

apply whether the transfer is in trust or otherwise, whether the gift is direct or indirect, and whether the property is real or personal, tangible or intangible; but in the case of a nonresident not a citizen of the United States, shall apply to a transfer only if the property is situated within the United States.

(b) Intangible property

For purposes of this chapter, in the case of a nonresident not a citizen of the United States who is excepted from the application of section 2501(a)(2)—

- (1) shares of stock issued by a domestic corporation, and
- (2) debt obligations of—
 - (A) a United States person, or
 - (B) the United States, a State or any political subdivision thereof, or the District of Columbia,

which are owned and held by such nonresident shall be deemed to be property situated within the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 406; Pub. L. 89-809, title I, §109(b), Nov. 13, 1966, 80 Stat. 1575; Pub. L. 107-16, title V, §511(e), June 7, 2001, 115 Stat. 71; Pub. L. 107-147, title IV, §411(g)(1), Mar. 9, 2002, 116 Stat. 46; Pub. L. 111-312, title III, §302(e), Dec. 17, 2010, 124 Stat. 3302.)

AMENDMENTS

2010—Subsec. (c). Pub. L. 111-312 struck out subsec. (c). Text read as follows: “Notwithstanding any other provision of this section and except as provided in regulations, a transfer in trust shall be treated as a transfer of property by gift, unless the trust is treated as wholly owned by the donor or the donor’s spouse under subpart E of part I of subchapter J of chapter 1.”

2002—Subsec. (c). Pub. L. 107-147 substituted “transfer of property by gift,” for “taxable gift under section 2503.”

2001—Subsec. (c). Pub. L. 107-16 added subsec. (c).

1966—Subsec. (b). Pub. L. 89-809 inserted reference to nonresidents who are excepted from the application of section 2501(a)(2) and expanded section to include debt obligations of United States persons or the United States, a State or any political subdivision thereof, or the District of Columbia.

EFFECTIVE DATE OF 2010 AMENDMENT

Amendment by Pub. L. 111-312 applicable to estates of decedents dying, generation-skipping transfers, and gifts made, after Dec. 31, 2009, see section 302(f) of Pub. L. 111-312, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, to which such amendment relates, see section 411(x) of Pub. L. 107-147, set out as a note under section 25B of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to gifts made after Dec. 31, 2009, see section 511(f)(3) of Pub. L. 107-16, set out as a note under section 2502 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to calendar year 1967 and all calendar years thereafter, see section 109(c) of Pub. L. 89-809, set out as a note under section 2501 of this title.

§ 2512. Valuation of gifts

(a) If the gift is made in property, the value thereof at the date of the gift shall be considered the amount of the gift.

(b) Where property is transferred for less than an adequate and full consideration in money or money’s worth, then the amount by which the value of the property exceeded the value of the consideration shall be deemed a gift, and shall be included in computing the amount of gifts made during the calendar year.

(c) Cross reference

For individual’s right to be furnished on request a statement regarding any valuation made by the Secretary of a gift by that individual, see section 7517.

(Aug. 16, 1954, ch. 736, 68A Stat. 406; Pub. L. 91-614, title I, §102(b)(1), Dec. 31, 1970, 84 Stat. 1840; Pub. L. 94-455, title XX, §2008(a)(2)(B), Oct. 4, 1976, 90 Stat. 1891; Pub. L. 97-34, title IV, §442(b)(1), Aug. 13, 1981, 95 Stat. 322.)

AMENDMENTS

1981—Subsec. (b). Pub. L. 97-34 substituted “calendar year” for “calendar quarters”.

1976—Subsec. (c). Pub. L. 94-455 added subsec. (c).

1970—Subsec. (b). Pub. L. 91-614 substituted “calendar quarter” for “calendar year”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 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.

§ 2513. Gift by husband or wife to third party

(a) Considered as made one-half by each

(1) In general

A gift made by one spouse to any person other than his spouse shall, for the purposes of this chapter, be considered as made one-half by him and one-half by his spouse, but only if at the time of the gift each spouse is a citizen or resident of the United States. This paragraph shall not apply with respect to a gift by a spouse of an interest in property if he creates in his spouse a general power of appointment, as defined in section 2514(c), over such interest. For purposes of this section, an individual shall be considered as the spouse of another individual only if he is married to such individual at the time of the gift and does not remarry during the remainder of the calendar year.

(2) Consent of both spouses

Paragraph (1) shall apply only if both spouses have signified (under the regulations provided for in subsection (b)) their consent to the application of paragraph (1) in the case of all such gifts made during the calendar year by either while married to the other.

(b) Manner and time of signifying consent**(1) Manner**

A consent under this section shall be signified in such manner as is provided under regulations prescribed by the Secretary.

(2) Time

Such consent may be so signified at any time after the close of the calendar year in which the gift was made, subject to the following limitations—

(A) The consent may not be signified after the 15th day of April following the close of such year, unless before such 15th day no return has been filed for such year by either spouse, in which case the consent may not be signified after a return for such year is filed by either spouse.

(B) The consent may not be signified after a notice of deficiency with respect to the tax for such year has been sent to either spouse in accordance with section 6212(a).

(c) Revocation of consent

Revocation of a consent previously signified shall be made in such manner as is provided under regulations prescribed by the Secretary, but the right to revoke a consent previously signified with respect to a calendar year—

(1) shall not exist after the 15th day of April following the close of such year if the consent was signified on or before such 15th day; and

(2) shall not exist if the consent was not signified until after such 15th day.

(d) Joint and several liability for tax

If the consent required by subsection (a)(2) is signified with respect to a gift made in any calendar year, the liability with respect to the entire tax imposed by this chapter of each spouse for such year shall be joint and several.

(Aug. 16, 1954, ch. 736, 68A Stat. 406; Pub. L. 91-614, title I, §102(b)(2), Dec. 31, 1970, 84 Stat. 1840; Pub. L. 94-455, title XIX, §1906(b)(13)(A), Oct. 4, 1976, 90 Stat. 1834; Pub. L. 97-34, title IV, §442(b)(2), Aug. 13, 1981, 95 Stat. 322.)

AMENDMENTS

1981—Subsec. (a)(1), (2). Pub. L. 97-34, §442(b)(2)(A), substituted “calendar year” for “calendar quarter”.

Subsec. (b)(2). Pub. L. 97-34, §442(b)(2)(B)–(D), in introductory text, substituted “calendar year” for “calendar quarter”, in subpar. (A), substituted “The consent” for “the consent”, “15th day of April following the close of such year” for “15th day of the second month following the close of such calendar quarter”, and “such year” for “such calendar quarter” in two other places, and in subpar. (B) substituted “The consent” and “such year” for “the consent” and “such calendar quarter”.

Subsec. (c). Pub. L. 97-34, §442(b)(2)(E), in provision preceding par. (1) substituted “calendar year” for “calendar quarter” and in par. (1) “15th day of April following the close of such year” for “15th day of the second month following the close of such quarter”.

Subsec. (d). Pub. L. 97-34, §442(b)(2)(F), substituted “any calendar year” and “such year” for “any calendar quarter” and “such calendar quarter”.

1976—Subsecs. (b)(1), (c). Pub. L. 94-455 struck out “or his delegate” after “Secretary”.

1970—Subsecs. (a), (b)(2). Pub. L. 91-614, §102(b)(2)(A), substituted “calendar quarter” for “calendar year”.

Subsec. (b)(2)(A). Pub. L. 91-614, §102(b)(2)(B), substituted “the 15th day of the second month” for “the

15th day of April” and substituted “such calendar quarter” for “such year”.

Subsec. (b)(2)(B). Pub. L. 91-614, §102(b)(2)(C), substituted “such calendar quarter” for “such year”.

Subsec. (c). Pub. L. 91-614, §102(b)(2)(A), substituted “calendar quarter” for “calendar year”.

Subsec. (c)(1). Pub. L. 91-614, §102(b)(2)(D), substituted “15th day of the second month following the close of such calendar quarter” for “15th day of April following the close of such year”.

Subsec. (d). Pub. L. 91-614, §102(b)(2)(A), (E), substituted “calendar quarter” for “calendar year” and “such calendar quarter” for “such year”.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 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.

§ 2514. Powers of appointment**(a) Powers created on or before October 21, 1942**

An exercise of a general power of appointment created on or before October 21, 1942, shall be deemed a transfer of property by the individual possessing such power; but the failure to exercise such a power or the complete release of such a power shall not be deemed an exercise thereof. If a general power of appointment created on or before October 21, 1942, has been partially released so that it is no longer a general power of appointment, the subsequent exercise of such power shall not be deemed to be the exercise of a general power of appointment if—

(1) such partial release occurred before November 1, 1951, or

(2) the donee of such power was under a legal disability to release such power on October 21, 1942, and such partial release occurred not later than six months after the termination of such legal disability.

(b) Powers created after October 21, 1942

The exercise or release of a general power of appointment created after October 21, 1942, shall be deemed a transfer of property by the individual possessing such power.

(c) Definition of general power of appointment

For purposes of this section, the term “general power of appointment” means a power which is exercisable in favor of the individual possessing the power (hereafter in this subsection referred to as the “possessor”), his estate, his creditors, or the creditors of his estate; except that—

(1) A power to consume, invade, or appropriate property for the benefit of the possessor which is limited by an ascertainable standard relating to the health, education, support, or maintenance of the possessor shall not be deemed a general power of appointment.

(2) A power of appointment created on or before October 21, 1942, which is exercisable by the possessor only in conjunction with another person shall not be deemed a general power of appointment.

(3) In the case of a power of appointment created after October 21, 1942, which is exer-