

tion 108(i) of Pub. L. 89-809, set out as a note under section 2101 of this title.

SHORT TITLE OF 1973 AMENDMENT

Pub. L. 93-17, §1(a), Apr. 10, 1973, 87 Stat. 12, provided that: "This Act [enacting sections 4922 and 6689 of this title, amending this section and sections 4911, 4912, 4914, 4915, 4916, 4918, 4919, 4920, and 6611 of this title, and enacting provisions set out as notes under this section] may be cited as the 'Interest Equalization Tax Extension Act of 1973'."

**§ 2105. Property without the United States**

**(a) Proceeds of life insurance**

For purposes of this subchapter, the amount receivable as insurance on the life of a nonresident not a citizen of the United States shall not be deemed property within the United States.

**(b) Bank deposits and certain other debt obligations**

For purposes of this subchapter, the following shall not be deemed property within the United States—

(1) amounts described in section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1) were such interest received by the decedent at the time of his death,

(2) deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business,

(3) debt obligations, if, without regard to whether a statement meeting the requirements of section 871(h)(5) has been received, any interest thereon would be eligible for the exemption from tax under section 871(h)(1) were such interest received by the decedent at the time of his death, and

(4) obligations which would be original issue discount obligations as defined in section 871(g)(1) but for subparagraph (B)(i) thereof, if any interest thereon (were such interest received by the decedent at the time of his death) would not be effectively connected with the conduct of a trade or business within the United States.

Notwithstanding the preceding sentence, if any portion of the interest on an obligation referred to in paragraph (3) would not be eligible for the exemption referred to in paragraph (3) by reason of section 871(h)(4) if the interest were received by the decedent at the time of his death, then an appropriate portion (as determined in a manner prescribed by the Secretary) of the value (as determined for purposes of this chapter) of such debt obligation shall be deemed property within the United States.

**(c) Works of art on loan for exhibition**

For purposes of this subchapter, works of art owned by a nonresident not a citizen of the United States shall not be deemed property within the United States if such works of art are—

(1) imported into the United States solely for exhibition purposes,

(2) loaned for such purposes, to a public gallery or museum, no part of the net earnings of which inures to the benefit of any private stockholder or individual, and

(3) at the time of the death of the owner, on exhibition, or en route to or from exhibition, in such a public gallery or museum.

**(d) Stock in a RIC**

**(1) In general**

For purposes of this subchapter, stock in a regulated investment company (as defined in section 851) owned by a nonresident not a citizen of the United States shall not be deemed property within the United States in the proportion that, at the end of the quarter of such investment company's taxable year immediately preceding a decedent's date of death (or at such other time as the Secretary may designate in regulations), the assets of the investment company that were qualifying assets with respect to the decedent bore to the total assets of the investment company.

**(2) Qualifying assets**

For purposes of this subsection, qualifying assets with respect to a decedent are assets that, if owned directly by the decedent, would have been—

(A) amounts, deposits, or debt obligations described in subsection (b) of this section,

(B) debt obligations described in the last sentence of section 2104(c), or

(C) other property not within the United States.

**(3) Termination**

This subsection shall not apply to estates of decedents dying after December 31, 2011.

(Aug. 16, 1954, ch. 736, 68A Stat. 397; Pub. L. 89-809, title I, §108(d), Nov. 13, 1966, 80 Stat. 1572; Pub. L. 98-369, div. A, title I, §127(d), July 18, 1984, 98 Stat. 651; Pub. L. 100-647, title I, §1012(g)(4), Nov. 10, 1988, 102 Stat. 3501; Pub. L. 103-66, title XIII, §13237(b), Aug. 10, 1993, 107 Stat. 508; Pub. L. 105-34, title XIII, §1304(a), Aug. 5, 1997, 111 Stat. 1040; Pub. L. 108-357, title IV, §411(b), Oct. 22, 2004, 118 Stat. 1504; Pub. L. 110-343, div. C, title II, §207(a), Oct. 3, 2008, 122 Stat. 3865; Pub. L. 111-312, title VII, §726(a), Dec. 17, 2010, 124 Stat. 3316.)

AMENDMENTS

2010—Subsec. (d)(3). Pub. L. 111-312 substituted "December 31, 2011" for "December 31, 2009".

2008—Subsec. (d)(3). Pub. L. 110-343 substituted "December 31, 2009" for "December 31, 2007".

2004—Subsec. (d). Pub. L. 108-357 added subsec. (d).

1997—Subsec. (b)(4). Pub. L. 105-34 added par. (4).

1993—Subsec. (b). Pub. L. 103-66 substituted "this subchapter, the following shall not be deemed property within the United States" for "this subchapter" in introductory provisions, added par. (3) and concluding provisions, and struck out former par. (3) and concluding provisions which read as follows:

"(3) debt obligations, if, without regard to whether a statement meeting the requirements of section 871(h)(4) has been received, any interest thereon would be eligible for the exemption from tax under section 871(h)(1) were such interest received by the decedent at the time of his death, shall not be deemed property within the United States."

1988—Subsec. (b)(1). Pub. L. 100-647 substituted "section 871(i)(3), if any interest thereon would not be subject to tax by reason of section 871(i)(1)" for "section 861(c), if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States".

1984—Subsec. (b). Pub. L. 98-369, amended subsec. (b) generally, substituting “Bank deposits and certain other debt obligations” for “Certain bank deposits, etc.” in heading and “, if any interest thereon would be treated by reason of section 861(a)(1)(A) as income from sources without the United States were such interest received by the decedent at the time of his death,” for “if any interest thereon, were such interest received by the decedent at the time of his death, would be treated by reason of section 861(a)(1)(A) as income from sources without the United States, and” in par. (1), inserting “and” after “business,” in par. (2), and adding par. (3).

1966—Subsec. (b). Pub. L. 89-809 substituted amounts described in section 861(c) if any interest thereon, were such interest received by the decedent at the time of his death, would be treated by reason of section 861(a)(1)(A) as income from sources without the United States, and deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business for moneys deposited with any person carrying on the banking business by or for a nonresident not a citizen of the United States who was not engaged in business in the United States at the time of his death as the property not to be deemed property within the United States for purposes of this subchapter.

#### EFFECTIVE DATE OF 2010 AMENDMENT

Pub. L. 111-312, title VII, § 726(b), Dec. 17, 2010, 124 Stat. 3317, provided that: “The amendment made by this section [amending this section] shall apply to estates of decedents dying after December 31, 2009.”

#### EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-343, div. C, title II, § 207(b), Oct. 3, 2008, 122 Stat. 3865, provided that: “The amendment made by this section [amending this section] shall apply to decedents dying after December 31, 2007.”

#### EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-357 applicable to estates of decedents dying after Dec. 31, 2004, see section 411(d) of Pub. L. 108-357, set out as a note under section 871 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105-34, title XIII, § 1304(b), Aug. 5, 1997, 111 Stat. 1040, provided that: “The amendment made by this section [amending this section] shall apply to estates of decedents dying after the date of the enactment of this Act [Aug. 5, 1997].”

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to the estates of decedents dying after Dec. 31, 1993, see section 13237(d) of Pub. L. 103-66, set out as a note under section 871 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to obligations issued after July 18, 1984, with respect to the estates of decedents dying after such date, see section 127(g)(2) of Pub. L. 98-369, set out as a note under section 871 of this title.

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to estates of decedents dying after Nov. 13, 1966, see section 108(i) of Pub. L. 89-809, set out as a note under section 2101 of this title.

## § 2106. Taxable estate

### (a) Definition of taxable estate

For purposes of the tax imposed by section 2101, the value of the taxable estate of every decedent nonresident not a citizen of the United States shall be determined by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States—

#### (1) Expenses, losses, indebtedness, and taxes

That proportion of the deductions specified in sections 2053 and 2054 (other than the deductions described in the following sentence) which the value of such part bears to the value of his entire gross estate, wherever situated. Any deduction allowable under section 2053 in the case of a claim against the estate which was founded on a promise or agreement but was not contracted for an adequate and full consideration in money or money's worth shall be allowable under this paragraph to the extent that it would be allowable as a deduction under paragraph (2) if such promise or agreement constituted a bequest.

#### (2) Transfers for public, charitable, and religious uses

##### (A) In general

The amount of all bequests, legacies, devises, or transfers (including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)—

(i) to or for the use of the United States, any State, any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(ii) to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office; or

(iii) to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used within the United States by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason