

(2) Member of the family

The term “member of the family” means, with respect to any individual—

- (A) such individual’s spouse,
- (B) any ancestor or lineal descendant of such individual or such individual’s spouse,
- (C) any brother or sister of the individual, and
- (D) any spouse of any individual described in subparagraph (B) or (C).

(3) Attribution

The rule of section 2701(e)(3) shall apply for purposes of determining the interests held by any individual.

(Added Pub. L. 101-508, title XI, §11602(a), Nov. 5, 1990, 104 Stat. 1388-498; amended Pub. L. 104-188, title I, §1702(f)(3)(C), Aug. 20, 1996, 110 Stat. 1871.)

AMENDMENTS

1996—Subsec. (c)(3). Pub. L. 104-188 substituted “section 2701(e)(3)” for “section 2701(e)(3)(A)”.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by Pub. L. 104-188 effective, except as otherwise expressly provided, as if included in the provision of the Revenue Reconciliation Act of 1990, Pub. L. 101-508, title XI, to which such amendment relates, see section 1702(i) of Pub. L. 104-188, set out as a note under section 38 of this title.

CHAPTER 15—GIFTS AND BEQUESTS FROM EXPATRIATES

Sec.
2801. Imposition of tax.

§ 2801. Imposition of tax

(a) In general

If, during any calendar year, any United States citizen or resident receives any covered gift or bequest, there is hereby imposed a tax equal to the product of—

- (1) the highest rate of tax specified in the table contained in section 2001(c) as in effect on the date of such receipt, and
- (2) the value of such covered gift or bequest.

(b) Tax to be paid by recipient

The tax imposed by subsection (a) on any covered gift or bequest shall be paid by the person receiving such gift or bequest.

(c) Exception for certain gifts

Subsection (a) shall apply only to the extent that the value of covered gifts and bequests received by any person during the calendar year exceeds the dollar amount in effect under section 2503(b) for such calendar year.

(d) Tax reduced by foreign gift or estate tax

The tax imposed by subsection (a) on any covered gift or bequest shall be reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

(e) Covered gift or bequest

(1) In general

For purposes of this chapter, the term “covered gift or bequest” means—

- (A) any property acquired by gift directly or indirectly from an individual who, at the

time of such acquisition, is a covered expatriate, and

- (B) any property acquired directly or indirectly by reason of the death of an individual who, immediately before such death, was a covered expatriate.

(2) Exceptions for transfers otherwise subject to estate or gift tax

Such term shall not include—

- (A) any property shown on a timely filed return of tax imposed by chapter 12 which is a taxable gift by the covered expatriate, and
- (B) any property included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate.

(3) Exceptions for transfers to spouse or charity

Such term shall not include any property with respect to which a deduction would be allowed under section 2055, 2056, 2522, or 2523, whichever is appropriate, if the decedent or donor were a United States person.

(4) Transfers in trust

(A) Domestic trusts

In the case of a covered gift or bequest made to a domestic trust—

- (i) subsection (a) shall apply in the same manner as if such trust were a United States citizen, and
- (ii) the tax imposed by subsection (a) on such gift or bequest shall be paid by such trust.

(B) Foreign trusts

(i) In general

In the case of a covered gift or bequest made to a foreign trust, subsection (a) shall apply to any distribution attributable to such gift or bequest from such trust (whether from income or corpus) to a United States citizen or resident in the same manner as if such distribution were a covered gift or bequest.

(ii) Deduction for tax paid by recipient

There shall be allowed as a deduction under section 164 the amount of tax imposed by this section which is paid or accrued by a United States citizen or resident by reason of a distribution from a foreign trust, but only to the extent such tax is imposed on the portion of such distribution which is included in the gross income of such citizen or resident.

(iii) Election to be treated as domestic trust

Solely for purposes of this section, a foreign trust may elect to be treated as a domestic trust. Such an election may be revoked with the consent of the Secretary.

(f) Covered expatriate

For purposes of this section, the term “covered expatriate” has the meaning given to such term by section 877A(g)(1).

(Added Pub. L. 110-245, title III, §301(b)(1), June 17, 2008, 122 Stat. 1644; amended Pub. L. 113-295,