

L. 89-809, set out as an Effective Date of 1966 Amendment note under section 2101 of this title.

**§ 2108. Application of pre-1967 estate tax provisions**

**(a) Imposition of more burdensome tax by foreign country**

Whenever the President finds that—

(1) under the laws of any foreign country, considering the tax system of such foreign country, a more burdensome tax is imposed by such foreign country on the transfer of estates of decedents who were citizens of the United States and not residents of such foreign country than the tax imposed by this subchapter on the transfer of estates of decedents who were residents of such foreign country,

(2) such foreign country, when requested by the United States to do so, has not acted to revise or reduce such tax so that it is no more burdensome than the tax imposed by this subchapter on the transfer of estates of decedents who were residents of such foreign country, and

(3) it is in the public interest to apply pre-1967 tax provisions in accordance with this section to the transfer of estates of decedents who were residents of such foreign country,

the President shall proclaim that the tax on the transfer of the estate of every decedent who was a resident of such foreign country at the time of his death shall, in the case of decedents dying after the date of such proclamation, be determined under this subchapter without regard to amendments made to sections 2101 (relating to tax imposed), 2102 (relating to credits against tax), 2106 (relating to taxable estate), and 6018 (relating to estate tax returns) on or after November 13, 1966.

**(b) Alleviation of more burdensome tax**

Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under subsection (a) have been modified so that the tax on the transfer of estates of decedents who were citizens of the United States and not residents of such foreign country is no longer more burdensome than the tax imposed by this subchapter on the transfer of estates of decedents who were residents of such foreign country, he shall proclaim that the tax on the transfer of the estate of every decedent who was a resident of such foreign country at the time of his death shall, in the case of decedents dying after the date of such proclamation, be determined under this subchapter without regard to subsection (a).

**(c) Notification of Congress required**

No proclamation shall be issued by the President pursuant to this section unless, at least 30 days prior to such proclamation, he has notified the Senate and the House of Representatives of his intention to issue such proclamation.

**(d) Implementation by regulations**

The Secretary shall prescribe such regulations as may be necessary or appropriate to implement this section.

(Added Pub. L. 89-809, title I, § 108(f), Nov. 13, 1966, 80 Stat. 1573; amended Pub. L. 94-455, title

XIX, §§ 1902(a)(6), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1805, 1834.)

AMENDMENTS

1976—Subsec. (a). Pub. L. 94-455, § 1902(a)(6), substituted “November 13, 1976” for “the date of enactment of this section” after “on or after”.

Subsec. (d). Pub. L. 94-455, § 1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1902(a)(6) of Pub. L. 94-455 applicable in the case of estates of decedents dying after Oct. 4, 1976, see section 1902(c)(1) of Pub. L. 94-455, set out as a note under section 2011 of this title.

EFFECTIVE DATE

Section applicable with respect to estates of decedents dying after Nov. 13, 1966, see section 108(i) of Pub. L. 89-809, set out as an Effective Date of 1966 Amendment note under section 2101 of this title.

**Subchapter C—Miscellaneous**

Sec.

2201. Combat zone-related deaths of members of the Armed Forces, deaths of astronauts, and deaths of victims of certain terrorist attacks.

[2202. Repealed.]

2203. Definition of executor.

2204. Discharge of fiduciary from personal liability.

2205. Reimbursement out of estate.

2206. Liability of life insurance beneficiaries.

2207. Liability of recipient of property over which decedent had power of appointment.

2207A. Right of recovery in the case of certain marital deduction property.

2207B. Right of recovery where decedent retained interest.

2208. Certain residents of possessions considered citizens of the United States.

2209. Certain residents of possessions considered nonresidents not citizens of the United States.

[2210. Repealed.]

AMENDMENT OF ANALYSIS

*For termination of amendment by section 304 of Pub. L. 111-312, see Effective and Termination Dates of 2010 Amendment note set out under section 121 of this title.*

*For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note set out under section 1 of this title.*

AMENDMENTS

2010—Pub. L. 111-312, title III, §§ 301(a), 304, Dec. 17, 2010, 124 Stat. 3300, 3304, temporarily amended analysis to read as if amendment by Pub. L. 107-16, § 501(c)(1), had never been enacted. See 2001 Amendment note below.

2003—Pub. L. 108-121, title I, § 110(c)(2)(B), Nov. 11, 2003, 117 Stat. 1342, inserted “, deaths of astronauts,” after “Forces” in item 2201.

2002—Pub. L. 107-134, title I, § 103(c), Jan. 23, 2002, 115 Stat. 2431, substituted “Combat zone-related deaths of members of the Armed Forces and deaths of victims of certain terrorist attacks.” for “Members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.” in item 2201.

2001—Pub. L. 107-16, title V, § 501(c)(1), title IX, § 901, June 7, 2001, 115 Stat. 69, 150, temporarily added item 2210 “Termination”.

1989—Pub. L. 101-239, title VII, § 7304(b)(2)(C), Dec. 19, 1989, 103 Stat. 2353, struck out item 2210 “Liability for payment in case of transfer of employer securities to

an employee stock ownership plan or a worker-owned cooperative”.

1988—Pub. L. 100-647, title III, §3031(f)(2), Nov. 10, 1988, 102 Stat. 3638, added item 2207B.

1984—Pub. L. 98-369, div. A, title V, §544(b)(2), July 18, 1984, 98 Stat. 894, added item 2210.

1981—Pub. L. 97-34, title IV, §403(d)(4)(B), Aug. 13, 1981, 95 Stat. 305, added item 2207A.

1976—Pub. L. 94-455, title XIX, §1902(b)(1), Oct. 4, 1976, 90 Stat. 1806, struck out item 2202 “Missionaries in foreign service”.

1975—Pub. L. 93-597, §6(b)(3), Jan. 2, 1975, 88 Stat. 1953, substituted “Members of the Armed Forces dying in combat zone or by reason of combat-zone-incurred wounds, etc.” for “Members of the Armed Forces dying during an induction period.” in item 2201.

1970—Pub. L. 91-614, title I, §101(d)(3), Dec. 31, 1970, 84 Stat. 1837, substituted “Discharge of fiduciary from personal liability” for “Discharge of executor from personal liability” in item 2204.

1960—Pub. L. 86-779, §4(b)(2), Sept. 14, 1960, 74 Stat. 1000, added item 2209.

1958—Pub. L. 85-866, title I, §102(c)(4), Sept. 2, 1958, 72 Stat. 1675, added item 2208.

**§ 2201. Combat zone-related deaths of members of the Armed Forces, deaths of astronauts, and deaths of victims of certain terrorist attacks**

**(a) In general**

Unless the executor elects not to have this section apply, in applying sections 2001 and 2101 to the estate of a qualified decedent, the rate schedule set forth in subsection (c) shall be deemed to be the rate schedule set forth in section 2001(c).

**(b) Qualified decedent**

For purposes of this section, the term “qualified decedent” means—

- (1) any citizen or resident of the United States dying while in active service of the Armed Forces of the United States, if such decedent—

(A) was killed in action while serving in a combat zone, as determined under section 112(c), or

(B) died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under section 112(c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service,

- (2) any specified terrorist victim (as defined in section 692(d)(4)), and

- (3) any astronaut whose death occurs in the line of duty.

**(c) Rate schedule**

**If the amount with respect to which the tentative tax to be computed is:**

**The tentative tax is:**

Not over \$150,000 .....	1 percent of the amount by which such amount exceeds \$100,000.
Over \$150,000 but not over \$200,000.	\$500 plus 2 percent of the excess over \$150,000.
Over \$200,000 but not over \$300,000.	\$1,500 plus 3 percent of the excess over \$200,000.
Over \$300,000 but not over \$500,000.	\$4,500 plus 4 percent of the excess over \$300,000.
Over \$500,000 but not over \$700,000.	\$12,500 plus 5 percent of the excess over \$500,000.

**If the amount with respect to which the tentative tax to be computed is:**

**The tentative tax is:**

Over \$700,000 but not over \$900,000.	\$22,500 plus 6 percent of the excess over \$700,000.
Over \$900,000 but not over \$1,100,000.	\$34,500 plus 7 percent of the excess over \$900,000.
Over \$1,100,000 but not over \$1,600,000.	\$48,500 plus 8 percent of the excess over \$1,100,000.
Over \$1,600,000 but not over \$2,100,000.	\$88,500 plus 9 percent of the excess over \$1,600,000.
Over \$2,100,000 but not over \$2,600,000.	\$133,500 plus 10 percent of the excess over \$2,100,000.
Over \$2,600,000 but not over \$3,100,000.	\$183,500 plus 11 percent of the excess over \$2,600,000.
Over \$3,100,000 but not over \$3,600,000.	\$238,500 plus 12 percent of the excess over \$3,100,000.
Over \$3,600,000 but not over \$4,100,000.	\$298,500 plus 13 percent of the excess over \$3,600,000.
Over \$4,100,000 but not over \$5,100,000.	\$363,500 plus 14 percent of the excess over \$4,100,000.
Over \$5,100,000 but not over \$6,100,000.	\$503,500 plus 15 percent of the excess over \$5,100,000.
Over \$6,100,000 but not over \$7,100,000.	\$653,500 plus 16 percent of the excess over \$6,100,000.
Over \$7,100,000 but not over \$8,100,000.	\$813,500 plus 17 percent of the excess over \$7,100,000.
Over \$8,100,000 but not over \$9,100,000.	\$983,500 plus 18 percent of the excess over \$8,100,000.
Over \$9,100,000 but not over \$10,100,000.	\$1,163,500 plus 19 percent of the excess over \$9,100,000.
Over \$10,100,000 .....	\$1,353,500 plus 20 percent of the excess over \$10,100,000.

**(d) Determination of unified credit**

In the case of an estate to which this section applies, subsection (a) shall not apply in determining the credit under section 2010.

(Aug. 16, 1954, ch. 736, 68A Stat. 401; Pub. L. 93-597, §6(b)(1), (2), Jan. 2, 1975, 88 Stat. 1953; Pub. L. 94-455, title XIX, §1902(a)(7)(A), Oct. 4, 1976, 90 Stat. 1805; Pub. L. 107-16, title V, §532(c)(9), June 7, 2001, 115 Stat. 75; Pub. L. 107-134, title I, §103(a), (b)(3), Jan. 23, 2002, 115 Stat. 2430, 2431; Pub. L. 108-121, title I, §110(c)(1), (2)(A), Nov. 11, 2003, 117 Stat. 1342.)

**AMENDMENTS**

2003—Pub. L. 108-121, §110(c)(2)(A), inserted “, deaths of astronauts,” after “Forces” in section catchline.

Subsec. (b)(3). Pub. L. 108-121, §110(c)(1), added par. (3).

2002—Pub. L. 107-134 amended section catchline and text of section generally, substituting present provisions for provisions which had stated that the additional estate tax as defined in former section 2011(d) should not apply to the transfer of the taxable estate of a citizen or resident of the United States dying while in active service as a member of the Armed Forces of the United States, if such decedent was killed in action while serving in a combat zone, as determined under section 112(c), or died as a result of wounds, disease, or injury suffered, while serving in a combat zone (as determined under section 112(c)), and while in line of duty, by reason of a hazard to which he was subjected as an incident of such service.

2001—Pub. L. 107-16, §§532(c)(9)(B), 901, which temporarily added concluding provisions which read as follows: “For purposes of this section, the additional estate tax is the difference between the tax imposed by section 2001 or 2101 and the amount equal to 125 percent of the maximum credit provided by section 2011(b), as in effect before its repeal by the Economic Growth and Tax Relief Reconciliation Act of 2001.”, was repealed by Pub. L. 107-134, §103(b)(3). See Effective and Termination Dates of 2001 Amendment and Effective Date of 2002 Amendment notes below.