

est therein of the decedent at the time of his death.

(Aug. 16, 1954, ch. 736, 68A Stat. 381; Pub. L. 87-834, §18(a)(2)(A), Oct. 16, 1962, 76 Stat. 1052.)

#### AMENDMENTS

1962—Pub. L. 87-834 struck out provisions which exempted real property situated outside of the United States.

#### EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to estates of decedents dying after Oct. 16, 1962, except as otherwise provided, see section 18(b) of Pub. L. 87-834, set out as a note under section 2031 of this title.

### [§ 2033A. Renumbered § 2057]

#### § 2034. Dower or curtesy interests

The value of the gross estate shall include the value of all property to the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower or curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy.

(Aug. 16, 1954, ch. 736, 68A Stat. 381; Pub. L. 87-834, §18(a)(2)(B), Oct. 16, 1962, 76 Stat. 1052.)

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### § 2035. Adjustments for certain gifts made within 3 years of decedent's death

#### (a) Inclusion of certain property in gross estate

If—

(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

#### (b) Inclusion of gift tax on gifts made during 3 years before decedent's death

The amount of the gross estate (determined without regard to this subsection) shall be increased by the amount of any tax paid under chapter 12 by the decedent or his estate on any gift made by the decedent or his spouse during the 3-year period ending on the date of the decedent's death.

#### (c) Other rules relating to transfers within 3 years of death

##### (1) In general

For purposes of—

(A) section 303(b) (relating to distributions in redemption of stock to pay death taxes),

(B) section 2032A (relating to special valuation of certain farms, etc., real property), and

(C) subchapter C of chapter 64 (relating to lien for taxes),

the value of the gross estate shall include the value of all property to the extent of any interest therein of which the decedent has at any time made a transfer, by trust or otherwise, during the 3-year period ending on the date of the decedent's death.

#### (2) Coordination with section 6166

An estate shall be treated as meeting the 35 percent of adjusted gross estate requirement of section 6166(a)(1) only if the estate meets such requirement both with and without the application of subsection (a).

#### (3) Marital and small transfers

Paragraph (1) shall not apply to any transfer (other than a transfer with respect to a life insurance policy) made during a calendar year to any donee if the decedent was not required by section 6019 (other than by reason of section 6019(2)) to file any gift tax return for such year with respect to transfers to such donee.

#### (d) Exception

Subsection (a) and paragraph (1) of subsection (c) shall not apply to any bona fide sale for an adequate and full consideration in money or money's worth.

#### (e) Treatment of certain transfers from revocable trusts

For purposes of this section and section 2038, any transfer from any portion of a trust during any period that such portion was treated under section 676 as owned by the decedent by reason of a power in the grantor (determined without regard to section 672(e)) shall be treated as a transfer made directly by the decedent.

(Aug. 16, 1954, ch. 736, 68A Stat. 381; Pub. L. 87-834, §18(a)(2)(C), Oct. 16, 1962, 76 Stat. 1052; Pub. L. 94-455, title XX, §2001(a)(5), Oct. 4, 1976, 90 Stat. 1848; Pub. L. 95-600, title VII, §702(f)(1), Nov. 6, 1978, 92 Stat. 2930; Pub. L. 97-34, title IV, §§403(b)(3)(B), 424(a), Aug. 13, 1981, 95 Stat. 301, 317; Pub. L. 97-448, title I, §104(a)(9), (d)(1)(A), (C), (2), Jan. 12, 1983, 96 Stat. 2381, 2383; Pub. L. 105-34, title XIII, §1310(a), Aug. 5, 1997, 111 Stat. 1043; Pub. L. 106-554, §1(a)(7) [title III, §319(14)], Dec. 21, 2000, 114 Stat. 2763, 2763A-646.)

#### AMENDMENTS

2000—Subsec. (c)(2). Pub. L. 106-554, §1(a)(7) [title III, §319(14)(A)], substituted “subsection (a)” for “paragraph (1)”.

Subsec. (d). Pub. L. 106-554, §1(a)(7) [title III, §319(14)(B)], inserted “and paragraph (1) of subsection (c)” after “Subsection (a)”.

1997—Pub. L. 105-34 amended section catchline and text generally. Prior to amendment, section consisted of subssecs. (a) to (d) relating to adjustments for gifts made within 3 years of decedent's death.

1983—Subsec. (b)(2). Pub. L. 97-448, §104(a)(9), substituted “section 6019(2)” for “section 6019(a)(2)”.

Subsec. (d)(2). Pub. L. 97-448, §104(d)(2), inserted “of this subsection and paragraph (2) of subsection (b)” after “Paragraph (1)”, and struck out “2041,” after “2038,”.