

tax has been paid consists of the value of property included in the gross estate under section 2041, the executor shall be entitled to recover from the person receiving such property by reason of the exercise, nonexercise, or release of a power of appointment such portion of the total tax paid as the value of such property bears to the taxable estate. If there is more than one such person, the executor shall be entitled to recover from such persons in the same ratio. In the case of such property received 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 property except as to the value thereof reduced by an amount equal to the excess of the aggregate amount of the marital deductions allowed under section 2056 over the amount of proceeds of insurance upon the life of the decedent receivable by the surviving spouse for which proceeds a marital deduction is allowed under such section.

(Aug. 16, 1954, ch. 736, 68A Stat. 402; Pub. L. 94-455, title XX, §2001(c)(1)(I), 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 2052, or section 2106(a), as the case may be” after “property bears 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.

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

#### (a) Recovery with respect to estate tax

##### (1) In general

If any part of the gross estate consists of property the value of which is includible in the gross estate by reason of section 2044 (relating to certain property for which marital deduction was previously allowed), the decedent's estate shall be entitled to recover from the person receiving the property the amount by which—

(A) the total tax under this chapter which has been paid, exceeds

(B) the total tax under this chapter which would have been payable if the value of such property had not been included in the gross estate.

##### (2) Decedent may otherwise direct

Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.

#### (b) Recovery with respect to gift tax

If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2519, such person shall be enti-

led to recover from the person receiving the property the amount by which—

(1) the total tax for such year under chapter 12, exceeds

(2) the total tax which would have been payable under such chapter for such year if the value of such property had not been taken into account for purposes of chapter 12.

#### (c) More than one recipient of property

For purposes of this section, if there is more than one person receiving the property, the right of recovery shall be against each such person.

#### (d) Taxes and interest

In the case of penalties and interest attributable to additional taxes described in subsections (a) and (b), rules similar to subsections (a), (b), and (c) shall apply.

(Added Pub. L. 97-34, title IV, §403(d)(4)(A), Aug. 13, 1981, 95 Stat. 304; amended Pub. L. 105-34, title XIII, §1302(a), Aug. 5, 1997, 111 Stat. 1039.)

#### AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105-34 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply if the decedent otherwise directs by will.”

#### EFFECTIVE DATE OF 1997 AMENDMENT

Section 1302(c) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this section and section 2207B of this title] shall apply with respect to the estates of decedents dying after the date of the enactment of this Act [Aug. 5, 1997].”

#### EFFECTIVE DATE

Section applicable to estates of decedents dying after Dec. 31, 1981, see section 403(e) of Pub. L. 97-34, set out as an Effective Date of 1981 Amendment note under section 2056 of this title.

### § 2207B. Right of recovery where decedent retained interest

#### (a) Estate tax

##### (1) In general

If any part of the gross estate on which tax has been paid consists of the value of property included in the gross estate by reason of section 2036 (relating to transfers with retained life estate), the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax under this chapter which has been paid as—

(A) the value of such property, bears to

(B) the taxable estate.

##### (2) Decedent may otherwise direct

Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.

#### (b) More than one recipient

For purposes of this section, if there is more than 1 person receiving the property, the right of recovery shall be against each such person.

#### (c) Penalties and interest

In the case of penalties and interest attributable to the additional taxes described in sub-

section (a), rules similar to the rules of subsections (a) and (b) shall apply.

**(d) No right of recovery against charitable remainder trusts**

No person shall be entitled to recover any amount by reason of this section from a trust to which section 664 applies (determined without regard to this section).

(Added Pub. L. 100-647, title III, §3031(f)(1), Nov. 10, 1988, 102 Stat. 3637; amended Pub. L. 101-508, title XI, §11601(b)(1), Nov. 5, 1990, 104 Stat. 1388-490; Pub. L. 105-34, title XIII, §1302(b), Aug. 5, 1997, 111 Stat. 1039.)

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105-34 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: “Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will (or a revocable trust) specifically referring to this section.”

1990—Subsec. (b). Pub. L. 101-508, §11601(b)(1)(A), redesignated former subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which bears the same ratio to the total tax for such year under chapter 12 as—

“(1) the value of such property for purposes of chapter 12, bears to

“(2) the total amount of the taxable gifts for such year.”

Subsec. (c). Pub. L. 101-508, §11601(b)(1), redesignated subsec. (d) as (c) and substituted “subsection (a)” for “subsections (a) and (b)” and “subsections (a) and (b)” for “subsections (a), (b), and (c)”. Former subsec. (c) redesignated (b).

Subsecs. (d), (e). Pub. L. 101-508, §11601(b)(1)(A), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (d) redesignated (c).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable with respect to estates of decedents dying after Aug. 5, 1997, see section 1302(c) of Pub. L. 105-34, set out as a note under section 2207A of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable in the case of property transferred after Dec. 17, 1987, see section 11601(c) of Pub. L. 101-508, set out as a note under section 2036 of this title.

EFFECTIVE DATE

Section effective as if included in provisions of Revenue Act of 1987, Pub. L. 100-203, title X, except that if an amount is included in the gross estate of a decedent under section 2036 of this title other than solely by reason of section 2036(c) of this title, section applicable to such amount only with respect to property transferred after Nov. 10, 1988, see section 3031(h)(1), (3) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 2036 of this title.

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

A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a “citizen” of the United States within the meaning of that term wherever used in this title un-

less he acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

(Added Pub. L. 85-866, title I, §102(a), Sept. 2, 1958, 72 Stat. 1674.)

EFFECTIVE DATE

Section applicable to estates of decedents dying after Sept. 2, 1958, see section 102(d) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 2011 of this title.

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

A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a “nonresident not a citizen of the United States” within the meaning of that term wherever used in this title, but only if such person acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

(Added Pub. L. 86-779, §4(b)(1), Sept. 14, 1960, 74 Stat. 999.)

EFFECTIVE DATE

Section applicable with respect to estates of decedents dying after Sept. 14, 1960, see section 4(e)(2) of Pub. L. 86-779, set out as an Effective Date of 1960 Amendment note under section 2106 of this title.

**[§ 2210. Repealed. Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300]**

Section, added Pub. L. 107-16, title V, §501(a), June 7, 2001, 115 Stat. 69, related to termination of applicability of chapter to estates of decedents dying after Dec. 31, 2009.

TERMINATION OF REPEAL

*For termination of repeal of section by section 304 of Pub. L. 111-312, see Effective and Termination Dates of Repeal note below.*

TERMINATION OF SECTION

*For termination of section by section 901 of Pub. L. 107-16, see Effective and Termination Dates note below.*

PRIOR PROVISIONS

A prior section 2210, added Pub. L. 98-369, div. A, title V, §544(a), July 18, 1984, 98 Stat. 892; amended Pub. L. 99-514, title XVIII, §§1854(d)(1)(A), (2)-(6), 1899A(37), Oct. 22, 1986, 100 Stat. 2879, 2880, 2960, related to liability for payment in case of transfer of employer securities to an employee stock ownership plan or a worker-owned cooperative, prior to repeal by Pub. L. 101-239, title VII, §7304(b)(1), (3), Dec. 19, 1989, 103 Stat. 2353, applicable to estates of decedents dying after July 12, 1989.

EFFECTIVE AND TERMINATION DATES OF REPEAL

Repeal of section applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

Section 901 of Pub. L. 107-16 applicable to repeal by section 301(a) of Pub. L. 111-312, see section 304 of Pub.