-remainder exists, regardless of the rate of return used to determine the life estate factor. A fixed sum annuity on the other hand is different. The amount of the annuity does not necessarily bear any relationship to the earning capacity or value of the property which funds the annuity. The fixed sum annuity may be for an amount larger than the 4 percent used to compute a life estate. As a result, the present value of the fixed sum annuity, computed at the statutory rate of 4 percent per year, may exceed the value of the property which funds the fixed annuity. In this case, the present value of the future annuity payments cannot exceed the value of the property which funds the annuity. The remainder in this situation has no value for inheritance tax purposes.

This subrule is illustrated by the following examples:

EXAMPLE 1. Decedent A devises a 240-acre farm to daughter B, with the provision that B pay the sum \$5,000 per year to C for life. The farm is subject to a lien as security for the payment of the annuity.

C, the annuitant, is 54 years old. The fair market value of the farm at A's death is \$2,000 per acre, or \$480,000. Neither special use value nor the alternate valuation date was elected.

COMPUTATION OF THE VALUE OF THE \$5,000 ANNUITY AND THE REMAINDER REVERSION TO B. Under rule 701—86.7(450), the 4 percent annuity factor for life at age 54 is 15.436 for each dollar of the annuity received. Therefore, C's life annuity is computed as follows:

C's Annuity

$$\$5,000 \times 15.436 = \$ 77,180$$

B's Reversionary — Remainder Interest

Value of farm	\$480,000	
Less: C's annuity	<u>\$ 77,180</u>	<u>\$402,820</u>
Total annuity and reversion — Remainder		\$480,000

NOTE: In this example, the \$5,000 annuity is worth less than a life estate in the farm. A life estate would be worth \$273,499.20 because the use of \$480,000 at 4 percent per year would return \$19,200 per year, which is much greater than the \$5,000 annuity.

EXAMPLE 2: Decedent A, by will, directed that the sum of \$100,000 be set aside from the residuary estate to be held in trust to pay \$500 per month to B for life, and upon B's death, the remaining principal and income, if any, are to be paid to C and D in equal shares. B, the annuitant, was 35 years old at the time of A's death.

Under rule 701—86.7(450), the annuity factor for a person 35 years of age is 19.946 for each dollar of the annuity. The annuity factor is multiplied by the annual amount of the annuity, which in this case is \$6,000 per year.

COMPUTATION OF THE PRESENT VALUE OF B's \$6,000 ANNUITY  
 $\$500.00 \times 12 = \$6,000 \times 19.946 = \$119,676$ , which exceeds the value of the property funding the annuity. As a result, the value for inheritance tax purposes is \$100,000, the maximum amount allowed by subrule 86.11(4). The remainder to C and D has no value for inheritance tax purposes.

**86.11(5) Valuation of remainder interests.** Iowa Code section 450.51 and rule 701—86.7(450) require the value of a remainder interest in property to be computed by subtracting the present value of the preceding life or term estate from the total value of the property in which the remainder exists. Since age or time is the controlling factor in valuing life or term estates in property, the time when the preceding life or term estate is valued is crucial for determining the value of the remainder interests in the property. Iowa Code sections 450.6, 450.44 and 450.52 provide three alternative dates for valuing a remainder, or other property interest in future possession or enjoyment, for inheritance tax purposes. Each of the three dates requires valuing the preceding life or term estate on the date selected, thus in effect, valuing the remainder interest at the same time. The value of the remainder interest is based on the value of the property on the date elected for payment. *In re Estate of Wickham*, 241 Iowa 198, 40 N.W.2d 469 (1950). The remainder or term factor in rule 701—86.7(450) which is based on the age of the life tenant, or the number of years remaining in the term on the date of payment, is then applied to the value of the property to determine the value of the remainder interest. *In re Estate of Millard*, 251

Iowa 1282, 105 N.W.2d 95 (1960). Therefore, the remainder, or other future property interest, shall be valued by the following general rules.

*a.* If the tax on a remainder or other future property interest is paid within 9 months after the decedent's death (12 months for estates of decedents dying prior to July 1, 1981), the tax is to be based on the value of the property at the time of the decedent's death (whether it is fair market value or special use value) or the alternate value, 6 months after death, if elected. The age of the life tenant at the time of the decedent's death (the youngest life tenant in case of succeeding or joint life estates), or the term of years specified in the will or trust instrument, must be used to determine the value of the life estate or term estate in computing the tax on the remainder or other future property interests.

*b.* If the tax is paid after nine months from the date of the decedent's death (one year for estates of decedents dying prior to July 1, 1981), but before the termination of the previous life or term estate, the tax on the remainder or other future property interest shall be computed on the fair market value of the property at the time of payment using the life estate or term factor based on the life tenant's age or term of years remaining at the time the tax is paid. Neither the alternate value nor special use value can be used to value the property after nine months from the date of the decedent's death.

*c.* If the tax on the remainder or other future property interest is not paid under paragraphs "a" and "b," the tax must be paid within nine months (one year for future property interests created prior to July 1, 1981) after the termination of the prior estate. In this case, the tax is based on the fair market value of the property and the life estate remainder or term factor corresponding with the time the prior estate is terminated. If the prior estate is terminated due to the death of the life tenant, or due to the expiration of the term of years, the remainder factor is 100 percent of the value of the property. If the prior estate terminates during the life of the life tenant or during the term of years, the tax is computed in the same manner as provided in paragraph "b." If the tax is not paid within nine months (one year for future property interests created prior to July 1, 1981) after the termination of the prior estate, the tax owing is delinquent and is subject to penalty and interest as provided by law. For information regarding interest rate, see 701—Chapter 10. However, in this case the value of the remainder interest is not modified to reflect any change in the fair market value of the property or the life or term estate factor that may occur due to the lapse of time between the due date of the tax and the date the tax is paid.

*d.* Iowa Code section 450.52 provides that the tax may be paid at any time on the present worth of the future property interest. The term "present worth" means the value of the future property interest at the time the tax is paid. Therefore, if the tax on the remainder or other future property interest is not paid within nine months after the decedent's death (one year for future property interests created prior to July 1, 1981), the estate or the beneficiary receiving the future interest cannot pay the tax on a delinquent basis using a value and a life estate or term factor which does not reflect the present worth of the future interest at the time of payment. In this situation, the tax must be computed under paragraph "b" or "c" of this subrule, whichever applies. In this respect, failure to pay the tax within nine months after the decedent's death (one year for future property interests created prior to July 1, 1981) operates as a deferral of the tax on the future property interest. *In re Estate of Dwight E. Clapp*, Probate No. 7251, Clay County Iowa District Court, July 2, 1980.

*e.* If an alternative valuation date is chosen, a liability must be currently owed by the estate to be deductible.

*f.* Tax rates in effect at the date of the decedent's death are the rates applicable for computation of the tax owed. *In re Estate of Wickham*, 241 Iowa 198, 40 N.W.2d 469 (1950).

These rules can be illustrated by the following examples:

For an example of computing remainder interests, see Examples 1 and 2 in subrule 86.11(3).

EXAMPLE 1: Decedent A died July 1, 2009, and, by will, devised all of her personal property to her surviving spouse, B, and her 240-acre Iowa farm to B for his life with the remainder at B's death to two nephews, C and D, in equal shares. The surviving spouse, B, was 74 years of age when A died. The fair market value of the 240-acre farm was \$2,000 per acre, or \$480,000 on the date of A's death. Neither the alternate valuation date nor special use value was elected by the estate. On March 15, 2010, the tax on B's life estate was paid. The tax on the remainder to C and D was therefore deferred, to be paid no later than nine months after the death of B, the life tenant. However, on October 15, 2011, due to adverse

economic circumstances, B, C, and D voluntarily sold the 240-acre farm at public auction to an unrelated person for \$2,100 per acre, or \$504,000. B's life estate was not preserved in the sale proceeds. The tax on the remainder in this fact situation must be computed under subrule 86.11(5), paragraph "b," when the life estate is terminated before the life tenant's death. The sale price of the farm and the life estate remainder factor reflecting B's age on October 15, 2011, (B's age is now 76) control the value of the remainder.

COMPUTATION OF THE REMAINDER INTEREST OF C AND D

The remainder factor in rule 701—86.7(450) for a life tenant aged 76 is .68249.

<u>C's ½ remainder interest</u>		\$171,987.48
	$\frac{1}{2} (\$504,000 \times .68249) =$	
<u>D's ½ remainder interest</u>	same as C's	<u>171,987.48</u>
Total value of remainder		\$343,974.96

NOTE: In this example, the value of C's and D's remainder interest in the sale proceeds is greater than the value of the remainder at the time of A's death due to the increase in the remainder factor because of B's increased age and the increase in the fair market value of the farm. However, if B's life estate had been preserved in the sale proceeds, the tax could continue to be deferred on C's and D's remainder interest. C and D cannot be required to pay the tax on their remainder until they come into possession or enjoyment of the property.

EXAMPLE 2: Decedent A at the time of her death on July 1, 2005, owned a vested remainder in a 240-acre Iowa farm, which was subject to the life use of her mother, B, who was 87 years old when A died. A's ownership of the remainder interest was not discovered until after life tenant B's death on October 15, 2007. The fair market value of the farm was \$2,000 per acre or \$480,000 on July 1, 2005, and \$2,200 per acre or \$528,000 on October 15, 2007. Neither the alternate valuation date nor special use valuation can be used in this fact situation. See rule 701—86.10(450) and subrule 86.8(4), paragraph "c." A's estate was reopened to include the omitted remainder in the 240-acre farm. An amended inheritance tax return was filed December 10, 2007, basing the tax on the fair market value and the remainder factor corresponding with the life tenant's age (87) on July 1, 2005. In this fact situation, the tax on A's remainder is not computed correctly, even if A's estate has offered to pay a penalty and interest on the tax due. The tax must be computed on the basis of a fair market value of \$2,200 per acre and a remainder factor of 100 percent of the value of the farm. No penalty or interest would be assessed if the correct tax is paid prior to July 15, 2008, which is nine months after the life tenant's death. The life tenant's age at death is not relevant.

**86.11(6) Valuation of contingent property interests.** Contingent remainders, succeeding life estates and other contingent property interests must be valued as if no contingency exists. Factors to be considered to determine if a contingency interest exists include, but are not limited to, the interest is generally a future interest, it is not a vested interest, and vesting of the interest depends upon the occurrence of a specific event or condition being met. As a result, subrule 86.11(5) applies equally to the valuation of vested and contingent property interests. The tax on a contingent property interest may be deferred until such time as it can be determined who will come into possession or enjoyment of the property. By deferring the tax under Iowa Code sections 450.44 to 450.49, a person does not have to speculate as to who will be the probable owner of the contingent interest. As a result, no one is required to pay tax on a property interest to which a vested right has not been received. Therefore, if a person exercises the right to pay the tax during the period of the contingency, that person cannot obtain a tax advantage by asserting that the value should be reduced due to a contingency, when the person would not be entitled to a reduction in value if the tax had been deferred until the ownership is determined.

This rule is illustrated by the following example.

COMPREHENSIVE EXAMPLE: Decedent A, by will, devised a 240-acre Iowa farm to B for life and upon B's death, then to C for life and the remainder after C's death to D and E in equal shares. In this example, C's succeeding life estate is contingent upon surviving B, the first life tenant. If C elects to pay the tax on the succeeding life estate within nine months after A's death, the tax is computed according to Example 1 in subrule 86.11(3) with no discount for the contingency that C may not survive B. However, C may defer the tax to be paid no later than nine months after B's death. In this case, if C does not survive B, the succeeding life estate lapses, and D and E, who own the remainder, will come into possession or enjoyment of the 240-acre farm. No tax will be owing on the succeeding life estate because C receives nothing. D and E will owe tax on the remainder within nine months after the death of B, if the tax was not previously paid.

For another example of computing a contingent remainder interest see *In re Estate of Schnepf*, 258 Iowa 33, 138 N.W.2d 886 (1965).

**86.11(7) Valuation of growing crops owned by the decedent.** Valuation of growing crops owned by the decedent is determined by using a proration formula. Based on the formula, the cash value of the actual crop realized in the fall of the year is prorated by attributing a portion of the value to the period before death and a portion after death. The portion attributed to the period before death is the value for Iowa inheritance tax purposes. The numerator of the ratio expresses the number of days the decedent lived during the growing season. In Iowa, the growing season for corn and beans is generally considered to be from May 15 through October 15, or 153 days. This 153-day period is the denominator of the ratio. This ratio should then be multiplied by the number of bushels realized in the fall, and then multiplied by the local elevator price at the time of maturity. However, if the estate sells the crop within a reasonable time after harvest, and the sale is an "arm's-length transaction," then the sale price of the crop can be used as a fair market value basis.

EXAMPLE: The decedent grew crops consisting of corn and beans. The decedent died August 15. The decedent lived 92 days of the growing season. In the fall of the year, 2,000 bushels of corn were harvested by the estate and sold to the local elevator for \$3.10 per bushel. The value of the crop for the purpose of Iowa inheritance tax purposes is calculated as follows:

$$\frac{92}{153} \times 2,000 \text{ bushels} \times \$3.10 \text{ per bushel} = \$3,728.10$$

**86.11(8) Valuation of cash rent farm leases.** If the decedent at the time of death owns farm property that was subject to lease, or if the decedent rents such property, the value of the cash rent farm for inheritance tax purposes must be determined. The formula to be used is the total cash rent for the entire rental period prorated over the entire year. The proration percentage is the number of days the decedent lived during the rental period, divided by 365 days. This percentage shall then be applied to the total cash rent for the entire year. Deductions from the resulting sum are allowed for rent payments made prior to the death of the decedent. If the deduction results in a negative amount, no refund or credit is allowed.

This valuation formula is to be utilized whether the decedent is the lessor or lessee of such property.

EXAMPLES: The decedent has a cash rent farm lease agreement (beginning March 1 through the end of February of the next year) with farmer X for automatic yearly rentals. The rent is due in two installments: \$10,000 on March 1 and \$10,000 on September 1.

1. Decedent dies February 1, 2011.  $\$20,000 \times 338/365 = \$18,520.55$ . Farmer X had paid his two installments in 2010. His next installment is due March 1, 2011, for the new farm rental year. Farmer X has overpaid by \$1,479.45 ( $\$18,520.55 - \$20,000 = -\$1,479.45$ ). No refund or credit is allowed.

2. Decedent dies April 20, 2011.  $\$20,000 \times 51/365 = \$2,794.52$ . Farmer X has paid his March 1 installment of \$10,000. Farmer X has overpaid by \$7,205.48 ( $\$2,794.52 - \$10,000 = -\$7,205.48$ ). No refund or credit is allowed.

3. Decedent dies October 10, 2011.  $\$20,000 \times 224/365 = \$12,273.97$ . Farmer X paid his March installment but has not paid his September installment. Farmer X has underpaid at the date of death.  $\$12,273.97 - \$10,000 = \$2,273.97$ . This amount must be reported as an asset. It is an accounts receivable due at date of decedent's death.

This rule is intended to implement Iowa Code sections 450.44 to 450.49, 450.51 and 450.52.

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