

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 1981 AMENDMENT

Pub. L. 97-34, title IV, §401(c)(1), Aug. 13, 1981, 95 Stat. 300, provided that: “The amendments made by subsection (a) [amending this section and section 6018 of this title] shall apply to the estates of decedents dying after December 31, 1981”.

SAVINGS PROVISION

For provisions that nothing in amendment by Pub. L. 101-508 be construed to affect treatment of certain transactions occurring, property acquired, or items of income, loss, deduction, or credit taken into account prior to Nov. 5, 1990, for purposes of determining liability for tax for periods ending after Nov. 5, 1990, see section 11821(b) of Pub. L. 101-508, set out as a note under section 45K of this title.

[§ 2011. Repealed. Pub. L. 113-295, div. A, title II, § 221(a)(95)(A)(i), Dec. 19, 2014, 128 Stat. 4051]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 374; Feb. 20, 1956, ch. 63, §3, 70 Stat. 24; Pub. L. 85-866, title I, §§65(a), 102(c)(1), Sept. 2, 1958, 72 Stat. 1657, 1674; Pub. L. 86-175, §3, Aug. 21, 1959, 73 Stat. 397; Pub. L. 94-455, title XIX, §§1902(a)(12)(B), 1906(b)(13)(A), title XX, §§2001(c)(1)(A), 2004(f)(3), Oct. 4, 1976, 90 Stat. 1806, 1834, 1849, 1872; Pub. L. 97-34, title IV, §422(e)(2), Aug. 13, 1981, 95 Stat. 316; Pub. L. 107-16, title V, §§531(a), 532(a), June 7, 2001, 115 Stat. 72, 73; Pub. L. 107-134, title I, §103(b)(1), Jan. 23, 2002, 115 Stat. 2431, related to credit for State death taxes.

EFFECTIVE DATE OF REPEAL

Repeal effective Dec. 19, 2014, subject to a savings provision, see section 221(b) of Pub. L. 113-295, set out as an Effective Date of 2014 Amendment note under section 1 of this title.

§ 2012. Credit for gift tax

(a) In general

If a tax on a gift has been paid under chapter 12 (sec. 2501 and following), or under corresponding provisions of prior laws, and thereafter on the death of the donor any amount in respect of such gift is required to be included in the value of the gross estate of the decedent for purposes of this chapter, then there shall be credited against the tax imposed by section 2001 the amount of the tax paid on a gift under chapter 12, or under corresponding provisions of prior laws, with respect to so much of the property which constituted the gift as is included in the gross estate, except that the amount of such credit shall not exceed an amount which bears the same ratio to the tax imposed by section 2001 (after deducting from such tax the unified credit provided by section 2010) as the value (at the time of the gift or at the time of the death, whichever is lower) of so much of the property which constituted the gift as is included in the gross estate bears to the value of the entire gross estate reduced by the aggregate amount of the charitable and marital deductions allowed under sections 2055, 2056, and 2106(a)(2).

(b) Valuation reductions

In applying, with respect to any gift, the ratio stated in subsection (a), the value at the time of

the gift or at the time of the death, referred to in such ratio, shall be reduced—

(1) by such amount as will properly reflect the amount of such gift which was excluded in determining (for purposes of section 2503(a)), or of corresponding provisions of prior laws, the total amount of gifts made during the calendar quarter (or calendar year if the gift was made before January 1, 1971) in which the gift was made;

(2) if a deduction with respect to such gift is allowed under section 2056(a) (relating to marital deduction), then by the amount of such value, reduced as provided in paragraph (1); and

(3) if a deduction with respect to such gift is allowed under sections 2055 or 2106(a)(2) (relating to charitable deduction), then by the amount of such value, reduced as provided in paragraph (1) of this subsection.

(c) Where gift considered made one-half by spouse

Where the decedent was the donor of the gift but, under the provisions of section 2513, or corresponding provisions of prior laws, the gift was considered as made one-half by his spouse—

(1) the term “the amount of the tax paid on a gift under chapter 12”, as used in subsection (a), includes the amounts paid with respect to each half of such gift, the amount paid with respect to each being computed in the manner provided in subsection (d); and

(2) in applying, with respect to such gift, the ratio stated in subsection (a), the value at the time of the gift or at the time of the death, referred to in such ratio, includes such value with respect to each half of such gift, each such value being reduced as provided in paragraph (1) of subsection (b).

(d) Computation of amount of gift tax paid

(1) Amount of tax

For purposes of subsection (a), the amount of tax paid on a gift under chapter 12, or under corresponding provisions of prior laws, with respect to any gift shall be an amount which bears the same ratio to the total tax paid for the calendar quarter (or calendar year if the gift was made before January 1, 1971) in which the gift was made as the amount of such gift bears to the total amount of taxable gifts (computed without deduction of the specific exemption) for such quarter or year.

(2) Amount of gift

For purposes of paragraph (1), the “amount of such gift” shall be the amount included with respect to such gift in determining (for the purposes of section 2503(a), or of corresponding provisions of prior laws) the total amount of gifts made during such quarter or year, reduced by the amount of any deduction allowed with respect to such gift under section 2522, or under corresponding provisions of prior laws (relating to charitable deduction), or under section 2523 (relating to marital deduction).

(e) Section inapplicable to gifts made after December 31, 1976

No credit shall be allowed under this section with respect to the amount of any tax paid

under chapter 12 on any gift made after December 31, 1976.

(Aug. 16, 1954, ch. 736, 68A Stat. 375; Pub. L. 91-614, title I, §102(d)(2), Dec. 31, 1970, 84 Stat. 1841; Pub. L. 94-455, title XIX, §1902(a)(1), title XX, §2001(a)(3), (c)(1)(B), Oct. 4, 1976, 90 Stat. 1804, 1848, 1850; Pub. L. 97-34, title IV, §403(a)(2)(A), Aug. 13, 1981, 95 Stat. 301; Pub. L. 107-16, title V, §532(c)(1), June 7, 2001, 115 Stat. 73.)

AMENDMENTS

2001—Subsec. (a). Pub. L. 107-16 struck out “the credit for State death taxes provided by section 2011 and” before “the unified credit”.

1981—Subsec. (b)(2). Pub. L. 97-34 substituted “the amount of such value, reduced as provided in paragraph (1)” for “an amount which bears the same ratio to such value (reduced as provided in paragraph (1) of this subsection) as the aggregate amount of the marital deductions allowed under section 2056(a) bears to the aggregate amount of such marital deductions computed without regard to subsection (c) thereof”.

1976—Subsec. (a). Pub. L. 94-455, §2001(c)(1)(B), substituted “provided by section 2011 and the unified credit provided by section 2010” for “provided by section 2011”.

Subsec. (b). Pub. L. 94-455, §1902(a)(1)(A), added heading and substituted a comma for a dash after “deduction” in pars. (2) and (3).

Subsec. (c). Pub. L. 94-455, §1902(a)(1)(B), added heading.

Subsec. (d). Pub. L. 94-455, §1902(a)(1)(C), (D), added headings for subsec. (d) and for pars. (1) and (2).

Subsec. (e). Pub. L. 94-455, §2001(a)(3), added subsec. (e).

1970—Subsec. (b)(1). Pub. L. 91-614, §102(d)(2)(A), substituted “the calendar quarter (or calendar year if the gift was made before January 1, 1971)” for “the year”.

Subsec. (d). Pub. L. 91-614, §102(d)(2)(B), substituted “such quarter or year” for “such year” in two places.

Subsec. (d)(1). Pub. L. 91-614, §102(d)(2)(A), substituted “the calendar quarter (or calendar year if the gift was made before January 1, 1971)” for “the year”.

EFFECTIVE DATE OF 2001 AMENDMENT

Pub. L. 107-16, title V, §532(d), June 7, 2001, 115 Stat. 75, provided that: “The amendments made by this section [enacting section 2058 of this title and amending this section and sections 2011, 2013 to 2016, 2053, 2056A, 2102, 2106, 2107, 2201, 2604, 6511, and 6612 of this title] shall apply to estates of decedents dying, and generation-skipping transfers, after December 31, 2004.”

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, but inapplicable under certain conditions under will executed before date which is 30 days after Aug. 13, 1981, or under trust created by such date, see section 403(e) of Pub. L. 97-34, set out as a note under section 2056 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIX, §1902(c)(1), Oct. 4, 1976, 90 Stat. 1806, as amended by Pub. L. 95-600, title VII, §703(j)(12), Nov. 6, 1978, 92 Stat. 2942, provided that: “The amendments made by paragraphs (1) through (8), and paragraphs (12)(A), (B), and (C), of subsection (a) and by subsection (b) [amending this section and sections 2011, 2013, 2016, 2038, 2053, 2055, 2056, 2106, 2107, 2108, 2201, 6167, and 6503 of this title, repealing section 2202 of this title, and enacting provisions set out as a note under section 2201 of this title] shall apply in the case of estates of decedents dying after the date of the enactment of this Act [Oct. 4, 1976], and the amendment made by paragraph (9) of subsection (a) [amending section 2204 of this title] shall apply in the case of estates of decedents dying after December 31, 1970.”

Amendment by section 2001(a)(3), (c)(1)(B) of 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 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.

§ 2013. Credit for tax on prior transfers

(a) General rule

The tax imposed by section 2001 shall be credited with all or a part of the amount of the Federal estate tax paid with respect to the transfer of property (including property passing as a result of the exercise or non-exercise of a power of appointment) to the decedent by or from a person (herein designated as a “transferor”) who died within 10 years before, or within 2 years after, the decedent’s death. If the transferor died within 2 years of the death of the decedent, the credit shall be the amount determined under subsections (b) and (c). If the transferor predeceased the decedent by more than 2 years, the credit shall be the following percentage of the amount so determined—

- (1) 80 percent, if within the third or fourth years preceding the decedent’s death;
- (2) 60 percent, if within the fifth or sixth years preceding the decedent’s death;
- (3) 40 percent, if within the seventh or eighth years preceding the decedent’s death; and
- (4) 20 percent, if within the ninth or tenth years preceding the decedent’s death.

(b) Computation of credit

Subject to the limitation prescribed in subsection (c), the credit provided by this section shall be an amount which bears the same ratio to the estate tax paid (adjusted as indicated hereinafter) with respect to the estate of the transferor as the value of the property transferred bears to the taxable estate of the transferor (determined for purposes of the estate tax) decreased by any death taxes paid with respect to such estate. For purposes of the preceding sentence, the estate tax paid shall be the Federal estate tax paid increased by any credits allowed against such estate tax under section 2012, or corresponding provisions of prior laws, on account of gift tax, and for any credits allowed against such estate tax under this section on account of prior transfers where the transferor acquired property from a person who died within 10 years before the death of the decedent.

(c) Limitation on credit

(1) In general

The credit provided in this section shall not exceed the amount by which—

(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2010, 2012, and 2014) computed without regard to this section, exceeds

(B) such tax computed by excluding from the decedent’s gross estate the value of such property transferred and, if applicable, by making the adjustment hereinafter indicated.