FIGURE 12.11 Page 2 of 2014 Form 8949 for Estate of Frances Goodnight

Form 8949 (2014) Attachment Sequence No. **12A** Page **2**

Name(s) shown on return. Name and SSN or taxpayer identification no. not required if shown on other side	Social security number or taxpayer identification number
Estate of Frances Goodnight	16-1234156

Before you check Box D, E, or F below, see whether you received any Form(s) 1099-B or substitute statement(s) from your broker. A substitute statement will have the same information as Form 1099-B. Either may show your basis (usually your cost) even if your broker did not report it to the IRS. Brokers must report basis to the IRS for most stock you bought in 2011 or later (and for certain debt instruments you bought in 2014 or later).

Part II **Long-Term.** Transactions involving capital assets you held more than 1 year are long term. For short-term transactions, see page 1.

Note. You may aggregate all long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS and for which no adjustments or codes are required. Enter the total directly on Schedule D, line 8a; you are not required to report these transactions on Form 8949 (see instructions).

You *must* check Box D, E, *or* F below. Check only one box. If more than one box applies for your long-term transactions, complete a separate Form 8949, page 2, for each applicable box. If you have more long-term transactions than will fit on this page for one or more of the boxes, complete as many forms with the same box checked as you need.

☐ **(D)** Long-term transactions reported on Form(s) 1099-B showing basis was reported to the IRS (see **Note** above)
☐ **(E)** Long-term transactions reported on Form(s) 1099-B showing basis was **not** reported to the IRS
☑ **(F)** Long-term transactions not reported to you on Form 1099-B

1 (a) Description of property (Example: 100 sh. XYZ Co.)	(b) Date acquired (Mo., day, yr.)	(c) Date sold or disposed (Mo., day, yr.)	(d) Proceeds (sales price) (see instructions)	(e) Cost or other basis. See the **Note** below and see *Column (e)* in the separate instructions	Adjustment, if any, to gain or loss. If you enter an amount in column (g), enter a code in column (f). **See the separate instructions.** (f) Code(s) from instructions	(g) Amount of adjustment	(h) **Gain or (loss).** Subtract column (e) from column (d) and combine the result with column (g)
Cadillac CTS	05/09/2014	09/15/2014	23,500	23,500			0
Vacation Townhouse	05/09/2014	09/15/2014	465,000	425,000	E	(32,575)	7,425
2 Totals. Add the amounts in columns (d), (e), (g), and (h) (subtract negative amounts). Enter each total here and include on your Schedule D, **line 8b** (if **Box D** above is checked), **line 9** (if **Box E** above is checked), or **line 10** (if **Box F** above is checked) ▶			488,500	448,500		(32,575)	7,425

Note. If you checked Box D above but the basis reported to the IRS was incorrect, enter in column (e) the basis as reported to the IRS, and enter an adjustment in column (g) to correct the basis. See *Column (g)* in the separate instructions for how to figure the amount of the adjustment.

Form **8949** (2014)

FIGURE 12.12 2014 Schedule E (Form 1040) for Estate of Frances Goodnight

Schedule E (Form 1040) 2014 — Attachment Sequence No. 13 — Page 2

Name(s) shown on return. Do not enter name and social security number if shown on other side.: Estate of Frances Goodnight

Your social security number: 16-1234156

Caution. The IRS compares amounts reported on your tax return with amounts shown on Schedule(s) K-1.

Part II — Income or Loss From Partnerships and S Corporations **Note.** If you report a loss from an at-risk activity for which **any** amount is **not** at risk, you **must** check the box in column **(e)** on line 28 and attach **Form 6198.** See instructions.

27 Are you reporting any loss not allowed in a prior year due to the at-risk, excess farm loss, or basis limitations, a prior year unallowed loss from a passive activity (if that loss was not reported on Form 8582), or unreimbursed partnership expenses? If you answered "Yes," see instructions before completing this section. ☐ **Yes** ☐ **No**

28	(a) Name	(b) Enter P for partnership; S for S corporation	(c) Check if foreign partnership	(d) Employer identification number	(e) Check if any amount is not at risk
A	Spencer Company, LP	P	☐	39-2014162	☐
B			☐		☐
C			☐		☐
D			☐		☐

	Passive Income and Loss		Nonpassive Income and Loss		
	(f) Passive loss allowed (attach Form 8582 if required)	(g) Passive income from Schedule K–1	(h) Nonpassive loss from Schedule K–1	(i) Section 179 expense deduction from Form 4562	(j) Nonpassive income from Schedule K–1
A		12,500			
B					
C					
D					
29a Totals		12,500			
b Totals					

30	Add columns (g) and (j) of line 29a	30	12,500
31	Add columns (f), (h), and (i) of line 29b	31	( )
32	**Total partnership and S corporation income or (loss).** Combine lines 30 and 31. Enter the result here and include in the total on line 41 below	32	12,500

Part III — Income or Loss From Estates and Trusts

33	(a) Name	(b) Employer identification number
A		
B		

	Passive Income and Loss		Nonpassive Income and Loss	
	(c) Passive deduction or loss allowed (attach Form 8582 if required)	(d) Passive income from Schedule K–1	(e) Deduction or loss from Schedule K–1	(f) Other income from Schedule K–1
A				
B				
34a Totals				
b Totals				

35	Add columns (d) and (f) of line 34a	35	
36	Add columns (c) and (e) of line 34b	36	( )
37	**Total estate and trust income or (loss).** Combine lines 35 and 36. Enter the result here and include in the total on line 41 below	37	

Part IV — Income or Loss From Real Estate Mortgage Investment Conduits (REMICs)—Residual Holder

38	(a) Name	(b) Employer identification number	(c) Excess inclusion from Schedules Q, line 2c (see instructions)	(d) Taxable income (net loss) from Schedules Q, line 1b	(e) Income from Schedules Q, line 3b

39	Combine columns (d) and (e) only. Enter the result here and include in the total on line 41 below	39	

Part V — Summary

40	Net farm rental income or (loss) from **Form 4835.** Also, complete line 42 below	40	
41	**Total income or (loss).** Combine lines 26, 32, 37, 39, and 40. Enter the result here and on Form 1040, line 17, or Form 1040NR, line 18 ▶	41	12,500
42	**Reconciliation of farming and fishing income.** Enter your **gross** farming and fishing income reported on Form 4835, line 7; Schedule K-1 (Form 1065), box 14, code B; Schedule K-1 (Form 1120S), box 17, code V; and Schedule K-1 (Form 1041), box 14, code F (see instructions)	42	
43	**Reconciliation for real estate professionals.** If you were a real estate professional (see instructions), enter the net income or (loss) you reported anywhere on Form 1040 or Form 1040NR from all rental real estate activities in which you materially participated under the passive activity loss rules	43	

Schedule E (Form 1040) 2014

FIGURE 12.13 2014 Form 8960 for Estate of Frances Goodnight
(The 2014 Form 8960 was not available at press time.)

Form **8960** — Department of the Treasury, Internal Revenue Service (99)

Net Investment Income Tax— Individuals, Estates, and Trusts

▶ Attach to Form 1040 or Form 1041.
▶ Information about Form 8960 and its separate instructions is at *www.irs.gov/form8960.*

OMB No. 1545-2227
20~~13~~4
Attachment Sequence No. 72

Name(s) shown on Form 1040 or Form 1041: Estate of Frances Goodnight
Your social security number or EIN: 16-1234156

Part I Investment Income ☐ Section 6013(g) election (see instructions) ☐ Regulations section 1.1411-10(g) election (see instructions)

1	Taxable interest (Form 1040, line 8a; or Form 1041, line 1)			1	5
2	Ordinary dividends (Form 1040, line 9a; or Form 1041, line 2a)			2	9,300
3	Annuities from nonqualified plans (see instructions)			3	
4a	Rental real estate, royalties, partnerships, S corporations, trusts, etc. (Form 1040, line 17; or Form 1041, line 5)	4a	12,500		
b	Adjustment for net income or loss derived in the ordinary course of a non-section 1411 trade or business (see instructions)	4b			
c	Combine lines 4a and 4b			4c	12,500
5a	Net gain or loss from disposition of property from Form 1040, combine lines 13 and 14; or from Form 1041, combine lines 4 and 7	5a	7,925		
b	Net gain or loss from disposition of property that is not subject to net investment income tax (see instructions)	5b			
c	Adjustment from disposition of partnership interest or S corporation stock (see instructions)	5c			
d	Combine lines 5a through 5c			5d	7,925
6	Changes to investment income for certain CFCs and PFICs (see instructions)			6	
7	Other modifications to investment income (see instructions)			7	
8	Total investment income. Combine lines 1, 2, 3, 4c, 5d, 6, and 7			8	29,730

Part II Investment Expenses Allocable to Investment Income and Modifications

9a	Investment interest expenses (see instructions)	9a			
b	State income tax (see instructions)	9b			
c	Miscellaneous investment expenses (see instructions)	9c	950		
d	Add lines 9a, 9b, and 9c			9d	950
10	Additional modifications (see instructions)			10	14,280
11	Total deductions and modifications. Add lines 9d and 10			11	15,230

Part III Tax Computation

12	Net investment income. Subtract Part II, line 11 from Part I, line 8. Individuals complete lines 13–17. Estates and trusts complete lines 18a–21. If zero or less, enter -0-			12	14,500
	Individuals:				
13	Modified adjusted gross income (see instructions)	13			
14	Threshold based on filing status (see instructions)	14			
15	Subtract line 14 from line 13. If zero or less, enter -0-	15			
16	Enter the smaller of line 12 or line 15			16	
17	Net investment income tax for individuals. Multiply line 16 by 3.8% (.038). Enter here and on Form 1040, line 60			17	
	Estates and Trusts:				
18a	Net investment income (line 12 above)	18a	14,500		
b	Deductions for distributions of net investment income and deductions under section 642(c) (see instructions)	18b			
c	Undistributed net investment income. Subtract line 18b from 18a (see instructions)	18c	14,500		
19a	Adjusted gross income (see instructions)	19a	15,950		
b	Highest tax bracket for estates and trusts for the year (see instructions)	19b	12,150		
c	Subtract line 19b from line 19a. If zero or less, enter -0-	19c	3,800		
20	Enter the smaller of line 18c or line 19c			20	3,800
21	Net investment income tax for estates and trusts. Multiply line 20 by 3.8% (.038). Enter here and on Form 1041, Schedule G, line 4			21	144

For Paperwork Reduction Act Notice, see your tax return instructions. Cat. No. 59474M Form **8960** (2013)

2015 Form 1041 for Estate

The executor and trustees distributed all of the assets in the estate and in the trust on or before March 15, 2015, and closed the estate and the trust on that date. The final income tax return for the estate includes income, deductions, and distributions from January 1, 2015, through March 31, 2015. Because most of the administrative expenses for the estate and the trust were paid in 2015, they are deducted on the 2015 Form 1041 and create a significant tax loss that passes to the three beneficiaries.

Figure 12.14 shows the 2015 Form 1041 for Frances's estate.

Income (Lines 1–9)

Hometown Accountants reported $3,600 of dividends from the trust's brokerage account on lines 2a and 2b. Line 5 reports $6,000 of ordinary income from Spencer Company. The $9,600 total income is reported on line 9.

Deductions

Line 14: Attorney, Accountant, and Return Preparer Fees

The $44,740 sum of the $32,565 attorney's fees for trust administration, the $7,500 fee for preparing

FIGURE 12.14 2015 Form 1041 for Estate of Frances Goodnight

(The 2015 Form 1041 was not available at press time.)

Form **1041** Department of the Treasury—Internal Revenue Service
U.S. Income Tax Return for Estates and Trusts 20~~14~~15 OMB No. 1545-0092

▶ Information about Form 1041 and its separate instructions is at *www.irs.gov/form1041*.

A Check all that apply:
- [x] Decedent's estate
- [ ] Simple trust
- [ ] Complex trust
- [ ] Qualified disability trust
- [ ] ESBT (S portion only)
- [ ] Grantor type trust
- [ ] Bankruptcy estate-Ch. 7
- [ ] Bankruptcy estate-Ch. 11
- [ ] Pooled income fund

For calendar year 2014 or fiscal year beginning January 1, ~~2014~~ 2015, and ending March 15, 20 15

Name of estate or trust (If a grantor type trust, see the instructions.): Estate of Frances Goodnight

Name and title of fiduciary: Preston P. Spencer, Executor

Number, street, and room or suite no. (If a P.O. box, see the instructions.): 101 Court Street

City or town, state or province, country, and ZIP or foreign postal code: Hometown, US 12345-6789

C Employer identification number: 16-1234156

D Date entity created: 05/09/2014

E Nonexempt charitable and split-interest trusts, check applicable box(es), see instructions.
- [ ] Described in sec. 4947(a)(1). Check here if not a private foundation . . . ▶ [ ]
- [ ] Described in sec. 4947(a)(2)

B Number of Schedules K-1 attached (see instructions) ▶ 3

F Check applicable boxes: [ ] Initial return [x] Final return [ ] Amended return [ ] Net operating loss carryback [ ] Change in trust's name [ ] Change in fiduciary [ ] Change in fiduciary's name [ ] Change in fiduciary's address

G Check here if the estate or filing trust made a section 645 election . . . . . ▶ [x] Trust TIN ▶ 99-9999999

Income	1	Interest income	1	
	2a	Total ordinary dividends	2a	3,600
	b	Qualified dividends allocable to: (1) Beneficiaries 3,600 (2) Estate or trust		
	3	Business income or (loss). Attach Schedule C or C-EZ (Form 1040)	3	
	4	Capital gain or (loss). Attach Schedule D (Form 1041)	4	
	5	Rents, royalties, partnerships, other estates and trusts, etc. Attach Schedule E (Form 1040)	5	6,000
	6	Farm income or (loss). Attach Schedule F (Form 1040)	6	
	7	Ordinary gain or (loss). Attach Form 4797	7	
	8	Other income. List type and amount	8	
	9	**Total income.** Combine lines 1, 2a, and 3 through 8 ▶	9	9,600
Deductions	10	Interest. Check if Form 4952 is attached ▶ [ ]	10	
	11	Taxes	11	
	12	Fiduciary fees	12	
	13	Charitable deduction (from Schedule A, line 7)	13	
	14	Attorney, accountant, and return preparer fees	14	44,740
	15a	Other deductions **not** subject to the 2% floor (attach schedule)	15a	12,000
	b	Net operating loss deduction (see instructions)	15b	
	c	Allowable miscellaneous itemized deductions subject to the 2% floor	15c	400
	16	Add lines 10 through 15c ▶	16	57,140
	17	Adjusted total income or (loss). Subtract line 16 from line 9 — 17 (47,540)		
	18	Income distribution deduction (from Schedule B, line 15). Attach Schedules K-1 (Form 1041)	18	
	19	Estate tax deduction including certain generation-skipping taxes (attach computation)	19	
	20	Exemption	20	
	21	Add lines 18 through 20 ▶	21	0
	22	Taxable income. Subtract line 21 from line 17. If a loss, see instructions	22	(47,540)
	23	**Total tax** (from Schedule G, line 7)	23	0

her Form 706, and the $4,675 fee for preparing Frances's Forms 1041 is deducted on line 14.

Line 15a: Other Deductions Not Subject to the 2% Floor

The $12,000 sum of the $7,500 trust administration fee paid to Preston Spencer and the $4,500 trust administration fee paid to Kenneth Broker is deducted on line 15a.

Line 15c: Allowable Miscellaneous Itemized Deductions Subject to the 2% Floor

The $400 of miscellaneous itemized deductions from Spencer Company is deducted on line 15c.

Line 18: Income Distribution Deduction

The estate has no income distribution deduction because it has negative income and therefore no distributable net income.

Taxable Income

The estate computes its negative $47,540 taxable income on line 22 by first totaling its $57,140 of deductions on line 16, subtracting those deductions from its $9,600 of total income reported on line 9, and entering the negative $47,540 of adjusted total income on line 17. The $600 exemption deduction on line 21 cannot be used to increase the negative taxable income, so a $47,540 negative taxable income is also reported on line 22.

That amount (the excess deductions on termination) is divided equally among the three beneficiaries and is eligible to be treated as an itemized deduction subject to the 2%-of-AGI floor on their respective Forms 1040.

Schedules K-1 (Form 1041) for Beneficiaries

Because the three beneficiaries shared equally in the estate and trust, their Schedules K-1 (Form 1041) report the same amounts to each of them. **Figure 12.15** shows the Schedule K-1 (Form 1041) for Preston Spencer.

Even though the beneficiaries received distributions from the estate and the trust during its final year, they have no taxable income because the combined taxable income for the estate and the trust is negative.

Each beneficiary's $15,847 ($47,540 ÷ 3) share of the estate's excess deductions is reported in box 11 of the Schedule K-1 (Form 1041) with code A to indicate it is a final-year excess deduction. The beneficiaries can claim that amount as an itemized deduction subject to the 2%-of-AGI floor on their 2015 income tax returns.

The entire $47,540 loss arises from administrative expenses that are deductible from investment income to compute the net investment income that is subject to the NIIT [Treas. Reg. § 1.1411-4(f)(3)(viii)]. Consequently, each beneficiary can deduct a portion of his or her $15,847 share of the loss on line 9c of Form 8960. The allowable deduction on Form 8960 depends on the beneficiary's AGI, because the I.R.C. § 68 reduction (2%-of-AGI) and the I.R.C. § 68 Pease overall limitation on itemized deductions must be applied first [Treas. Reg. § 1.1411-4(f)(7)].

FIGURE 12.15 Schedule K-1 (Form 1041) for Preston Spencer

661113

☒ Final K-1 ☐ Amended K-1 OMB No. 1545-0092

Schedule K-1 (Form 1041) ~~2014~~ 2015
Department of the Treasury
Internal Revenue Service

For calendar year 2014, or tax year beginning January 1, ~~2014~~ 2015 and ending March 15, 20 15

Beneficiary's Share of Income, Deductions, Credits, etc.

▶ See back of form and instructions.

Part I Information About the Estate or Trust

A Estate's or trust's employer identification number
16-1234156

B Estate's or trust's name
Estate of Frances Goodnight

C Fiduciary's name, address, city, state, and ZIP code
Preston P. Spencer
101 Court Street
Hometown, US 12345-6789

D ☐ Check if Form 1041-T was filed and enter the date it was filed ________

E ☐ Check if this is the final Form 1041 for the estate or trust

Part II Information About the Beneficiary

F Beneficiary's identifying number
645-62-1041

G Beneficiary's name, address, city, state, and ZIP code
Preston P. Spencer
101 Court Street
Hometown, USA 12345-6789

H ☒ Domestic beneficiary ☐ Foreign beneficiary

Part III Beneficiary's Share of Current Year Income, Deductions, Credits, and Other Items

1	Interest income		11	Final year deductions
			A	15,847
2a	Ordinary dividends			
2b	Qualified dividends			
3	Net short-term capital gain			
4a	Net long-term capital gain			
4b	28% rate gain		12	Alternative minimum tax adjustment
4c	Unrecaptured section 1250 gain			
5	Other portfolio and nonbusiness income			
6	Ordinary business income			
7	Net rental real estate income		13	Credits and credit recapture
8	Other rental income			
9	Directly apportioned deductions			
			14	Other information
10	Estate tax deduction			

*See attached statement for additional information.

Note. A statement must be attached showing the beneficiary's share of income and directly apportioned deductions from each business, rental real estate, and other rental activity.

For IRS Use Only

For Paperwork Reduction Act Notice, see the Instructions for Form 1041. IRS.gov/form1041 Cat. No. 11380D Schedule K-1 (Form 1041) 2014

Assets Received by Beneficiaries

Figure 12.16 shows the FMV and the basis of the assets each of the beneficiaries received from Frances. The following notes explain the amounts reported in Figure 12.16.

FIGURE 12.16 Beneficiaries' Assets

	FMV	Basis	Unrecognized Gain (Loss)
Julie Spencer			
Probate estate (one-third)	$ 8,617	$ 8,617	$ 0
IRA (one-third)	118,250	0	118,250
Life insurance (one-third)	58,485	58,485	0
Spencer Company (one-third)	170,000	184,217	(14,217)
Stock portfolio	142,750	137,599	5,151
Condominium	500,000	450,000	50,000
Total	$998,102	$838,918	$159,184
Preston Spencer and Harry Spencer (each)			
Probate estate (one-third)	$ 8,617	$ 8,617	$ 0
IRA (one-third)	118,250	0	118,250
Life insurance (one-third)	58,485	58,485	0
Spencer Company (one-third)	170,000	184,217	(14,217)
Stock portfolio	592,750	571,363	21,387
Total	$948,102	$822,682	$125,420

Probate Estate

The distribution to each beneficiary is $8,617 ($25,850.28 ÷ 3). The basis of this cash distribution is the face value.

IRA

The distribution to each beneficiary is $118,250 ($354,750 ÷ 3). Because the IRA is income in respect of a decedent, Frances's zero basis carries over to the beneficiaries.

Life Insurance

The amount the insurance company paid to each beneficiary is $58,485 [($175,000 proceeds + $354.65 dividends + $101.75 interest) ÷ 3]. The basis of these cash payments is their face value.

Spencer Company

The value of the 25% interest distributed to each beneficiary is $170,000 ($510,000 ÷ 3). The trust's basis in its 75% interest is $552,650, as shown in **Figure 12.17.** Each beneficiary's basis in his or her 25% interest is $184,217 ($552,650 ÷ 3).

FIGURE 12.17 Basis of Interests in Spencer Company

Basis of Trust's 75% Interest in Spencer Company		
Date-of-death value		$550,000
Taxable income in 2014		
Net income	$12,500	
Short-term capital gain	500	
Subtract itemized deductions	(950)	
Net 2014 taxable income		12,050
Taxable income in 2015		
Net income	$ 6,000	
Subtract itemized deductions	(400)	
Net 2015 taxable income		5,600
Subtract distributions ($5,000 in each of 3 quarters)		(15,000)
Trust's basis in 75% interest		$552,650
Each beneficiary's basis in 25% interest ($552,650 ÷ 3)		$184,217

Planning Pointer I.R.C. § 754 Election

I.R.C. § 754 allows Spencer Company to elect to increase the basis of its assets to reflect the increase in the inherited partnership interests. That increase in basis benefits only the owners of the inherited interests. See pages 525–528 of the *2011 National Income Tax Workbook* for a discussion of the I.R.C. § 754 adjustment of the basis in partnership assets.

Stock Portfolio

As shown in Figure 12.3 on page 370 in this chapter, Julie received only $142,750 of the $1,328,250 stock portfolio because she also received the entire condominium; Preston and Harry each received $592,750 of the stock portfolio.

The trust's basis in the entire stock portfolio on the date it was distributed to the beneficiaries is $1,280,325 [$835,000 date-of-death value; $432,425 ($465,000 – $32,575) net proceeds from the sale of the townhouse; and $12,900 ($9,300 + $3,600) income that was taxed on the 2014 and 2015 Forms 1041].

Julie's share of that basis is $137,599 [($142,750 ÷ $1,328,250) × $1,280,325]. Preston's and Harry's shares of the basis are $571,363 [($592,750 ÷ $1,328,250) × $1,280,325] each.

Condominium

The trust distributed the entire condominium to Julie. Her basis is the $450,000 date-of-death value.

APPENDIX: TREASURY REGULATION § 1.67-4

This new regulation is effective for tax years beginning on or after May 9, 2014.

§ 1.67–4 Costs paid or incurred by estates or non-grantor trusts.

(a) *In general.* Section 67(e) provides an exception to the 2-percent floor on miscellaneous itemized deductions for costs that are paid or incurred in connection with the administration of an estate or a trust not described in § 1.67–2T(g)(1)(i) (a non-grantor trust) and that would not have been incurred if the property were not held in such estate or trust. A cost is subject to the 2-percent floor to the extent that it is included in the definition of miscellaneous itemized deductions under section 67(b), is incurred by an estate or non-grantor trust, and commonly or customarily would be incurred by a hypothetical individual holding the same property.

(b) *"Commonly" or "Customarily" Incurred*–(1) In general. In analyzing a cost to determine whether it commonly or customarily would be incurred by a hypothetical individual owning the same property, it is the type of product or service rendered to the estate or non-grantor trust in exchange for the cost, rather than the description of the cost of that product or service, that is determinative. In addition to the types of costs described as commonly or customarily incurred by individuals in paragraphs (b)(2), (3), (4), and (5) of this section, costs that are incurred commonly or customarily by individuals also include, for example, costs incurred in defense of a claim against the estate, the decedent, or the non-grantor trust that are unrelated to the existence, validity, or administration of the estate or trust.

(2) *Ownership costs.* Ownership costs are costs that are chargeable to or incurred by an owner of property simply by reason of being the owner of the property. Thus, for purposes of section 67(e), ownership costs are commonly or customarily incurred by a hypothetical individual owner of such property. Such ownership costs include, but are not limited to, partnership costs deemed to be passed through to and reportable by a partner if these costs are defined as miscellaneous itemized deductions pursuant to section 67(b), condominium fees, insurance premiums, maintenance and lawn services, and automobile registration and insurance costs. Other expenses incurred merely by reason of the ownership of property may be fully deductible under other provisions of the Code, such as sections 62(a)(4), 162, or 164(a), which would not be miscellaneous itemized deductions subject to section 67(e).

(3) *Tax preparation fees.* Costs relating to all estate and generation-skipping transfer tax returns, fiduciary income tax returns, and the decedent's final individual income tax returns are not subject to the 2-percent floor. The costs of preparing all other tax returns (for example, gift tax returns) are costs commonly and customarily incurred by individuals and thus are subject to the 2-percent floor.

(4) *Investment advisory fees.* Fees for investment advice (including any related services that would be provided to any individual investor as part of an investment advisory fee) are incurred commonly or customarily by a hypothetical individual investor and therefore are subject to the 2-percent floor. However, certain incremental costs of investment advice beyond the amount that normally would be charged to an individual investor are not subject to the 2-percent floor. For this purpose, such an incremental cost is a special, additional charge that is added solely because the investment advice is rendered to a trust or estate rather than to an individual or attributable to an unusual investment objective or the need for a specialized balancing of the interests of various parties (beyond the usual balancing of the varying interests of current beneficiaries and remaindermen) such that a reasonable comparison with individual investors would be improper. The portion of the investment advisory fees not subject to the 2-percent floor by reason of the preceding sentence is limited to the amount of those fees, if any, that exceeds the fees normally charged to an individual investor.

(5) *Appraisal fees.* Appraisal fees incurred by an estate or a non-grantor trust to determine the fair market value of assets as of the decedent's date of death (or the alternate valuation date), to determine value for purposes of making distributions, or as otherwise required to properly prepare the estate's or trust's tax returns, or a generation-skipping transfer tax return, are not

incurred commonly or customarily by an individual and thus are not subject to the 2-percent floor. The cost of appraisals for other purposes (for example, insurance) is commonly or customarily incurred by individuals and is subject to the 2-percent floor.

(6) *Certain Fiduciary Expenses.* Certain other fiduciary expenses are not commonly or customarily incurred by individuals, and thus are not subject to the 2-percent floor. Such expenses include without limitation the following: probate court fees and costs; fiduciary bond premiums; legal publication costs of notices to creditors or heirs; the cost of certified copies of the decedent's death certificate; and costs related to fiduciary accounts.

(c) *Bundled fees*–(1) *In general.* If an estate or a non-grantor trust pays a single fee, commission, or other expense (such as a fiduciary's commission, attorney's fee, or accountant's fee) for both costs that are subject to the 2-percent floor and costs (in more than a de minimis amount) that are not, then, except to the extent provided otherwise by guidance published in the Internal Revenue Bulletin, the single fee, commission, or other expense (bundled fee) must be allocated, for purposes of computing the adjusted gross income of the estate or non-grantor trust in compliance with section 67(e), between the costs that are subject to the 2-percent floor and those that are not.

(2) *Exception.* If a bundled fee is not computed on an hourly basis, only the portion of that fee that is attributable to investment advice is subject to the 2-percent floor; the remaining portion is not subject to that floor.

(3) *Expenses Not Subject to Allocation.* Out-of-pocket expenses billed to the estate or non-grantor trust are treated as separate from the bundled fee. In addition, payments made from the bundled fee to third parties that would have been subject to the 2-percent floor if they had been paid directly by the estate or non-grantor trust are subject to the 2-percent floor, as are any fees or expenses separately assessed by the fiduciary or other payee of the bundled fee (in addition to the usual or basic bundled fee) for services rendered to the estate or non-grantor trust that are commonly or customarily incurred by an individual.

(4) *Reasonable Method.* Any reasonable method may be used to allocate a bundled fee between those costs that are subject to the 2-percent floor and those costs that are not, including without limitation the allocation of a portion of a fiduciary commission that is a bundled fee to investment advice. Facts that may be considered in determining whether an allocation is reasonable include, but are not limited to, the percentage of the value of the corpus subject to investment advice, whether a third party advisor would have charged a comparable fee for similar advisory services, and the amount of the fiduciary's attention to the trust or estate that is devoted to investment advice as compared to dealings with beneficiaries and distribution decisions and other fiduciary functions. The reasonable method standard does not apply to determine the portion of the bundled fee attributable to payments made to third parties for expenses subject to the 2-percent floor or to any other separately assessed expense commonly or customarily incurred by an individual, because those payments and expenses are readily identifiable without any discretion on the part of the fiduciary or return preparer.

(d) *Effective/applicability date.* This section applies to taxable years beginning on or after May 9, 2014.