

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-16, §532(c)(7)(A), reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “The tax imposed by section 2101 shall be credited with the amounts determined in accordance with sections 2011 to 2013, inclusive (relating to State death taxes, gift tax, and tax on prior transfers), subject to the special limitation provided in subsection (b).”

Subsec. (b). Pub. L. 107-16, §532(c)(7)(B), redesignated subsec. (c) as (b) and struck out heading and text of former subsec. (b). Text read as follows: “The maximum credit allowed under section 2011 against the tax imposed by section 2101 for State death taxes paid shall be an amount which bears the same ratio to the credit computed as provided in section 2011(b) as the value of the property, as determined for purposes of this chapter, upon which State death taxes were paid and which is included in the gross estate under section 2103 bears to the value of the total gross estate under section 2103. For purposes of this subsection, the term ‘State death taxes’ means the taxes described in section 2011(a).”

Subsec. (b)(5). Pub. L. 107-16, §532(c)(7)(C), substituted “2012 and 2013” for “2011 to 2013, inclusive.”

Subsec. (c). Pub. L. 107-16, §532(c)(7)(B), redesignated subsec. (c) as (b).

1997—Subsec. (c)(3)(A). Pub. L. 105-34 substituted “the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death” for “\$192,800”.

1996—Subsec. (c)(3)(A). Pub. L. 104-188 inserted at end “For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.”

1988—Subsec. (c)(1). Pub. L. 100-647, §5032(b)(1)(A), substituted “\$13,000” for “\$3,600”.

Subsec. (c)(2). Pub. L. 100-647, §5032(b)(1), substituted “\$13,000” for “\$3,600” in subpar. (A) and “\$46,800” for “\$15,075” in subpar. (B).

Subsec. (c)(3). Pub. L. 100-647, §5032(b)(2), amended par. (3) generally, substituting provision relating to special rules for coordination with treaties and with gift tax unified tax credit for provision relating to a phase-in of the par. (2)(B) amount for decedents dying during 1977, 1978, 1979, and 1980.

1976—Subsec. (c). Pub. L. 94-455 added subsec. (c).

1966—Pub. L. 89-809 redesignated existing provisions as subsec. (a), inserted reference to special limitation provided in subsec. (b), and added subsec. (b).

EFFECTIVE DATE 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.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to estates of decedents dying, and gifts made, after Dec. 31, 1997, see section 501(f) of Pub. L. 105-34, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to estates of decedents dying after Nov. 10, 1988, see section 5032(d) of Pub. L. 100-647, set out as a note under section 2101 of this title.

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.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to estates of decedents dying after Nov. 13, 1966, see sec-

tion 108(i) of Pub. L. 89-809, set out as a note under section 2101 of this title.

§ 2103. Definition of gross estate

For the purpose of the tax imposed by section 2101, the value of the gross estate of every decedent nonresident not a citizen of the United States shall be that part of his gross estate (determined as provided in section 2031) which at the time of his death is situated in the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 397.)

§ 2104. Property within the United States**(a) Stock in corporation**

For purposes of this subchapter shares of stock owned and held by a nonresident not a citizen of the United States shall be deemed property within the United States only if issued by a domestic corporation.

(b) Revocable transfers and transfers within 3 years of death

For purposes of this subchapter, any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, shall be deemed to be situated in the United States, if so situated either at the time of the transfer or at the time of the decedent's death.

(c) Debt obligations

For purposes of this subchapter, debt obligations of—

- (1) a United States person, or
- (2) the United States, a State or any political subdivision thereof, or the District of Columbia,

owned and held by a nonresident not a citizen of the United States shall be deemed property within the United States. With respect to estates of decedents dying after December 31, 1969, deposits with a domestic branch of a foreign corporation, if such branch is engaged in the commercial banking business, shall, for purposes of this subchapter, be deemed property within the United States. This subsection shall not apply to a debt obligation to which section 2105(b) applies.

(Aug. 16, 1954, ch. 736, 68A Stat. 397; Pub. L. 89-809, title I, §108(c), Nov. 13, 1966, 80 Stat. 1572; Pub. L. 91-172, title IV, §435(b), Dec. 30, 1969, 83 Stat. 625; Pub. L. 93-17, §3(a)(1), Apr. 10, 1973, 87 Stat. 12; Pub. L. 93-625, §9(b), Jan. 3, 1975, 88 Stat. 2116; Pub. L. 94-455, title XX, §2001(c)(1)(L), Oct. 4, 1976, 90 Stat. 1853; Pub. L. 100-647, title I, §1012(q)(11), Nov. 10, 1988, 102 Stat. 3525; Pub. L. 104-188, title I, §1704(t)(38), Aug. 20, 1996, 110 Stat. 1889; Pub. L. 111-226, title II, §217(c)(3), Aug. 10, 2010, 124 Stat. 2402.)

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2010—Subsec. (c). Pub. L. 111-226, in concluding provisions, struck out before period at end “or to a debt obligation of a domestic corporation if any interest on such obligation, were such interest received by the decedent at the time of his death, would be treated by reason of section 861(a)(1)(A) as income from sources without the United States”.

1996—Subsec. (c). Pub. L. 104-188 substituted “section 861(a)(1)(A)” for “subparagraph (A), (C), or (D) of section 861(a)(1)” in concluding provisions.

1988—Subsec. (c). Pub. L. 100-647 substituted “subparagraph (A), (C), or (D) of section 861(a)(1)” for “section 861(a)(1)(B), section 861(a)(1)(G), or section 861(a)(1)(H)”.

1976—Subsec. (b). Pub. L. 94-455 substituted “and transfers within 3 years of death” for “and transfers in contemplation of death” after “Revocable transfers”.

1975—Subsec. (c). Pub. L. 93-625 inserted reference to section 861(a)(1)(H) of this title in last sentence.

1973—Subsec. (c). Pub. L. 93-17 made subsec. (c) inapplicable to debt obligations where interest on such obligations is treated as income from sources without the United States by reason of section 861(a)(1)(G) of this title.

1969—Subsec. (c). Pub. L. 91-172 substituted “December 31, 1969” for “December 31, 1972” in provisions deeming deposit with a domestic branch of a foreign corporation if such branch is engaged in the commercial banking business to be property within the United States.

1966—Subsec. (c). Pub. L. 89-809 added subsec. (c).

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-226 applicable to taxable years beginning after Dec. 31, 2010, with certain exceptions, see section 217(d) of Pub. L. 111-226, set out as a note under section 861 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 not applicable to transfers made before Jan. 1, 1977, see section 2001(d)(1) of Pub. L. 94-455, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 93-625 applicable with respect to estates of decedents dying after Jan. 3, 1975, see section 9(c) of Pub. L. 93-625, set out as a note under section 861 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Pub. L. 93-17, §3(a)(2), Apr. 10, 1973, 87 Stat. 12, provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to estates of decedents dying after December 31, 1972, except that in the case of the assumption of a debt obligation of a foreign corporation which is treated as issued under section 4912(c)(2) after December 31, 1972, and before January 1, 1974, the amendment made by paragraph (1) [amending this section] shall apply with respect to estates of decedents dying after December 31, 1973.”

EFFECTIVE DATE OF 1966 AMENDMENT

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

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93-17, §1(a), Apr. 10, 1973, 87 Stat. 12, provided that: “This Act [enacting sections 4922 and 6689 of this title, amending this section and sections 4911, 4912, 4914, 4915, 4916, 4918, 4919, 4920, and 6611 of this title, and enacting provisions set out as notes under this section] may be cited as the ‘Interest Equalization Tax Extension Act of 1973.’”

§ 2105. Property without the United States

(a) Proceeds of life insurance

For purposes of this subchapter, the amount receivable as insurance on the life of a non-

resident not a citizen of the United States shall not be deemed property within the United States.

(b) Bank deposits and certain other debt obligations

For purposes of this subchapter, the following shall not be deemed property within the United States—

(1) amounts described in section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1) were such interest received by the decedent at the time of his death,

(2) deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business,

(3) debt obligations, if, without regard to whether a statement meeting the requirements of section 871(h)(5) has been received, any interest thereon would be eligible for the exemption from tax under section 871(h)(1) were such interest received by the decedent at the time of his death, and

(4) obligations which would be original issue discount obligations as defined in section 871(g)(1) but for subparagraph (B)(i) thereof, if any interest thereon (were such interest received by the decedent at the time of his death) would not be effectively connected with the conduct of a trade or business within the United States.

Notwithstanding the preceding sentence, if any portion of the interest on an obligation referred to in paragraph (3) would not be eligible for the exemption referred to in paragraph (3) by reason of section 871(h)(4) if the interest were received by the decedent at the time of his death, then an appropriate portion (as determined in a manner prescribed by the Secretary) of the value (as determined for purposes of this chapter) of such debt obligation shall be deemed property within the United States.

(c) Works of art on loan for exhibition

For purposes of this subchapter, works of art owned by a nonresident not a citizen of the United States shall not be deemed property within the United States if such works of art are—

(1) imported into the United States solely for exhibition purposes,

(2) loaned for such purposes, to a public gallery or museum, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and

(3) at the time of the death of the owner, on exhibition, or en route to or from exhibition, in such a public gallery or museum.

(d) Stock in a RIC

(1) In general

For purposes of this subchapter, stock in a regulated investment company (as defined in section 851) owned by a nonresident not a citizen of the United States shall not be deemed property within the United States in the proportion that, at the end of the quarter of such investment company's taxable year immediately preceding a decedent's date of death