

§ 2207B. Right of recovery where decedent retained interest

(a) Estate tax

(1) In general

If any part of the gross estate on which tax has been paid consists of the value of property included in the gross estate by reason of section 2036 (relating to transfers with retained life estate), the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax under this chapter which has been paid as—

- (A) the value of such property, bears to
- (B) the taxable estate.

(2) Decedent may otherwise direct

Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.

(b) More than one recipient

For purposes of this section, if there is more than 1 person receiving the property, the right of recovery shall be against each such person.

(c) Penalties and interest

In the case of penalties and interest attributable to the additional taxes described in subsection (a), rules similar to the rules of subsections (a) and (b) shall apply.

(d) No right of recovery against charitable remainder trusts

No person shall be entitled to recover any amount by reason of this section from a trust to which section 664 applies (determined without regard to this section).

(Added Pub. L. 100-647, title III, §3031(f)(1), Nov. 10, 1988, 102 Stat. 3637; amended Pub. L. 101-508, title XI, §11601(b)(1), Nov. 5, 1990, 104 Stat. 1388-490; Pub. L. 105-34, title XIII, §1302(b), Aug. 5, 1997, 111 Stat. 1039.)

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105-34 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: "Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will (or a revocable trust) specifically referring to this section."

1990—Subsec. (b). Pub. L. 101-508, §11601(b)(1)(A), redesignated former subsec. (c) as (b) and struck out former subsec. (b) which read as follows: "If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which bears the same ratio to the total tax for such year under chapter 12 as—

"(1) the value of such property for purposes of chapter 12, bears to

"(2) the total amount of the taxable gifts for such year."

Subsec. (c). Pub. L. 101-508, §11601(b)(1), redesignated subsec. (d) as (c) and substituted "subsection (a)" for "subsections (a) and (b)" and "subsections (a) and (b)" for "subsections (a), (b), and (c)". Former subsec. (c) redesignated (b).

Subsecs. (d), (e). Pub. L. 101-508, §11601(b)(1)(A), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (d) redesignated (c).

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable with respect to estates of decedents dying after Aug. 5, 1997, see section 1302(c) of Pub. L. 105-34, set out as a note under section 2207A of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable in the case of property transferred after Dec. 17, 1987, see section 11601(c) of Pub. L. 101-508, set out as a note under section 2036 of this title.

EFFECTIVE DATE

Section effective as if included in provisions of Revenue Act of 1987, Pub. L. 100-203, title X, except that if an amount is included in the gross estate of a decedent under section 2036 of this title other than solely by reason of section 2036(c) of this title, section applicable to such amount only with respect to property transferred after Nov. 10, 1988, see section 3031(h)(1), (3) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 2036 of this title.

§ 2208. Certain residents of possessions considered citizens of the United States

A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a "citizen" of the United States within the meaning of that term wherever used in this title unless he acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

(Added Pub. L. 85-866, title I, §102(a), Sept. 2, 1958, 72 Stat. 1674.)

EFFECTIVE DATE

Section applicable to estates of decedents dying after Sept. 2, 1958, see section 102(d) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 2014 of this title.

§ 2209. Certain residents of possessions considered nonresidents not citizens of the United States

A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a "nonresident not a citizen of the United States" within the meaning of that term wherever used in this title, but only if such person acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

(Added Pub. L. 86-779, §4(b)(1), Sept. 14, 1960, 74 Stat. 999.)

EFFECTIVE DATE

Section applicable with respect to estates of decedents dying after Sept. 14, 1960, see section 4(e)(2) of Pub. L. 86-779, set out as an Effective Date of 1960 Amendment note under section 2106 of this title.

[§ 2210. Repealed. Pub. L. 111-312, title III, § 301(a), Dec. 17, 2010, 124 Stat. 3300]

Section, added Pub. L. 107-16, title V, § 501(a), June 7, 2001, 115 Stat. 69, related to termination of applicability of chapter to estates of decedents dying after Dec. 31, 2009.

PRIOR PROVISIONS

A prior section 2210, added Pub. L. 98-369, div. A, title V, § 544(a), July 18, 1984, 98 Stat. 892; amended Pub. L. 99-514, title XVIII, §§ 1854(d)(1)(A), (2)-(6), 1899A(37), Oct. 22, 1986, 100 Stat. 2879, 2880, 2960, related to liability for payment in case of transfer of employer securities to an employee stock ownership plan or a worker-owned cooperative, prior to repeal by Pub. L. 101-239, title VII, § 7304(b)(1), (3), Dec. 19, 1989, 103 Stat. 2353, applicable to estates of decedents dying after July 12, 1989.

EFFECTIVE DATE OF REPEAL

Repeal of section applicable to estates of decedents dying, and transfers made after Dec. 31, 2009, except as otherwise provided, see section 301(e) of Pub. L. 111-312, set out as an Effective and Termination Dates of 2010 Amendment note under section 121 of this title.

CHAPTER 12—GIFT TAX

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Subchapter A—Determination of Tax Liability

Sec.	
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2502.	Rate of tax.
2503.	Taxable gifts.
2504.	Taxable gifts for preceding calendar periods.
2505.	Unified credit against gift tax.

AMENDMENTS

1981—Pub. L. 97-34, title IV, § 442(a)(4)(E), Aug. 13, 1981, 95 Stat. 321, substituted “preceding calendar periods” for “preceding years and quarters” in item 2504.
 1976—Pub. L. 94-455, title XX, § 2001(c)(2)(B)(i), Oct. 4, 1976, 90 Stat. 1853, added item 2505.
 1970—Pub. L. 91-614, title I, § 102(a)(4)(B), Dec. 31, 1970, 84 Stat. 1840, substituted “Taxable gifts for preceding years and quarters” for “Taxable gifts for preceding years” in item 2504.

§ 2501. Imposition of tax

(a) Taxable transfers

(1) General rule

A tax, computed as provided in section 2502, is hereby imposed for each calendar year on the transfer of property by gift during such calendar year by any individual resident or nonresident.

(2) Transfers of intangible property

Except as provided in paragraph (3), paragraph (1) shall not apply to the transfer of intangible property by a nonresident not a citizen of the United States.

(3) Exception

(A) Certain individuals

Paragraph (2) shall not apply in the case of a donor to whom section 877(b) applies for the taxable year which includes the date of the transfer.

(B) Credit for foreign gift taxes

The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph.

(4) Transfers to political organizations

Paragraph (1) shall not apply to the transfer of money or other property to a political organization (within the meaning of section 527(e)(1)) for the use of such organization.

(5) Transfers of certain stock

(A) In general

In the case of a transfer of stock in a foreign corporation described in subparagraph (B) by a donor to whom section 877(b) applies for the taxable year which includes the date of the transfer—

- (i) section 2511(a) shall be applied without regard to whether such stock is situated within the United States, and
- (ii) the value of such stock for purposes of this chapter shall be its U.S.-asset value determined under subparagraph (C).

(B) Foreign corporation described

A foreign corporation is described in this subparagraph with respect to a donor if—

- (i) the donor owned (within the meaning of section 958(a)) at the time of such transfer 10 percent or more of the total combined voting power of all classes of stock entitled to vote of the foreign corporation, and
- (ii) such donor owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of such transfer, more than 50 percent of—

- (I) the total combined voting power of all classes of stock entitled to vote of such corporation, or
- (II) the total value of the stock of such corporation.

(C) U.S.-asset value

For purposes of subparagraph (A), the U.S.-asset value of stock shall be the amount which bears the same ratio to the fair market value of such stock at the time of transfer as—

- (i) the fair market value (at such time) of the assets owned by such foreign corporation and situated in the United States, bears to
- (ii) the total fair market value (at such time) of all assets owned by such foreign corporation.

(6) Transfers to certain exempt organizations

Paragraph (1) shall not apply to the transfer of money or other property to an organization described in paragraph (4), (5), or (6) of section 501(c) and exempt from tax under section 501(a), for the use of such organization.

(b) Certain residents of possessions considered citizens of the United States

A donor who is a citizen of the United States and a resident of a possession thereof shall, for

¹ Section numbers editorially supplied.