

Pub. L. 107-16, §§ 532(c)(9)(A), 901, which temporarily struck out “as defined in section 2011(d)” after “The additional estate tax” in introductory provisions, was repealed by Pub.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.

1975—Pub. L. 93-597, as amended by Pub. L. 94-455, § 1902(a)(7)(A), struck out “during an induction period (as defined in section 112(c)(5))” after “resident of the United States dying”, and 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 section catchline.

#### EFFECTIVE DATE OF 2003 AMENDMENT

Pub. L. 108-121, title I, § 110(c)(3), Nov. 11, 2003, 117 Stat. 1343, provided that: “The amendments made by this subsection [amending this section] shall apply to estates of decedents dying after December 31, 2002.”

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-134 applicable to estates of decedents dying on or after Sept. 11, 2001, and, in the case of individuals dying as a result of the Apr. 19, 1995, terrorist attack, dying on or after Apr. 19, 1995, with provisions relating to waiver of limitations, see section 103(d) of Pub. L. 107-134, set out as a note under section 2011 of this title.

#### EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to estates of decedents dying, and generation-skipping transfers, after Dec. 31, 2004, see section 532(d) of Pub. L. 107-16, set out as a note under section 2011 of this title.

Amendment by Pub. L. 107-16 inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such estates, gifts, and transfers as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Section 1902(a)(7)(B) of Pub. L. 94-455 provided that: “The amendment made by subsection (A) [amending section 6(b)(1) of Pub. L. 93-597] is effective July 1, 1973.”

#### EFFECTIVE DATE OF 1975 AMENDMENT

Section 6(c) of Pub. L. 93-597 provided that: “The amendments made by this section [amending this section and section 1034 of this title] shall take effect on July 1, 1973.”

### [§ 2202. Repealed. Pub. L. 94-455, title XIX, § 1902(a)(8), Oct. 4, 1976, 90 Stat. 1805]

Section, acts Aug. 16, 1954, ch. 736, 68A Stat. 401; June 25, 1959, Pub. L. 86-70, § 22(a), 73 Stat. 146; July 12, 1960, Pub. L. 86-624, § 18(b), 74 Stat. 416, related to the presumption that missionaries duly commissioned and serving under boards of foreign missions are residents of the State or the District of Columbia wherein they resided at the time of their commission and departure for service.

#### EFFECTIVE DATE OF REPEAL

Repeal applicable to estates of decedents dying after Oct. 4, 1976, see section 1902(c)(1) of Pub. L. 94-455, set out as an Effective Date of 1976 Amendment note under section 2011 of this title.

### § 2203. Definition of executor

The term “executor” wherever it is used in this title in connection with the estate tax imposed by this chapter means the executor or ad-

ministrators of the decedent, or, if there is no executor or administrator appointed, qualified, and acting within the United States, then any person in actual or constructive possession of any property of the decedent.

(Aug. 16, 1954, ch. 736, 68A Stat. 401.)

### § 2204. Discharge of fiduciary from personal liability

#### (a) General rule

If the executor makes written application to the Secretary for determination of the amount of the tax and discharge from personal liability therefor, the Secretary (as soon as possible, and in any event within 9 months after the making of such application, or, if the application is made before the return is filed, then within 9 months after the return is filed, but not after the expiration of the period prescribed for the assessment of the tax in section 6501) shall notify the executor of the amount of the tax. The executor, on payment of the amount of which he is notified (other than any amount the time for payment of which is extended under sections 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment is extended, shall be discharged from personal liability for any deficiency in tax thereafter found to be due and shall be entitled to a receipt or writing showing such discharge.

#### (b) Fiduciary other than the executor

If a fiduciary (not including a fiduciary in respect of the estate of a nonresident decedent) other than the executor makes written application to the Secretary for determination of the amount of any estate tax for which the fiduciary may be personally liable, and for discharge from personal liability therefor, the Secretary upon the discharge of the executor from personal liability under subsection (a), or upon the expiration of 6 months after the making of such application by the fiduciary, if later, shall notify the fiduciary (1) of the amount of such tax for which it has been determined the fiduciary is liable, or (2) that it has been determined that the fiduciary is not liable for any such tax. Such application shall be accompanied by a copy of the instrument, if any, under which such fiduciary is acting, a description of the property held by the fiduciary, and such other information for purposes of carrying out the provisions of this section as the Secretary may require by regulations. On payment of the amount of such tax for which it has been determined the fiduciary is liable (other than any amount the time for payment of which has been extended under section 6161, 6163, or 6166), and on furnishing any bond which may be required for any amount for which the time for payment has been extended, or on receipt by him of notification of a determination that he is not liable for any such tax, the fiduciary shall be discharged from personal liability for any deficiency in such tax thereafter found to be due and shall be entitled to a receipt or writing evidencing such discharge.

#### (c) Special lien under section 6324A

For purposes of the second sentence of subsection (a) and the last sentence of subsection

(b), an agreement which meets the requirements of section 6324A (relating to special lien for estate tax deferred under section 6166) shall be treated as the furnishing of bond with respect to the amount for which the time for payment has been extended under section 6166.

**(d) Good faith reliance on gift tax returns**

If the executor in good faith relies on gift tax returns furnished under section 6103(e)(3) for determining the decedent's adjusted taxable gifts, the executor shall be discharged from personal liability with respect to any deficiency of the tax imposed by this chapter which is attributable to adjusted taxable gifts which—

- (1) are made more than 3 years before the date of the decedent's death, and
- (2) are not shown on such returns.

(Aug. 16, 1954, ch. 736, 68A Stat. 401; Pub. L. 91-614, title I, §101(d)(1), (f), Dec. 31, 1970, 84 Stat. 1836, 1838; Pub. L. 94-455, title XIX, §§1902(a)(9), 1906(b)(13)(A), title XX, §2004(d)(2), (f)(4), (6), Oct. 4, 1976, 90 Stat. 1805, 1834, 1870, 1872; Pub. L. 95-600, title VII, §702(p)(1), Nov. 6, 1978, 92 Stat. 2937; Pub. L. 97-34, title IV, §422(e)(1), (3), Aug. 13, 1981, 95 Stat. 316.)

AMENDMENTS

1981—Subsecs. (a) to (c). Pub. L. 97-34, §422(e)(1), (3), struck out reference to section 6166A in subsecs. (a) and (b), and two such references in subsec. (c).

1978—Subsec. (d). Pub. L. 95-600 added subsec. (d).

1976—Subsec. (a). Pub. L. 94-455, §§1906(b)(13)(A), 2004(f)(6), substituted “6166 or 6166A” for “or 6166” after “6161, 6163” and struck out “or his delegate” in two places after “Secretary”.

Subsec. (b). Pub. L. 94-455, §§1902(a)(9), 1906(b)(13)(A), 2004(f)(4), (6), substituted “6166 or 6166A” for “or 6166” after “6161, 6163”, “has been” for “has not been” after “payment of which”, and struck out “or his delegate” after “Secretary”.

Subsec. (c). Pub. L. 94-455, §2004(d)(2), added subsec. (c).

1970—Pub. L. 91-614, §101(d)(1)(A), substituted “fiduciary” for “executor” in section catchline.

Subsec. (a). Pub. L. 91-614, §§101(d)(1)(B), (C), (f), designated existing provisions as subsec. (a), inserted “General Rule—” immediately preceding first sentence and permitted a discharge of the executor even where an extension of time has been granted under sections 6161, 6163, or 6166 of this title, where a bond, if required, is provided to assure payment of taxes for which the extension was granted, and substituted “9 months” for “1 year” in two places.

Subsec. (b). Pub. L. 91-614, §101(d)(1)(D), added subsec. (b).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97-34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(p)(2) of Pub. L. 95-600 provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to the estates of decedents dying after December 31, 1976.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1902(a)(9) of Pub. L. 94-455 applicable in the case of estates of decedents dying after Dec. 31, 1970, see section 1902(c)(1) of Pub. L. 94-455, set out as a note under section 2011 of this title.

Amendment by section 2004(d)(4) of Pub. L. 94-455 applicable to estates of decedents dying after Dec. 31,

1976, see section 2004(g) of Pub. L. 94-455, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 101(d)(1) of Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as a note under section 2032 of this title.

Section 101(f) of Pub. L. 91-614 provided that the amendment made by that section is effective with respect to the estates of decedents dying after Dec. 31, 1973.

**§ 2205. Reimbursement out of estate**

If the tax or any part thereof is paid by, or collected out of, that part of the estate passing to or in the possession of any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this chapter that so far as is practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution.

(Aug. 16, 1954, ch. 736, 68A Stat. 402.)

**§ 2206. Liability of life insurance beneficiaries**

Unless the decedent directs otherwise in his will, if any part of the gross estate on which tax has been paid consists of proceeds of policies of insurance on the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds of such policies bear to the taxable estate. If there is more than one such beneficiary, the executor shall be entitled to recover from such beneficiaries in the same ratio. In the case of such proceeds receivable by the surviving spouse of the decedent for which a deduction is allowed under section 2056 (relating to marital deduction), this section shall not apply to such proceeds except as to the amount thereof in excess of the aggregate amount of the marital deductions allowed under such section.

(Aug. 16, 1954, ch. 736, 68A Stat. 402; Pub. L. 94-455, title XX, §2001(c)(1)(H), Oct. 4, 1976, 90 Stat. 1852.)

AMENDMENTS

1976—Pub. L. 94-455 substituted “the taxable estate” for “the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051” after “policies bear to”.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2001(d)(1) of Pub. L. 94-455, set out as a note under section 2001 of this title.

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

Unless the decedent directs otherwise in his will, if any part of the gross estate on which the