

“(B) under section 2040 to the extent such property or interest was acquired by the decedent before February 1, 1962, or was held by the decedent and the survivor in a joint tenancy or tenancy by the entirety before February 1, 1962; or

“(C) under section 2041(a) to the extent that before February 1, 1962, such property or interest was subject to a general power of appointment (as defined in section 2041) possessed by the decedent.

In the case of real property, or an interest therein, situated outside of the United States (including a general power of appointment in respect of such property or interest, and including property held by the decedent and the survivor in a joint tenancy or tenancy by the entirety) which was acquired by the decedent after January 31, 1962, by gift within the meaning of section 2511, or from a prior decedent by devise or inheritance, or by reason of death, form of ownership, or other conditions (including the exercise or nonexercise of a power of appointment), for purposes of this paragraph such property or interest therein shall be deemed to have been acquired by the decedent before February 1, 1962, if before that date the donor or prior decedent had acquired the property or his interest therein or had possessed a power of appointment in respect of the property or interest.”

§ 2032. Alternate valuation

(a) General

The value of the gross estate may be determined, if the executor so elects, by valuing all the property included in the gross estate as follows:

(1) In the case of property distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date of distribution, sale, exchange, or other disposition.

(2) In the case of property not distributed, sold, exchanged, or otherwise disposed of, within 6 months after the decedent's death such property shall be valued as of the date 6 months after the decedent's death.

(3) Any interest or estate which is affected by mere lapse of time shall be included at its value as of the time of death (instead of the later date) with adjustment for any difference in its value as of the later date not due to mere lapse of time.

(b) Special rules

No deduction under this chapter of any item shall be allowed if allowance for such items is in effect given by the alternate valuation provided by this section. Wherever in any other subsection or section of this chapter reference is made to the value of property at the time of the decedent's death, such reference shall be deemed to refer to the value of such property used in determining the value of the gross estate. In case of an election made by the executor under this section, then—

(1) for purposes of the charitable deduction under section 2055 or 2106(a)(2), any bequest, legacy, devise, or transfer enumerated therein, and

(2) for the purpose of the marital deduction under section 2056, any interest in property passing to the surviving spouse,

shall be valued as of the date of the decedent's death with adjustment for any difference in value (not due to mere lapse of time or the occurrence or nonoccurrence of a contingency) of

the property as of the date 6 months after the decedent's death (substituting, in the case of property distributed by the executor or trustee, or sold, exchanged, or otherwise disposed of, during such 6-month period, the date thereof).

(c) Election must decrease gross estate and estate tax

No election may be made under this section with respect to an estate unless such election will decrease—

(1) the value of the gross estate, and

(2) the sum of the tax imposed by this chapter and the tax imposed by chapter 13 with respect to property includible in the decedent's gross estate (reduced by credits allowable against such taxes).

(d) Election

(1) In general

The election provided for in this section shall be made by the executor on the return of the tax imposed by this chapter. Such election, once made, shall be irrevocable.

(2) Exception

No election may be made under this section if such return is filed more than 1 year after the time prescribed by law (including extensions) for filing such return.

(Aug. 16, 1954 ch. 736, 68A Stat. 381; Pub. L. 91-614, title I, §101(a), Dec. 31, 1970, 84 Stat. 1836; Pub. L. 98-369, div. A, title X, §§1023(a), 1024(a), July 18, 1984, 98 Stat. 1030; Pub. L. 99-514, title XIV, §1432(c)(1), Oct. 22, 1986, 100 Stat. 2730.)

AMENDMENTS

1986—Subsec. (c)(2). Pub. L. 99-514 amended par. (2) generally. Prior to amendment, par. (2) read as follows: “the amount of the tax imposed by this chapter (reduced by credits allowable against such tax).”

1984—Subsec. (c). Pub. L. 98-369, §1023(a), added subsec. (c). Former subsec. (c) redesignated (d).

Subsec. (d). Pub. L. 98-369, §1024(a), substituted “Election” for “Time of election” in heading, designated existing text as par. (1), inserted heading “In general”, substituted “shall be made by the executor on the return of the tax imposed by this chapter” for “shall be exercised by the executor on his return if filed within the time prescribed by law or before the expiration of any extension of time granted pursuant to law for the filing of the return”, inserted sentence providing that an election, once made, is irrevocable, and added par. (2).

Pub. L. 98-369, §1023(a), redesignated subsec. (c) as (d). 1970—Pub. L. 91-614 substituted “6 months” for “1 year” in four places and substituted “6-month” for “1-year”.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to generation-skipping transfers (within the meaning of section 2611 of this title) made after Oct. 22, 1986, except as otherwise provided, see section 1433 of Pub. L. 99-514, set out as an Effective Date note under section 2601 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title X, §1023(b), July 18, 1984, 98 Stat. 1030, provided that: “The amendments made by subsection (a) [amending this section] shall apply with respect to estates of decedents dying after the date of the enactment of this Act [July 18, 1984].”

Pub. L. 98-369, div. A, title X, §1024(b), July 18, 1984, 98 Stat. 1030, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply to estates of decedents dying after the date of the enactment of this Act [July 18, 1984].

“(2) TRANSITIONAL RULE.—In the case of an estate of a decedent dying before the date of the enactment of this Act [July 18, 1984] if—

“(A) a credit or refund of the tax imposed by chapter 11 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] is not prevented on the date of the enactment of this Act by the operation of any law or rule of law,

“(B) the election under section 2032 of the Internal Revenue Code of 1986 would have met the requirements of such section (as amended by this section and section 1023) had the decedent died after the date of enactment of this Act, and

“(C) a claim for credit or refund of such tax with respect to such estate is filed not later than the 90th day after the date of the enactment of this Act, then such election shall be treated as a valid election under such section 2032. The statutory period for the assessment of any deficiency which is attributable to an election under this paragraph shall not expire before the close of the 2-year period beginning on the date of the enactment of this Act.”

EFFECTIVE DATE OF 1970 AMENDMENT

Pub. L. 91-614, title I, §101(j), Dec. 31, 1970, 84 Stat. 1838, provided that: “The amendments made by this section [enacting section 6905 of this title, amending this section and sections 1223, 2055, 2204, 6040, 6075, 6091, 6161, 6314, 6324, and 6504 of this title, and enacting provisions set out as notes under this section and sections 2204 and 6905 of this title] (other than subsection (f) [amending sections 2204 and 6905 of this title] shall apply with respect to decedents dying after December 31, 1970.”

§ 2032A. Valuation of certain farm, etc., real property

(a) Value based on use under which property qualifies

(1) General rule

If—

(A) the decedent was (at the time of his death) a citizen or resident of the United States, and

(B) the executor elects the application of this section and files the agreement referred to in subsection (d)(2),

then, for purposes of this chapter, the value of qualified real property shall be its value for the use under which it qualifies, under subsection (b), as qualified real property.

(2) Limitation on aggregate reduction in fair market value

The aggregate decrease in the value of qualified real property taken into account for purposes of this chapter which results from the application of paragraph (1) with respect to any decedent shall not exceed \$750,000.

(3) Inflation adjustment

In the case of estates of decedents dying in a calendar year after 1998, the \$750,000 amount contained in paragraph (2) shall be increased by an amount equal to—

(A) \$750,000, multiplied by

(B) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting “calendar year 1997” for “calendar year 2016” in subparagraph (A)(ii) thereof.

If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the next lowest multiple of \$10,000.

(b) Qualified real property

(1) In general

For purposes of this section, the term “qualified real property” means real property located in the United States which was acquired from or passed from the decedent to a qualified heir of the decedent and which, on the date of the decedent’s death, was being used for a qualified use by the decedent or a member of the decedent’s family, but only if—

(A) 50 percent or more of the adjusted value of the gross estate consists of the adjusted value of real or personal property which—

(i) on the date of the decedent’s death, was being used for a qualified use by the decedent or a member of the decedent’s family, and

(ii) was acquired from or passed from the decedent to a qualified heir of the decedent.

(B) 25 percent or more of the adjusted value of the gross estate consists of the adjusted value of real property which meets the requirements of subparagraphs (A)(ii) and (C),

(C) during the 8-year period ending on the date of the decedent’s death there have been periods aggregating 5 years or more during which—

(i) such real property was owned by the decedent or a member of the decedent’s family and used for a qualified use by the decedent or a member of the decedent’s family, and

(ii) there was material participation by the decedent or a member of the decedent’s family in the operation of the farm or other business, and

(D) such real property is designated in the agreement referred to in subsection (d)(2).

(2) Qualified use

For purposes of this section, the term “qualified use” means the devotion of the property to any of the following:

(A) use as a farm for farming purposes, or

(B) use in a trade or business other than the trade or business of farming.

(3) Adjusted value

For purposes of paragraph (1), the term “adjusted value” means—

(A) in the case of the gross estate, the value of the gross estate for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction under paragraph (4) of section 2053(a), or

(B) in the case of any real or personal property, the value of such property for purposes of this chapter (determined without regard to this section), reduced by any amounts allowable as a deduction in respect of such property under paragraph (4) of section 2053(a).