

Amendment by section 1014(g)(4), (18) 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

Section applicable to generation-skipping transfers (within the meaning of section 2611 of this title) made after Oct. 22, 1986, except as otherwise provided, see section 1433 of Pub. L. 99-514, set out as a note under section 2601 of this title.

**Subchapter F—Other Definitions and Special Rules**

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**§ 2651. Generation assignment**

**(a) In general**

For purposes of this chapter, the generation to which any person (other than the transferor) belongs shall be determined in accordance with the rules set forth in this section.

**(b) Lineal descendants**

**(1) In general**

An individual who is a lineal descendant of a grandparent of the transferor shall be assigned to that generation which results from comparing the number of generations between the grandparent and such individual with the number of generations between the grandparent and the transferor.

**(2) On spouse's side**

An individual who is a lineal descendant of a grandparent of a spouse (or former spouse) of the transferor (other than such spouse) shall be assigned to that generation which results from comparing the number of generations between such grandparent and such individual with the number of generations between such grandparent and such spouse.

**(3) Treatment of legal adoptions, etc.**

For purposes of this subsection—

**(A) Legal adoptions**

A relationship by legal adoption shall be treated as a relationship by blood.

**(B) Relationships by half-blood**

A relationship by the half-blood shall be treated as a relationship of the whole-blood.

**(c) Marital relationship**

**(1) Marriage to transferor**

An individual who has been married at any time to the transferor shall be assigned to the transferor's generation.

**(2) Marriage to other lineal descendants**

An individual who has been married at any time to an individual described in subsection (b) shall be assigned to the generation of the individual so described.

**(d) Persons who are not lineal descendants**

An individual who is not assigned to a generation by reason of the foregoing provisions of this

section shall be assigned to a generation on the basis of the date of such individual's birth with—

(1) an individual born not more than 12½ years after the date of the birth of the transferor assigned to the transferor's generation,

(2) an individual born more than 12½ years but not more than 37½ years after the date of the birth of the transferor assigned to the first generation younger than the transferor, and

(3) similar rules for a new generation every 25 years.

**(e) Special rule for persons with a deceased parent**

**(1) In general**

For purposes of determining whether any transfer is a generation-skipping transfer, if—

(A) an individual is a descendant of a parent of the transferor (or the transferor's spouse or former spouse), and

(B) such individual's parent who is a lineal descendant of the parent of the transferor (or the transferor's spouse or former spouse) is dead at the time the transfer (from which an interest of such individual is established or derived) is subject to a tax imposed by chapter 11 or 12 upon the transferor (and if there shall be more than 1 such time, then at the earliest such time),

such individual shall be treated as if such individual were a member of the generation which is 1 generation below the lower of the transferor's generation or the generation assignment of the youngest living ancestor of such individual who is also a descendant of the parent of the transferor (or the transferor's spouse or former spouse), and the generation assignment of any descendant of such individual shall be adjusted accordingly.

**(2) Limited application of subsection to collateral heirs**

This subsection shall not apply with respect to a transfer to any individual who is not a lineal descendant of the transferor (or the transferor's spouse or former spouse) if, at the time of the transfer, such transferor has any living lineal descendant.

**(f) Other special rules**

**(1) Individuals assigned to more than 1 generation**

Except as provided in regulations, an individual who, but for this subsection, would be assigned to more than 1 generation shall be assigned to the youngest such generation.

**(2) Interests through entities**

Except as provided in paragraph (3), if an estate, trust, partnership, corporation, or other entity has an interest in property, each individual having a beneficial interest in such entity shall be treated as having an interest in such property and shall be assigned to a generation under the foregoing provisions of this subsection.

**(3) Treatment of certain charitable organizations and governmental entities**

Any—

(A) organization described in section 511(a)(2),

- (B) charitable trust described in section 511(b)(2), and  
 (C) governmental entity,

shall be assigned to the transferor's generation.

(Added Pub. L. 99-514, title XIV, § 1431(a), Oct. 22, 1986, 100 Stat. 2725; amended Pub. L. 100-647, title I, § 1014(g)(11), (19), Nov. 10, 1988, 102 Stat. 3565, 3567; Pub. L. 105-34, title V, § 511(a), Aug. 5, 1997, 111 Stat. 860.)

#### AMENDMENTS

1997—Subsecs. (e), (f). Pub. L. 105-34 added subsec. (e) and redesignated former subsec. (e) as (f).

1988—Subsec. (b)(2). Pub. L. 100-647, § 1014(g)(19), inserted "(or former spouse)" after "a spouse".

Subsec. (e)(3). Pub. L. 100-647, § 1014(g)(11), amended par. (3) generally, including governmental entities among the organizations to be assigned to transferor's generation.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to terminations, distributions, and transfers occurring after Dec. 31, 1997, see section 511(c) of Pub. L. 105-34, set out as a note under section 2612 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

Section applicable to generation-skipping transfers (within the meaning of section 2611 of this title) made after Oct. 22, 1986, except as otherwise provided, see section 1433 of Pub. L. 99-514, set out as a note under section 2601 of this title.

### § 2652. Other definitions

#### (a) Transferor

For purposes of this chapter—

##### (1) In general

Except as provided in this subsection or section 2653(a), the term "transferor" means—

(A) in the case of any property subject to the tax imposed by chapter 11, the decedent, and

(B) in the case of any property subject to the tax imposed by chapter 12, the donor.

An individual shall be treated as transferring any property with respect to which such individual is the transferor.

##### (2) Gift-splitting by married couples

If, under section 2513, one-half of a gift is treated as made by an individual and one-half of such gift is treated as made by the spouse of such individual, such gift shall be so treated for purposes of this chapter.

##### (3) Special election for qualified terminable interest property

In the case of—

(A) any trust with respect to which a deduction is allowed to the decedent under section 2056 by reason of subsection (b)(7) thereof, and

(B) any trust with respect to which a deduction to the donor spouse is allowed under

section 2523 by reason of subsection (f) thereof,

the estate of the decedent or the donor spouse, as the case may be, may elect to treat all of the property in such trust for purposes of this chapter as if the election to be treated as qualified terminable interest property had not been made.

#### (b) Trust and trustee

##### (1) Trust

The term "trust" includes any arrangement (other than an estate) which, although not a trust, has substantially the same effect as a trust.

##### (2) Trustee

In the case of an arrangement which is not a trust but which is treated as a trust under this subsection, the term "trustee" shall mean the person in actual or constructive possession of the property subject to such arrangement.

##### (3) Examples

Arrangements to which this subsection applies include arrangements involving life estates and remainders, estates for years, and insurance and annuity contracts.

#### (c) Interest

##### (1) In general

A person has an interest in property held in trust if (at the time the determination is made) such person—

(A) has a right (other than a future right) to receive income or corpus from the trust,

(B) is a permissible current recipient of income or corpus from the trust and is not described in section 2055(a), or

(C) is described in section 2055(a) and the trust is—

(i) a charitable remainder annuity trust,

(ii) a charitable remainder unitrust within the meaning of section 664, or

(iii) a pooled income fund within the meaning of section 642(c)(5).

##### (2) Certain interests disregarded

For purposes of paragraph (1), an interest which is used primarily to postpone or avoid any tax imposed by this chapter shall be disregarded.

##### (3) Certain support obligations disregarded

The fact that income or corpus of the trust may be used to satisfy an obligation of support arising under State law shall be disregarded in determining whether a person has an interest in the trust, if—

(A) such use is discretionary, or

(B) such use is pursuant to the provisions of any State law substantially equivalent to the Uniform Gifts to Minors Act.

#### (d) Executor

For purposes of this chapter, the term "executor" has the meaning given such term by section 2203.

(Added Pub. L. 99-514, title XIV, § 1431(a), Oct. 22, 1986, 100 Stat. 2726; amended Pub. L. 100-647, title I, § 1014(g)(6), (8), (9), (14), (20), Nov. 10, 1988, 102 Stat. 3565-3567; Pub. L. 105-34, title XIII, § 1305(b),