

notes, bonds, debentures or other similar evidence of indebtedness of such franchised corporation held by such parent corporation or common owner);

(D) such employee (or employees) owns directly more than 20 percent of the total value of shares of all classes of stock in such franchised corporation;

(E) more than 50 percent of the inventory of such franchised corporation is acquired from members of the controlled group, the common owner, or both; and

(F) all of the conditions contained in subparagraphs (A), (B), (C), (D), and (E) have been met for one-half (or more) of the number of days preceding the December 31 included within the taxable year (or if the taxable year does not include December 31, the last day of such year) of the franchised corporation,

then such franchised corporation shall be treated as an excluded member of such group, under subsection (b)(2), for such taxable year.

**(5) Brother-sister controlled group definition for provisions other than this part**

**(A) In general**

Except as specifically provided in an applicable provision, subsection (a)(2) shall be applied to an applicable provision as if it read as follows:

**“(2) Brother-sister controlled group**

“Two or more corporations if 5 or fewer persons who are individuals, estates, or trusts own (within the meaning of subsection (d)(2) stock possessing—

“(A) at least 80 percent of the total combined voting power of all classes of stock entitled to vote, or at least 80 percent of the total value of shares of all classes of stock, of each corporation, and

“(B) more than 50 percent of the total combined voting power of all classes of stock entitled to vote or more than 50 percent of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each such person only to the extent such stock ownership is identical with respect to each such corporation.”

**(B) Applicable provision**

For purposes of this paragraph, an applicable provision is any provision of law (other than this part) which incorporates the definition of controlled group of corporations under subsection (a).

(Added Pub. L. 88-272, title II, §235(a), Feb. 26, 1964, 78 Stat. 120; amended Pub. L. 91-172, title IV, §401(c), (d), Dec. 30, 1969, 83 Stat. 602; Pub. L. 91-373, title I, §102(b), Aug. 10, 1970, 84 Stat. 696; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 98-369, div. A, title II, §211(b)(22), July 18, 1984, 98 Stat. 757; Pub. L. 99-514, title X, §1024(c)(17), Oct. 22, 1986, 100 Stat. 2408; Pub. L. 100-647, title I, §1018(s)(3)(A), Nov. 10, 1988, 102 Stat. 3587; Pub. L. 108-357, title VIII, §900(a), (b), Oct. 22, 2004, 118 Stat. 1650.)

AMENDMENTS

2004—Subsec. (a)(2). Pub. L. 108-357, §900(a), substituted “possessing” for “possessing—”, struck out

“(B)” before “more than 50 percent of the total combined voting power”, and struck out subpar. (A) which read as follows: “at least 80 percent of the total combined voting power of all classes of stock entitled to vote or at least 80 percent of the total value of shares of all classes of the stock of each corporation, and”.

Subsec. (f)(5). Pub. L. 108-357, §900(b), added par. (5). 1988—Subsec. (d)(1)(B). Pub. L. 100-647 substituted “paragraphs (1), (2), and (3) of subsection (e)” for “subsection (e)(1)”.

1986—Subsec. (b)(2)(D). Pub. L. 99-514 struck out “or section 821” after “section 801”.

1984—Subsecs. (a)(4), (b)(2)(D). Pub. L. 98-369 substituted “section 801” for “section 802”.

1976—Subsecs. (b)(4), (f)(3)(B). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1970—Subsec. (f)(1). Pub. L. 91-373 substituted “by paragraphs (1) and (2) of section 2131(d)” for “in section 3306(i)”.

1969—Subsec. (a)(2). Pub. L. 91-172, §401(c), redesignated existing provisions with minor changes as par. (A) and added par. (B).

Subsec. (c)(2)(A)(iv). Pub. L. 91-172, §401(d)(1), added cl. (iv).

Subsec. (c)(2)(B). Pub. L. 91-172, §401(d)(2), substituted “5 or fewer persons who are individuals, estates, or trusts (referred to in this subparagraph as ‘common owners’) own” for “a person who is an individual, estate, or trust (referred to in this paragraph as ‘common owner’) owns” and in cl. (ii), substituted “any of such common owners”, “any of the common owners” for “such common owner” and “the common owner”, respectively and added cl. (iii).

EFFECTIVE DATE OF 2004 AMENDMENT

Pub. L. 108-357, title VIII, §900(c), Oct. 22, 2004, 118 Stat. 1650, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Oct. 22, 2004].”

EFFECTIVE DATE OF 1988 AMENDMENT

Pub. L. 100-647, title I, §1018(s)(3)(B), Nov. 10, 1988, 102 Stat. 3587, provided that: “The amendment made by subparagraph (A) [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Nov. 10, 1988].”

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 1024(e) of Pub. L. 99-514, set out as a note under section 831 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, see section 215 of Pub. L. 98-369, set out as an Effective Date note under section 801 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91-172 applicable with respect to taxable years ending on or after Dec. 31, 1970, see section 401(h)(3) of Pub. L. 91-172, set out as a note under section 1561 of this title.

EFFECTIVE DATE

Section applicable with respect to taxable years ending after Dec. 31, 1963, see section 235(d) of Pub. L. 88-272, set out as an Effective Date of 1964 Amendment note under section 269 of this title.

**[§ 1564. Repealed. Pub. L. 101-508, title XI, § 11801(a)(38), Nov. 5, 1990, 104 Stat. 1388-521]**

Section, added Pub. L. 91-172, title IV, §401(b)(1), Dec. 30, 1969, 83 Stat. 600; amended Pub. L. 94-455, title XIX,

§§ 1901(b)(1)(J)(vi), (21)(A)(ii), 1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1791, 1797, 1834, related to transitional rules in the case of certain controlled corporations.

SAVINGS PROVISION

For provisions that nothing in repeal 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.

Subtitle B—Estate and Gift Taxes

Chapter 11. Estate tax ..... 2001
12. Gift tax ..... 2501
13. Tax on generation-skipping transfers ... 2601
14. Special valuation rules ..... 2701
15. Gifts and bequests from expatriates ..... 2801

AMENDMENTS

2008—Pub. L. 110-245, title III, §301(b)(2), June 17, 2008, 122 Stat. 1646, added item for chapter 15.
1990—Pub. L. 101-508, title XI, §11602(c), Nov. 5, 1990, 104 Stat. 1388-500, added item for chapter 14.
1986—Pub. L. 99-514, title XIV, §1431(b), Oct. 22, 1986, 100 Stat. 2729, struck out "certain" after "Tax on" in item for chapter 13.
1976—Pub. L. 94-455, title XX, §2006(b)(1), Oct. 4, 1976, 90 Stat. 1888, added item for chapter 13.

CHAPTER 11—ESTATE TAX

Subchapter A. Estates of citizens or residents ..... 2001
B. Estates of nonresidents not citizens ..... 2101
C. Miscellaneous ..... 2201

Subchapter A—Estates of Citizens or Residents

Part I. Tax imposed.
II. Credits against tax.
III. Gross estate.
IV. Taxable estate.

PART I—TAX IMPOSED

Sec. 2001. Imposition and rate of tax.
2002. Liability for payment.

AMENDMENTS

1976—Pub. L. 94-455, title XX, §2001(c)(1)(N)(i), Oct. 4, 1976, 90 Stat. 1853, substituted "Imposition and rate of tax" for "Rate of tax" in item 2001.

§ 2001. Imposition and rate of tax

(a) Imposition

A tax is hereby imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

(b) Computation of tax

The tax imposed by this section shall be the amount equal to the excess (if any) of—

- (1) a tentative tax computed under subsection (c) on the sum of—
(A) the amount of the taxable estate, and
(B) the amount of the adjusted taxable gifts, over

(2) the aggregate amount of tax which would have been payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976, if the modifications described in subsection (g) had been applicable at the time of such gifts.

For purposes of paragraph (1)(B), the term "adjusted taxable gifts" means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

(c) Rate schedule

Table with 2 columns: 'If the amount with respect to which the tentative tax to be computed is:' and 'The tentative tax is:'. Rows include tax rates for various income brackets from 'Not over \$10,000' to 'Over \$1,000,000'.

(d) Adjustment for gift tax paid by spouse

For purposes of subsection (b)(2), if—
(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and
(2) the amount of such gift is includible in the gross estate of the decedent,

any tax payable by the spouse under chapter 12 on such gift (as determined under section 2012(d)) shall be treated as a tax payable with respect to a gift made by the decedent.

(e) Coordination of sections 2513 and 2035

If—
(1) the decedent's spouse was the donor of any gift one-half of which was considered under section 2513 as made by the decedent, and
(2) the amount of such gift is includible in the gross estate of the decedent's spouse by reason of section 2035,

1 Section numbers editorially supplied.
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