

## SAVINGS PROVISION

For provisions that nothing in amendment 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.

## WAIVER OF STATUTE OF LIMITATION FOR TAXES ON CERTAIN FARM VALUATIONS

Pub. L. 107-16, title V, §581, June 7, 2001, 115 Stat. 93, provided that: "If on the date of the enactment of this Act [June 7, 2001] (or at any time within 1 year after the date of the enactment) a refund or credit of any overpayment of tax resulting from the application of section 2032A(c)(7)(E) of the Internal Revenue Code of 1986 is barred by any law or rule of law, the refund or credit of such overpayment shall, nevertheless, be made or allowed if claim therefor is filed before the date 1 year after the date of the enactment of this Act."

## INFORMATION NECESSARY FOR VALID SPECIAL USE VALUATION ELECTION

Pub. L. 99-514, title XIV, §1421, Oct. 22, 1986, 100 Stat. 2716, as amended by Pub. L. 100-647, title I, §1014(f), Nov. 10, 1988, 102 Stat. 3562, provided that:

"(a) IN GENERAL.—In the case of any decedent dying before January 1, 1986, if the executor—

"(1) made an election under section 2032A of the Internal Revenue Code of 1954 [now 1986] on the return of tax imposed by section 2001 of such Code, and

"(2) provided substantially all the information with respect to such election required on such return of tax,

such election shall be a valid election for purposes of section 2032A of such Code.

"(b) EXECUTOR MUST PROVIDE INFORMATION.—An election described in subsection (a) shall not be valid if the Secretary of the Treasury or his delegate after the date of the enactment of this Act [Oct. 22, 1986] requests information from the executor with respect to such election and the executor does not provide such information within 90 days of receipt of such request.

"(c) EFFECTIVE DATE.—The provisions of this section shall not apply to the estate of any decedent if before the date of the enactment of this Act [Oct. 22, 1986] the statute of limitations has expired with respect to—

"(1) the return of tax imposed by section 2001 of the Internal Revenue Code of 1954 [now 1986], and

"(2) the period during which a claim for credit or refund may be timely filed.

"(d) SPECIAL RULE FOR CERTAIN ESTATE.—Notwithstanding subsection (a)(2), the provisions of this section shall apply to the estate of an individual who died on January 30, 1984, and with respect to which—

"(1) a Federal estate tax return was filed on October 30, 1984, electing current use valuation, and

"(2) the agreement required under section 2032A was filed on November 9, 1984."

## LAND DIVERTED UNDER 1983 PAYMENT-IN-KIND PROGRAM

Land diverted from production of agricultural commodities under a 1983 payment-in-kind program to be treated, for purposes of this section, as used during the 1983 crop year by qualified taxpayers in the active conduct of the trade or business of farming, with qualified taxpayers who materially participate in the diversion and devotion to conservation uses under a 1983 payment-in-kind program to be treated as materially participating in the operation of such land during the 1983 crop year, see section 3 of Pub. L. 98-4, set out as a note under section 61 of this title.

**§ 2033. Property in which the decedent had an interest**

The value of the gross estate shall include the value of all property to the extent of the interest therein of the decedent at the time of his death.

(Aug. 16, 1954, ch. 736, 68A Stat. 381; Pub. L. 87-834, § 18(a)(2)(A), Oct. 16, 1962, 76 Stat. 1052.)

**Editorial Notes**

## AMENDMENTS

1962—Pub. L. 87-834 struck out provisions which excepted real property situated outside of the United States.

**Statutory Notes and Related Subsidiaries**

## EFFECTIVE DATE OF 1962 AMENDMENT

Amendment by Pub. L. 87-834 applicable to estates of decedents dying after Oct. 16, 1962, except as otherwise provided, see section 18(b) of Pub. L. 87-834, set out as a note under section 2031 of this title.

**[§ 2033A. Renumbered § 2057]****§ 2034. Dower or curtesy interests**

The value of the gross estate shall include the value of all property to the extent of any interest therein of the surviving spouse, existing at the time of the decedent's death as dower or curtesy, or by virtue of a statute creating an estate in lieu of dower or curtesy.

(Aug. 16, 1954, ch. 736, 68A Stat. 381; Pub. L. 87-834, § 18(a)(2)(B), Oct. 16, 1962, 76 Stat. 1052.)

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**§ 2035. Adjustments for certain gifts made within 3 years of decedent's death****(a) Inclusion of certain property in gross estate**

If—

(1) the decedent made a transfer (by trust or otherwise) of an interest in any property, or relinquished a power with respect to any property, during the 3-year period ending on the date of the decedent's death, and

(2) the value of such property (or an interest therein) would have been included in the decedent's gross estate under section 2036, 2037, 2038, or 2042 if such transferred interest or relinquished power had been retained by the decedent on the date of his death,

the value of the gross estate shall include the value of any property (or interest therein) which would have been so included.

**(b) Inclusion of gift tax on gifts made during 3 years before decedent's death**

The amount of the gross estate (determined without regard to this subsection) shall be in-