

(c) Tax to be paid by donor

The tax imposed by section 2501 shall be paid by the donor.

(Aug. 16, 1954, ch. 736, 68A Stat. 403; Pub. L. 91-614, title I, §102(a)(2), Dec. 31, 1970, 84 Stat. 1839; Pub. L. 94-455, title XX, §2001(b)(1), Oct. 4, 1976, 90 Stat. 1849; Pub. L. 97-34, title IV, §442(a)(2), Aug. 13, 1981, 95 Stat. 320; Pub. L. 100-203, title X, §10401(b)(2)(B), Dec. 22, 1987, 101 Stat. 1330-431; Pub. L. 107-16, title V, §511(d), June 7, 2001, 115 Stat. 70; Pub. L. 111-312, title III, §302(b)(2), Dec. 17, 2010, 124 Stat. 3301.)

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-312 amended subsec. (a) to read as if amendment by Pub. L. 107-16, §511(d), had never been enacted. See 2001 Amendment note below.

2001—Subsec. (a). Pub. L. 107-16, §511(d), amended subsec. (a) generally. Prior to amendment, text read as follows: “The tax imposed by section 2501 for each calendar year shall be an amount equal to the excess of—

“(1) a tentative tax, computed under section 2001(c), on the aggregate sum of the taxable gifts for such calendar year and for each of the preceding calendar periods, over

“(2) a tentative tax, computed under such section, on the aggregate sum of the taxable gifts for each of the preceding calendar periods.”

1987—Subsec. (a)(1). Pub. L. 100-203, §10401(b)(2)(B)(i), substituted “under section 2001(c)” for “in accordance with the rate schedule set forth in section 2001(c)”.

Subsec. (a)(2). Pub. L. 100-203, §10401(b)(2)(B)(ii), substituted “under such section” for “in accordance with such rate schedule”.

1981—Subsec. (a). Pub. L. 97-34 substituted in introductory text and par. (1) “calendar year” for “calendar quarter” and in pars. (1) and (2) “calendar periods” for “calendar years and calendar quarters”.

Subsec. (b). Pub. L. 97-34 substituted definition of “preceding calendar period” for “calendar quarter”, the latter including only the first calendar quarter of the calendar year 1971 and succeeding calendar quarters (covered in par. (2)), the former incorporating former subsec. (c)(1) definition of “preceding calendar years” as meaning calendar years 1932 and 1970 and all calendar years intervening between calendar year 1932 and calendar year 1970 and “calendar year 1932” as including only the portion of such year after June 6, 1932, and former subsec. (c)(2) definition of “preceding calendar quarters” as meaning the first calendar quarter of calendar year 1971 and all calendar quarters intervening between such calendar quarter and the calendar quarter for which the tax is being computed.

Subsecs. (c), (d). Pub. L. 97-34 redesignated subsec. (d) as (c). Former subsec. (c), defining “preceding calendar years” and “preceding calendar quarters”, was incorporated in subsec. (b).

1976—Subsec. (a). Pub. L. 94-455 inserted “tentative” after “(1) a” and “(2) a” and substituted in par. (1) “section 2001(c)” for “this subsection” after “set forth in”.

1970—Subsec. (a). Pub. L. 91-614, §102(a)(2)(A), substituted a computation of tax formula based on the current calendar quarter, preceding calendar quarters, and preceding calendar years for a formula based entirely on the current and preceding calendar years.

Subsec. (b). Pub. L. 91-614, §102(a)(2)(B), substituted definition of “calendar quarter” for definition of “calendar year”.

Subsec. (c). Pub. L. 91-614, §102(a)(2)(B), substituted definition of “preceding calendar years and quarters” for definition of “preceding calendar years”.

EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title III, §302(b)(2), Dec. 17, 2010, 124 Stat. 3301, provided that the amendment by section 302(b)(2) is effective on and after Jan. 1, 2011.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title V, §511(f)(3), June 7, 2001, 115 Stat. 71, provided that: “The amendments made by subsections (d) and (e) [amending this section and section 2511 of this title] shall apply to gifts made after December 31, 2009.”

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable in the case of decedents dying, and gifts made, after Dec. 31, 1987, see section 10401(c) of Pub. L. 100-203, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XX, §2001(d)(2), Oct. 4, 1976, 90 Stat. 1854, provided that: “The amendments made by subsections (b) and (c)(2) [enacting section 2505 of this title, amending this section and section 2504 of this title, and repealing section 2521 of this title] shall apply to gifts made after December 31, 1976.”

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91-614, set out as a note under section 2501 of this title.

§ 2503. Taxable gifts**(a) General definition**

The term “taxable gifts” means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C (section 2522 and following).

(b) Exclusions from gifts**(1) In general**

In the case of gifts (other than gifts of future interests in property) made to any person by the donor during the calendar year, the first \$10,000 of such gifts to such person shall not, for purposes of subsection (a), be included in the total amount of gifts made during such year. Where there has been a transfer to any person of a present interest in property, the possibility that such interest may be diminished by the exercise of a power shall be disregarded in applying this subsection, if no part of such interest will at any time pass to any other person.

(2) Inflation adjustment

In the case of gifts made in a calendar year after 1998, the \$10,000 amount contained in paragraph (1) shall be increased by an amount equal to—

(A) \$10,000, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 1997” for “calendar year 1992” in subparagraph (B) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$1,000, such amount shall be rounded to the next lowest multiple of \$1,000.

(c) Transfer for the benefit of minor

No part of a gift to an individual who has not attained the age of 21 years on the date of such

transfer shall be considered a gift of a future interest in property for purposes of subsection (b) if the property and the income therefrom—

(1) may be expended by, or for the benefit of, the donee before his attaining the age of 21 years, and

(2) will to the extent not so expended—

(A) pass to the donee on his attaining the age of 21 years, and

(B) in the event the donee dies before attaining the age of 21 years, be payable to the estate of the donee or as he may appoint under a general power of appointment as defined in section 2514(c).

(d) Repealed. Pub. L. 97-34, title III, § 311(h)(5), Aug. 13, 1981, 95 Stat. 282]

(e) Exclusion for certain transfers for educational expenses or medical expenses

(1) In general

Any qualified transfer shall not be treated as a transfer of property by gift for purposes of this chapter.

(2) Qualified transfer

For purposes of this subsection, the term “qualified transfer” means any amount paid on behalf of an individual—

(A) as tuition to an educational organization described in section 170(b)(1)(A)(ii) for the education or training of such individual, or

(B) to any person who provides medical care (as defined in section 213(d)) with respect to such individual as payment for such medical care.

(f) Waiver of certain pension rights

If any individual waives, before the death of a participant, any survivor benefit, or right to such benefit, under section 401(a)(11) or 417, such waiver shall not be treated as a transfer of property by gift for purposes of this chapter.

(g) Treatment of certain loans of artworks

(1) In general

For purposes of this subtitle, any loan of a qualified work of art shall not be treated as a transfer (and the value of such qualified work of art shall be determined as if such loan had not been made) if—

(A) such loan is to an organization described in section 501(c)(3) and exempt from tax under section 501(c) (other than a private foundation), and

(B) the use of such work by such organization is related to the purpose or function constituting the basis for its exemption under section 501.

(2) Definitions

For purposes of this section—

(A) Qualified work of art

The term “qualified work of art” means any archaeological, historic, or creative tangible personal property.

(B) Private foundation

The term “private foundation” has the meaning given such term by section 509, except that such term shall not include any

private operating foundation (as defined in section 4942(j)(3)).

(Aug. 16, 1954, ch. 736, 68A Stat. 404; Pub. L. 91-614, title I, § 102(a)(3), Dec. 31, 1970, 84 Stat. 1839; Pub. L. 95-600, title VII, § 702(j)(2), Nov. 6, 1978, 92 Stat. 2931; Pub. L. 97-34, title III, § 311(h)(5), title IV, §§ 441(a), (b), 442(a)(3), Aug. 13, 1981, 95 Stat. 282, 319, 320; Pub. L. 99-514, title XVIII, § 1898(h)(1)(B), Oct. 22, 1986, 100 Stat. 2957; Pub. L. 100-647, title I, § 1018(s)(2)(A), (u)(52), Nov. 10, 1988, 102 Stat. 3586, 3593; Pub. L. 101-239, title VII, § 7811(m)(1), Dec. 19, 1989, 103 Stat. 2412; Pub. L. 105-34, title V, § 501(c), Aug. 5, 1997, 111 Stat. 846.)

INFLATION ADJUSTED ITEMS FOR CERTAIN YEARS

For inflation adjustment of certain items in this section, see Revenue Procedures listed in a table under section 1 of this title.

AMENDMENTS

1997—Subsec. (b). Pub. L. 105-34 designated existing provisions as par. (1), inserted par. heading, realigned margins, and added par. (2).

1989—Subsecs. (f), (g). Pub. L. 101-239 redesignated subsec. (f), relating to treatment of certain loans of artworks, as (g).

1988—Subsec. (e)(2)(B). Pub. L. 100-647, § 1018(u)(52), substituted “section 213(d)” for “section 213(e)”.

Subsec. (f). Pub. L. 100-647, § 1018(s)(2)(A), added subsec. (f) relating to treatment of certain loans of artworks.

1986—Subsec. (f). Pub. L. 99-514 added subsec. (f).

1981—Subsec. (a). Pub. L. 97-34, § 442(a)(3)(A), substituted “the total amount of gifts made during the calendar year, less the deductions provided in subchapter C (section 2522 and following)” for “, in the case of gifts made after December 31, 1970, the total amount of gifts made during calendar quarter, less the deductions provided in subchapter C (sec. 2521 and following)” and struck out provision that in the case of gifts made before Jan. 1, 1971, “taxable gifts” means the total amount of gifts made during the calendar year, less the deductions provided in subchapter C.

Subsec. (b). Pub. L. 97-34, § 442(a)(3)(B), substituted provision that in the case of gifts, other than gifts of future interests in property, made to any person by the donor during the calendar year, the first \$10,000 of such gifts to such person shall not, for purposes of subsec. (a), be included in the total amount of gifts made during such year for provision that in computing taxable gifts for the calendar quarter, in the case of gifts, other than gifts of future interests in property, made to any person by the donor during the calendar year 1971 and subsequent calendar years, \$10,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of the calendar year shall not, for purposes of subsec. (a), be included in the total amount of gifts made during such quarter.

Pub. L. 97-34, § 441(a), substituted “\$10,000” for “\$3,000”.

Subsec. (d). Pub. L. 97-34, § 311(h)(5), repealed subsec. (d) which related to individual retirement accounts, etc., for spouse.

Subsec. (e). Pub. L. 97-34, § 441(b), added subsec. (e).

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

1970—Subsec. (a). Pub. L. 91-614, § 102(a)(3)(A), divided definition of “taxable gifts” into gifts made after Dec. 31, 1970, where taxable gifts are based on the total amount of gifts made during the calendar quarter, less the applicable deductions, and gifts made before Jan. 1, 1971, where taxable gifts are based on the total amount of gifts made during the calendar year, less the applicable deductions.

Subsec. (b). Pub. L. 91-614, § 102(a)(3)(B), substituted provisions with regard to computing taxable gifts for

the calendar quarter, in the case of gifts made to any persons by the donor during the calendar year 1971 and subsequent calendar years, \$3,000 of such gifts to such person less the aggregate of the amounts of such gifts to such person during all preceding calendar quarters of the calendar year shall not be included in the total amount of gifts made during such quarter for provisions requiring in the case of gifts made to any person by the donor during the calendar year 1955 and subsequent calendar years, the first \$3,000 of such gifts to such person shall not be included in the total amount of gifts made during such year.

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 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1018(s)(2)(B), Nov. 10, 1988, 102 Stat. 3587, provided that: "The amendment made by subparagraph (A) [amending this section] shall apply to loans after July 31, 1969."

Amendment by section 1018(u)(52) of 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 1986 AMENDMENT

Amendment by Pub. L. 99-514 effective as if included in the provision of the Retirement Equity Act of 1984, Pub. L. 98-397, to which such amendment relates, except as otherwise provided, see section 1898(j) of Pub. L. 99-514, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by section 311(h)(5) of Pub. L. 97-34 applicable to taxable years beginning after Dec. 31, 1981, see section 311(i)(1) of Pub. L. 97-34, set out as a note under section 219 of this title.

Pub. L. 97-34, title IV, §441(c), Aug. 13, 1981, 95 Stat. 319, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

"(1) IN GENERAL.—Except as provided in paragraph (2), the amendments made by this section [amending this section] shall apply to transfers after December 31, 1981.

"(2) TRANSITIONAL RULE.—If—

"(A) an instrument executed before the date which is 30 days after the date of the enactment of this Act [Aug. 13, 1981] provides for a power of appointment which may be exercised during any period after December 31, 1981,

"(B) such power of appointment is expressly defined in terms of, or by reference to, the amount of the gift tax exclusion under section 2503(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (or the corresponding provision of prior law),

"(C) the instrument described in subparagraph (A) has not been amended on or after the date which is 30 days after the date of the enactment of this Act [Aug. 13, 1981], and

"(D) the State has not enacted a statute applicable to such gift under which such power of appointment is to be construed as being defined in terms of, or by reference to, the amount of the exclusion under such section 2503(b) after its amendment by subsection (a), then the amendment made by subsection (a) shall not apply to such gift."

Amendment by section 442(a)(3) of Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §702(j)(3)(B), Nov. 6, 1978, 92 Stat. 2932, provided that: "The amendment made by paragraph (2) [amending this section] shall apply to transfers made after December 31, 1976."

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91-614, set out as a note under section 2501 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§1101-1147 and 1171-1177] or title XVIII [§§1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 2504. Taxable gifts for preceding calendar periods

(a) In general

In computing taxable gifts for preceding calendar periods for purposes of computing the tax for any calendar year—

(1) there shall be treated as gifts such transfers as were considered to be gifts under the gift tax laws applicable to the calendar period in which the transfers were made,

(2) there shall be allowed such deductions as were provided for under such laws, and

(3) the specific exemption in the amount (if any) allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of preceding calendar periods ending before January 1, 1977, for purposes of computing the tax for any calendar year.

(b) Exclusions from gifts for preceding calendar periods

In the case of gifts made to any person by the donor during preceding calendar periods, the amount excluded, if any, by the provisions of gift tax laws applicable to the periods in which the gifts were made shall not, for purposes of subsection (a), be included in the total amount of the gifts made during such preceding calendar periods.

(c) Valuation of gifts

If the time has expired under section 6501 within which a tax may be assessed under this chapter 12 (or under corresponding provisions of prior laws) on—

(1) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)); or

(2) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined (within the meaning of section 2001(f)(2)) for purposes of this chapter.