

§ 2055. Transfers for public, charitable, and religious uses

(a) In general

For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of all bequests, legacies, devises, or transfers—

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

(2) to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), 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;

(3) 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 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 of attempting to influence legislation, and such trustee or trustees, or such fraternal society, order, or association, 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;

(4) to or for the use of any veterans' organization incorporated by Act of Congress, or of its departments or local chapters or posts, no part of the net earnings of which inures to the benefit of any private shareholder or individual; or

(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(g).

For purposes of this subsection, the complete termination before the date prescribed for the filing of the estate tax return of a power to consume, invade, or appropriate property for the benefit of an individual before such power has been exercised by reason of the death of such individual or for any other reason shall be considered and deemed to be a qualified disclaimer with the same full force and effect as though he had filed such qualified disclaimer. Rules similar to the rules of section 501(j) shall apply for purposes of paragraph (2).

(b) Powers of appointment

Property includible in the decedent's gross estate under section 2041 (relating to powers of appointment) received by a donee described in this section shall, for purposes of this section, be considered a bequest of such decedent.

(c) Death taxes payable out of bequests

If the tax imposed by section 2001, or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this section, then the amount deductible under this section shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes.

(d) Limitation on deduction

The amount of the deduction under this section for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

(e) Disallowance of deductions in certain cases

(1) No deduction shall be allowed under this section for a transfer to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

(2) Where an interest in property (other than an interest described in section 170(f)(3)(B)) passes or has passed from the decedent to a person, or for a use, described in subsection (a), and an interest (other than an interest which is extinguished upon the decedent's death) in the same property passes or has passed (for less than an adequate and full consideration in money or money's worth) from the decedent to a person, or for a use, not described in subsection (a), no deduction shall be allowed under this section for the interest which passes or has passed to the person, or for the use, described in subsection (a) unless—

(A) in the case of a remainder interest, such interest is in a trust which is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664) or a pooled income fund (described in section 642(c)(5)), or

(B) in the case of any other interest, such interest is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly).

(3) REFORMATIONS TO COMPLY WITH PARAGRAPH (2).—

(A) IN GENERAL.—A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

(B) QUALIFIED REFORMATION.—For purposes of this paragraph, the term "qualified reformation" means a change of a governing instrument by reformation, amendment, construction, or otherwise which changes a reformable interest into a qualified interest but only if—

(i) any difference between—

(I) the actuarial value (determined as of the date of the decedent's death) of the qualified interest, and

(II) the actuarial value (as so determined) of the reformable interest,

does not exceed 5 percent of the actuarial value (as so determined) of the reformable interest.

(ii) in the case of—

(I) a charitable remainder interest, the nonremainder interest (before and after the qualified reformation) terminated at the same time, or

(II) any other interest, the reformable interest and the qualified interest are for the same period, and

(iii) such change is effective as of the date of the decedent's death.

A nonremainder interest (before reformation) for a term of years in excess of 20 years shall be treated as satisfying subclause (I) of clause (ii) if such interest (after reformation) is for a term of 20 years.

(C) REFORMABLE INTEREST.—For purposes of this paragraph—

(i) IN GENERAL.—The term “reformable interest” means any interest for which a deduction would be allowable under subsection (a) at the time of the decedent's death but for paragraph (2).

(ii) BENEFICIARY'S INTEREST MUST BE FIXED.—The term “reformable interest” does not include any interest unless, before the remainder vests in possession, all payments to persons other than an organization described in subsection (a) are expressed either in specified dollar amounts or a fixed percentage of the fair market value of the property. For purposes of determining whether all such payments are expressed as a fixed percentage of the fair market value of the property, section 664(d)(3) shall be taken into account.

(iii) SPECIAL RULE WHERE TIMELY COMMENCEMENT OF REFORMATION.—Clause (ii) shall not apply to any interest if a judicial proceeding is commenced to change such interest into a qualified interest not later than the 90th day after—

(I) if an estate tax return is required to be filed, the last date (including extensions) for filing such return, or

(II) if no estate tax return is required to be filed, the last date (including extensions) for filing the income tax return for the 1st taxable year for which such a return is required to be filed by the trust.

(iv) SPECIAL RULE FOR WILL EXECUTED BEFORE JANUARY 1, 1979, ETC.—In the case of any interest passing under a will executed before January 1, 1979, or under a trust created before such date, clause (ii) shall not apply.

(D) QUALIFIED INTEREST.—For purposes of this paragraph, the term “qualified interest” means an interest for which a deduction is allowable under subsection (a).

(E) LIMITATION.—The deduction referred to in subparagraph (A) shall not exceed the amount of the deduction which would have been allowable for the reformable interest but for paragraph (2).

(F) SPECIAL RULE WHERE INCOME BENEFICIARY DIES.—If (by reason of the death of any indi-

vidual, or by termination or distribution of a trust in accordance with the terms of the trust instrument) by the due date for filing the estate tax return (including any extension thereof) a reformable interest is in a wholly charitable trust or passes directly to a person or for a use described in subsection (a), a deduction shall be allowed for such reformable interest as if it had met the requirements of paragraph (2) on the date of the decedent's death. For purposes of the preceding sentence, the term “wholly charitable trust” means a charitable trust which, upon the allowance of a deduction, would be described in section 4947(a)(1).

(G) STATUTE OF LIMITATIONS.—The period for assessing any deficiency of any tax attributable to the application of this paragraph shall not expire before the date 1 year after the date on which the Secretary is notified that such reformation (or other proceeding pursuant to subparagraph (J)) has occurred.

(H) REGULATIONS.—The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing such adjustments in the application of the provisions of section 508 (relating to special rules relating to section 501(c)(3) organizations), subchapter J (relating to estates, trusts, beneficiaries, and decedents), and chapter 42 (relating to private foundations) as may be necessary by reason of the qualified reformation.

(I) REFORMATIONS PERMITTED IN CASE OF REMAINDER INTERESTS IN RESIDENCE OR FARM, POOLED INCOME FUNDS, ETC.—The Secretary shall prescribe regulations (consistent with the provisions of this paragraph) permitting reformations in the case of any failure—

(i) to meet the requirements of section 170(f)(3)(B) (relating to remainder interests in personal residence or farm, etc.), or

(ii) to meet the requirements of section 642(c)(5).

(J) VOID OR REFORMED TRUST IN CASES OF INSUFFICIENT REMAINDER INTERESTS.—In the case of a trust that would qualify (or could be reformed to qualify pursuant to subparagraph (B)) but for failure to satisfy the requirement of paragraph (1)(D) or (2)(D) of section 664(d), such trust may be—

(i) declared null and void ab initio, or

(ii) changed by reformation, amendment, or otherwise to meet such requirement by reducing the payout rate or the duration (or both) of any noncharitable beneficiary's interest to the extent necessary to satisfy such requirement,

pursuant to a proceeding that is commenced within the period required in subparagraph (C)(iii). In a case described in clause (i), no deduction shall be allowed under this title for any transfer to the trust and any transactions entered into by the trust prior to being declared void shall be treated as entered into by the transferor.

(4) WORKS OF ART AND THEIR COPYRIGHTS TREATED AS SEPARATE PROPERTIES IN CERTAIN CASES.—

(A) IN GENERAL.—In the case of a qualified contribution of a work of art, the work of art

and the copyright on such work of art shall be treated as separate properties for purposes of paragraph (2).

(B) **WORK OF ART DEFINED.**—For purposes of this paragraph, the term “work of art” means any tangible personal property with respect to which there is a copyright under Federal law.

(C) **QUALIFIED CONTRIBUTION DEFINED.**—For purposes of this paragraph, the term “qualified contribution” means any transfer of property to a qualified organization if the use of the property by the organization is related to the purpose or function constituting the basis for its exemption under section 501.

(D) **QUALIFIED ORGANIZATION DEFINED.**—For purposes of this paragraph, the term “qualified organization” means any organization described in section 501(c)(3) other than a private foundation (as defined in section 509). For purposes of the preceding sentence, a private operating foundation (as defined in section 4942(j)(3)) shall not be treated as a private foundation.

(5) **CONTRIBUTIONS TO DONOR ADVISED FUNDS.**—A deduction otherwise allowed under subsection (a) for any contribution to a donor advised fund (as defined in section 4966(d)(2)) shall only be allowed if—

(A) the sponsoring organization (as defined in section 4966(d)(1)) with respect to such donor advised fund is not—

(i) described in paragraph (3) or (4) of subsection (a), or

(ii) a type III supporting organization (as defined in section 4943(f)(5)(A)) which is not a functionally integrated type III supporting organization (as defined in section 4943(f)(5)(B)), and

(B) the taxpayer obtains a contemporaneous written acknowledgment (determined under rules similar to the rules of section 170(f)(8)(C)) from the sponsoring organization (as so defined) of such donor advised fund that such organization has exclusive legal control over the assets contributed.

(f) Special rule for irrevocable transfers of easements in real property

A deduction shall be allowed under subsection (a) in respect of any transfer of a qualified real property interest (as defined in section 170(h)(2)(C)) which meets the requirements of section 170(h) (without regard to paragraph (4)(A) thereof).

(g) Cross references

(1) For option as to time for valuation for purpose of deduction under this section, see section 2032.

(2) For treatment of certain organizations providing child care, see section 501(k).

(3) For exemption of gifts and bequests to or for the benefit of Library of Congress, see section 5 of the Act of March 3, 1925, as amended (2 U.S.C. 161).

(4) For treatment of gifts and bequests for the benefit of the Naval Historical Center as gifts or bequests to or for the use of the United States, see section 8622 of title 10, United States Code.

(5) For treatment of gifts and bequests to or for the benefit of National Park Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191).

(6) For treatment of gifts, devises, or bequests accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency as gifts, devises, or bequests to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956.

(7) For treatment of gifts or bequests of money accepted by the Attorney General for credit to “Commissary Funds, Federal Prisons,” as gifts or bequests to or for the use of the United States, see section 4043 of title 18, United States Code.

(8) For payment of tax on gifts and bequests of United States obligations to the United States, see section 3113(e) of title 31, United States Code.

(9) For treatment of gifts and bequests for benefit of the Naval Academy as gifts or bequests to or for the use of the United States, see section 8473 of title 10, United States Code.

(10) For treatment of gifts and bequests for benefit of the Naval Academy Museum as gifts or bequests to or for the use of the United States, see section 8474 of title 10, United States Code.

(11) For exemption of gifts and bequests received by National Archives Trust Fund Board, see section 2308 of title 44, United States Code.

(12) For treatment of gifts and bequests to or for the use of Indian tribal governments (or their subdivisions), see section 7871.

(Aug. 16, 1954, ch. 736, 68A Stat. 390; Aug. 6, 1956, ch. 1020, §1, 70 Stat. 1075; Pub. L. 85-866, title I, §30(d), Sept. 2, 1958, 72 Stat. 1631; Pub. L. 91-172, title II, §201(d)(1), (4)(A), Dec. 30, 1969, 83 Stat. 560, 561; Pub. L. 91-614, title I, §101(c), Dec. 31, 1970, 84 Stat. 1836; Pub. L. 93-483, §3(a), Oct. 26, 1974, 88 Stat. 1457; Pub. L. 94-455, title XIII, §§1304(a), 1307(d)(1)(B)(ii), (C), 1313(b)(2), title XIX, §§1902(a)(4), (12)(A), 1906(b)(13)(A), title XX, §2009(b)(4)(B), (C), title XXI, §2124(e)(2), Oct. 4, 1976, 90 Stat. 1715, 1727, 1730, 1804, 1805, 1834, 1894, 1919; Pub. L. 95-600, title V, §514(a), Nov. 6, 1978, 92 Stat. 2883; Pub. L. 96-222, title I, §105(a)(4)(A), Apr. 1, 1980, 94 Stat. 219; Pub. L. 96-465, title II, §2206(e)(4), Oct. 17, 1980, 94 Stat. 2163; Pub. L. 96-605, title III, §301(a), Dec. 28, 1980, 94 Stat. 3530; Pub. L. 97-34, title IV, §423(a), Aug. 13, 1981, 95 Stat. 316; Pub. L. 97-248, title II, §286(b)(2), Sept. 3, 1982, 96 Stat. 570; Pub. L. 97-258, §3(f)(1), (2), Sept. 13, 1982, 96 Stat. 1064; Pub. L. 97-473, title II, §202(b)(5), Jan. 14, 1983, 96 Stat. 2610; Pub. L. 98-369, div. A, title X, §§1022(a), 1032(b)(2), July 18, 1984, 98 Stat. 1026, 1033; Pub. L. 99-514, title XIV, §1422(a), Oct. 22, 1986, 100 Stat. 2716; Pub. L. 100-203, title X, §10711(a)(3), Dec. 22, 1987, 101 Stat. 1330-464; Pub. L. 104-201, div. A, title X, §1073(b)(3), Sept. 23, 1996, 110 Stat. 2657; Pub. L. 105-34, title X, §1089(b)(3), (5), title XV, §1530(c)(7), Aug. 5, 1997, 111 Stat. 960, 961, 1078; Pub. L. 109-280, title XII, §§1218(b), 1234(b), Aug. 17, 2006, 120 Stat. 1081, 1100; Pub. L. 110-172, §3(d)(1), Dec. 29, 2007, 121 Stat. 2474; Pub. L. 115-141, div. U, title IV, §401(a)(202), Mar. 23, 2018, 132 Stat. 1193; Pub. L. 115-232, div. A, title VIII, §809(h)(2), Aug. 13, 2018, 132 Stat. 1842.)

Editorial Notes

REFERENCES IN TEXT

Section 25 of the State Department Basic Authorities Act of 1956, referred to in subsec. (g)(6), is classified to section 2697 of Title 22, Foreign Relations and Intercourse.

CODIFICATION

Sections 1218(b) and 1234(b) of Pub. L. 109-280, which directed the amendment of section 2055 without speci-

fying the act to be amended, were executed to this section, which is section 2055 of the Internal Revenue Code of 1986, to reflect the probable intent of Congress. See 2006 Amendment notes below.

AMENDMENTS

2018—Subsec. (e)(3)(G). Pub. L. 115-141 substituted “subparagraph (J)” for “subparagraph (J)”.

Subsec. (g)(4). Pub. L. 115-232, §809(h)(2)(A), substituted “section 8622 of title 10, United States Code” for “section 7222 of title 10, United States Code”.

Subsec. (g)(9). Pub. L. 115-232, §809(h)(2)(B), substituted “section 8473 of title 10, United States Code” for “section 6973 of title 10, United States Code”.

Subsec. (g)(10). Pub. L. 115-232, §809(h)(2)(C), substituted “section 8474 of title 10, United States Code” for “section 6974 of title 10, United States Code”.

2007—Subsecs. (g), (h). Pub. L. 110-172 redesignated subsec. (h) as (g) and struck out heading and text of former subsec. (g). Text read as follows:

“(1) IN GENERAL.—In the case of any additional contribution, the fair market value of such contribution shall be determined by using the lesser of—

“(A) the fair market value of the property at the time of the initial fractional contribution, or

“(B) the fair market value of the property at the time of the additional contribution.

“(2) DEFINITIONS.—For purposes of this paragraph—

“(A) ADDITIONAL CONTRIBUTION.—The term ‘additional contribution’ means a bequest, legacy, devise, or transfer described in subsection (a) of any interest in a property with respect to which the decedent had previously made an initial fractional contribution.

“(B) INITIAL FRACTIONAL CONTRIBUTION.—The term ‘initial fractional contribution’ means, with respect to any decedent, any charitable contribution of an undivided portion of the decedent’s entire interest in any tangible personal property for which a deduction was allowed under section 170.”

2006—Subsec. (e)(5). Pub. L. 109-280, §1234(b), added par. (5). See Codification note above.

Subsecs. (g), (h). Pub. L. 109-280, §1218(b), added subsec. (g) and redesignated former subsec. (g) as (h). See Codification note above.

1997—Subsec. (a)(5). Pub. L. 105-34, §1530(c)(7), added par. (5).

Subsec. (e)(3)(G). Pub. L. 105-34, §1089(b)(5), inserted “(or other proceeding pursuant to subparagraph (J))” after “reformation”.

Subsec. (e)(3)(J). Pub. L. 105-34, §1089(b)(3), added subparagraph (J).

1996—Subsec. (g)(4). Pub. L. 104-201 amended par. (4) generally, substituting reference to Naval Historical Center for reference to Office of Naval Records and History.

1987—Subsec. (a)(2), (3). Pub. L. 100-203 inserted “(or in opposition to)” after “on behalf of”.

1986—Subsecs. (f), (g). Pub. L. 99-514 added subsec. (f) and redesignated former subsec. (f) as (g).

1984—Subsec. (e)(3). Pub. L. 98-369, §1022(a), amended par. (3) generally, substituting provisions relating to reformations to comply with par. (2), defining “qualified reformation”, “reformable interest”, and “qualified interest”, and setting forth limitations on the deduction, a special rule where the income beneficiary dies, statute of limitations, regulations prescribed by the Secretary, and reformations permitted in the case of remainder interests in a residence or farm, pooled income funds, etc., for former par. (3), which provided: “In the case of a will executed before December 31, 1978, or a trust created before such date, if a deduction is not allowable at the time of the decedent’s death because of the failure of an interest in property which passes from the decedent to a person, or for a use, described in subsection (a) to meet the requirements of subparagraph (A) or (B) of paragraph (2) of this subsection, and if the governing instrument is amended or conformed on or before December 31, 1981, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1981, (which

are required to amend or conform the governing instrument), become final, so that the interest is in a trust which meets the requirements of such subparagraph (A) or (B) (as the case may be), a deduction shall nevertheless be allowed. The Secretary may, by regulation, provide for the application of the provisions of this paragraph to trusts whose governing instruments are amended or conformed in accordance with this paragraph, and such regulations may provide for any adjustments in the application of the provisions of section 508 (relating to special rules with respect to section 501(c)(3) organizations), subchapter J (relating to estates, trusts, beneficiaries, and decedents), and chapter 42 (relating to private foundations), to such trusts made necessary by the application of this paragraph. If, by the due date for the filing of an estate tax return (including any extension thereof), the interest is in a charitable trust which, upon allowance of a deduction, would be described in section 4947(a)(1), or the interest passes directly to a person or for a use described in subsection (a), a deduction shall be allowed as if the governing instrument was amended or conformed under this paragraph. If the amendment or conformation of the governing instrument is made after the due date for the filing of the estate tax return (including any extension thereof), the deduction shall be allowed upon the filing of a timely claim for credit or refund (as provided for in section 6511) of an overpayment resulting from the application of this paragraph. In the case of a credit or refund as a result of an amendment or conformation made pursuant to this paragraph, no interest shall be allowed for the period prior to the expiration of the 180th day after the date on which the claim for credit or refund is filed.”

Subsec. (f)(2). Pub. L. 98-369, §1032(b)(2), added par. (2), and redesignated former pars. (2) to (1) as pars. (3) to (12), respectively.

1983—Subsec. (f)(11). Pub. L. 97-473 added par. (11).

1982—Subsec. (a). Pub. L. 97-248 inserted provision that rules similar to the rules of section 501(j) of this title shall apply for purposes of par. (2).

Subsec. (f)(6). Pub. L. 97-258, §3(f)(1), substituted “section 4043 of title 18, United States Code” for “section 2 of the Act of May 15, 1952, as amended by the Act of July 9, 1952 (31 U.S.C. 725s-4)”.

Subsec. (f)(7). Pub. L. 97-258, §3(f)(2), substituted “section 3113(e) of title 31, United States Code” for “section 24 of the Second Liberty Bond Act (31 U.S.C. 757e)”.

1981—Subsec. (e)(4). Pub. L. 97-34 added par. (4).

1980—Subsec. (e)(3). Pub. L. 96-605 substituted “December 31, 1978” for “December 31, 1977” and “December 31, 1981” for “December 31, 1978” in two places.

Pub. L. 96-222 substituted “such subparagraph (A) or (B)” for “such subparagraph (a) or (B)” and “so that the interest” for “so that interest”.

Subsec. (f)(5). Pub. L. 96-465, among other changes, inserted references to the Director of the International Communication Agency and the Director of the United States International Development Cooperation Agency and substituted reference to section 25 of the State Department Basic Authorities Act of 1956 for reference to section 1021(e) of the Foreign Service Act of 1946.

1978—Subsec. (e)(3). Pub. L. 95-600 inserted “or (B)” before “of paragraph (2)”, substituted “on or before December 31, 1978” for “on or before December 31, 1977” wherever appearing and “which meets the requirements of such subparagraph (a) or (B) (as the case may be),” for “which is a charitable remainder annuity trust, a charitable remainder unitrust (described in section 664), or a pooled income fund (described in section 642(c)(5)).”

1976—Subsec. (a). Pub. L. 94-455, §§1307(d)(1)(B)(ii), (C), 1313(b)(2), 1902(a)(12)(A), 2009(b)(4)(B), (C), struck out “(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)” after “or transfers” in provisions preceding par. (1), struck out “Territory,” after “State,” in par. (1), inserted

“, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment),” after “encouragement of art” and substituted “which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,” for “no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation,” in par. (2), substituted “such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation,” for “no substantial part of the activities of such trustee or trustees, or of such fraternal society, order, or association, is carrying on propaganda, or otherwise attempting, to influence legislation,” in par. (3), and, in provisions following par. (4), substituted “a qualified disclaimer” for “an irrevocable disclaimer” and “such qualified disclaimer” for “such irrevocable disclaimer”.

Subsec. (b). Pub. L. 94-455, §1902(a)(4)(A), struck out provisions under which a bequest in trust, if the surviving spouse of the decedent was entitled for life to all of the net income from the trust and the surviving spouse had a power of appointment over the corpus of that trust exercisable by will in favor of, among others, organizations described in subsec. (a)(2), could be deemed a transfer to the organization by the decedent under certain conditions.

Subsec. (e)(2). Pub. L. 94-455, §2124(e)(2), substituted “(other than an interest described in section 170(f)(3)(B))” for “(other than a remainder interest in a personal residence or farm or an undivided portion of the decedent’s entire interest in property)” in provisions preceding subpar. (A).

Subsec. (e)(3). Pub. L. 94-455, §1304(a), §1906(b)(13)(A), substituted “will executed before December 31, 1977,” for “will executed before September 21, 1974,” and “amended or conformed on or before December 31, 1977, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1977” for “amended or conformed on or before December 31, 1975, or, if later, on or before the 30th day after the date on which judicial proceedings begun on or before December 31, 1975” and struck out “or his delegate” after “Secretary”.

Subsec. (f). Pub. L. 94-455, §1902(a)(4)(B), extended par. (2) by inserting reference to gifts, struck out par. (3) which made a cross reference to section 2 of the Act of Aug. 8, 1946 (60 Stat. 924; 5 U.S.C. 393) for construction of bequests for benefit of the library of the Post Office Department as bequests to or for the use of the United States, redesignated pars. (4)–(11) as (3)–(10), respectively, substituted “For treatment of gifts and bequests for the benefit of the Office of Naval Records and History as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code” for “For exemption of bequests for benefit of Office of Naval Records and Library, Navy Department, see section 2 of the Act of March 4, 1937 (50 Stat. 25; 5 U.S.C. 419b)” in par. (3) as so redesignated, substituted “For treatment of gifts and bequests to or for the benefit of National Park Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191)” for “For exemption of bequests to or for benefit of National Park Service, see section 5 of the Act of July 10, 1935 (49 Stat. 478; 16 U.S.C. 19c)” in par. (4) as so redesignated, and corrected obsolete and inaccurate references in pars. (5)–(10) as so redesignated.

1974—Subsec. (e)(3). Pub. L. 93-483 added par. (3).

1970—Subsec. (b)(2)(C). Pub. L. 91-614 substituted “6 months” for “one year”.

1969—Subsec. (a)(2). Pub. L. 91-172, §201(d)(4)(A) (i), inserted non-participation and non-intervention in political campaigns as an additional qualification.

Subsec. (a)(3). Pub. L. 91-172, §201(d)(4)(A)(ii), inserted non-participation and non-intervention in political campaigns as an additional qualification.

Subsec. (e). Pub. L. 91-172, §201(d)(1), substituted substantive provisions for simple reference to sections 503

and 681 of this title in which such substantive provisions were formerly set out.

1958—Subsec. (e). Pub. L. 85-866 substituted “503” for “504”.

1956—Subsec. (b). Act Aug. 6, 1956, designated existing provisions as par. (1) and added par. (2).

Statutory Notes and Related Subsidiaries

CHANGE OF NAME

International Communication Agency, and Director thereof, redesignated United States Information Agency, and Director thereof, by section 303 of Pub. L. 97-241, title III, Aug. 24, 1982, 96 Stat. 291, set out as a note under section 1461 of Title 22, Foreign Relations and Intercourse. United States Information Agency (other than Broadcasting Board of Governors and International Broadcasting Bureau) abolished and functions transferred to Secretary of State, see sections 6531 and 6532 of Title 22.

EFFECTIVE DATE OF 2018 AMENDMENT

Amendment by Pub. L. 115-232 effective Feb. 1, 2019, with provision for the coordination of amendments and special rule for certain redesignations, see section 800 of Pub. L. 115-232, set out as a note preceding section 3001 of Title 10, Armed Forces.

EFFECTIVE DATE OF 2007 AMENDMENT

Amendment by Pub. L. 110-172 effective as if included in the provisions of the Pension Protection Act of 2006, Pub. L. 109-280, to which such amendment relates, see section 3(j) of Pub. L. 110-172, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 2006 AMENDMENT

Amendment by section 1218(b) of Pub. L. 109-280 applicable to contributions, bequests, and gifts made after Aug. 17, 2006, see section 1218(d) of Pub. L. 109-280, set out as a note under section 170 of this title.

Amendment by section 1234(b) of Pub. L. 109-280 applicable to contributions made after the date which is 180 days after Aug. 17, 2006, see section 1234(d) of Pub. L. 109-280, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by section 1089(b)(3), (5) of Pub. L. 105-34 applicable to transfers in trust after July 28, 1997, with special rule for certain decedents, see section 1089(b)(6) of Pub. L. 105-34, set out as a note under section 664 of this title.

Amendment by section 1530(c)(7) of Pub. L. 105-34 applicable to transfers made by trusts to, or for the use of, an employee stock ownership plan after Aug. 5, 1997, see section 1530(d) of Pub. L. 105-34, set out as a note under section 401 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable with respect to activities after Dec. 22, 1987, see section 10711(c) of Pub. L. 100-203, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Pub. L. 99-514, title XIV, §1422(e), Oct. 22, 1986, 100 Stat. 2717, provided that: “The amendments made by this section [amending this section and sections 2106 and 2522 of this title] shall apply to transfers and contributions made after December 31, 1986.”

EFFECTIVE DATE OF 1984 AMENDMENT

Pub. L. 98-369, div. A, title X, §1022(e), July 18, 1984, 98 Stat. 1029, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) SUBSECTIONS (a), (b), AND (c).—The amendments made by subsections (a), (b), and (c) [amending this section and sections 170 and 2522 of this title] shall apply

to reformations after December 31, 1978; except that such amendments shall not apply to any reformation to which section 2055(e)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as in effect on the day before the date of the enactment of this Act [July 18, 1984]) applies. For purposes of applying clause (iii) of section 2055(e)(3)(C) of such Code (as amended by this section), the 90th day described in such clause shall be treated as not occurring before the 90th day after the date of the enactment of this Act.

“(2) SUBSECTION (d).—The amendment made by subsection (d) [amending section 664 of this title] shall apply to transfers after December 31, 1978.

“(3) STATUTE OF LIMITATIONS.—

“(A) IN GENERAL.—If on the date of the enactment of this Act [July 18, 1984] (or at any time before the date 1 year after such date of enactment), credit or refund of any overpayment of tax attributable to the amendments made by this section is barred by any law or rule of law, such credit or refund of such overpayment may nevertheless be made if claim therefor is filed before the date 1 year after the date of the enactment of this Act.

“(B) NO INTEREST WHERE STATUTE CLOSED ON DATE OF ENACTMENT.—In any case where the making of the credit or refund of the overpayment described in subparagraph (A) is barred on the date of the enactment of this Act [July 18, 1984], no interest shall be allowed with respect to such overpayment (or any related adjustment) for the period before the date 180 days after the date on which the Secretary of the Treasury (or his delegate) is notified that the reformation has occurred.”

Amendment by section 1032(b)(2) of Pub. L. 98-369 applicable to taxable years beginning after July 18, 1984, see section 1032(c) of Pub. L. 98-369, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1983 AMENDMENT

For effective date of amendment by Pub. L. 97-473, see section 204(3) of Pub. L. 97-473, set out as an Effective Date note under section 7871 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97-248 effective Oct. 5, 1976, see section 286(c) of Pub. L. 97-248, set out as a note under section 501 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Pub. L. 97-34, title IV, § 423(c)(1), Aug. 13, 1981, 95 Stat. 317, provided that: “The amendment made by subsection (a) [amending this section] shall apply to the estates of decedents dying after December 31, 1981.”

EFFECTIVE DATE OF 1980 AMENDMENTS

Pub. L. 96-605, title III, § 301(b)(1), Dec. 28, 1980, 94 Stat. 3531, provided that: “The amendment made by subsection (a) [amending this section] shall apply in the case of decedents dying after December 31, 1969.”

Amendment by Pub. L. 96-465 effective Feb. 15, 1981, except as otherwise provided, see section 2403 of Pub. L. 96-465, set out as an Effective Date note under section 3901 of Title 22, Foreign Relations and Intercourse.

Amendment by Pub. L. 96-222 effective, except as otherwise provided, as if it had been included in the provisions of the Revenue Act of 1978, Pub. L. 95-600, to which such amendment relates, see section 201 of Pub. L. 96-222, set out as a note under section 32 of this title.

EXTENSION OF 1978 AMENDMENT; CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN CASE OF INCOME AND GIFT TAXES

Pub. L. 96-605, title III, § 301(b)(2), Dec. 28, 1980, 94 Stat. 3531, provided that: “Section 514(b) [section 514(b) of Pub. L. 95-600, set out below] (and section 514(c) [section 514(c) of Pub. L. 95-600, set out below] insofar as it relates to section 514(b)) of the Revenue Act of 1978 shall be applied as if the amendment made by subsection (a) [amending this section] had been included in

the amendment made by section 514(a) of such Act [section 514(a) of Pub. L. 95-600, amending this section].”

EFFECTIVE DATE OF 1978 AMENDMENT; CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN CASE OF INCOME AND GIFT TAXES

Pub. L. 95-600, title V, § 514(c), as added by Pub. L. 96-222, title I, § 105(a)(4)(B), Apr. 1, 1980, 94 Stat. 219; amended Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) FOR SUBSECTION (a).—The amendment made by subsection (a) [amending this section] shall apply in the case of decedents dying after December 31, 1969.

“(2) FOR SUBSECTION (b).—Subsection (b) [section 514(b) of Pub. L. 95-600, set out below]—

“(A) insofar as it relates to section 170 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] shall apply to transfers in trust and contributions made after July 31, 1969, and

“(B) insofar as it relates to section 2522 of the Internal Revenue Code of 1986 shall apply to transfers made after December 31, 1969.”

EFFECTIVE DATE OF 1976 AMENDMENT

Pub. L. 94-455, title XIII, § 1304(c), Oct. 4, 1976, 90 Stat. 1716, provided that: “The amendments made by this section [amending this section] shall apply in the case of decedents dying after December 31, 1969.”

Amendment by section 1307(d)(1)(B)(ii), (C) of Pub. L. 94-455, applicable to estates of decedents dying after Dec. 31, 1976, see section 1307(e) of Pub. L. 94-455, set out as a note under section 501 of this title.

Amendment by section 1313(b)(2) of Pub. L. 94-455 applicable on day following Oct. 4, 1976, see section 1313(d) of Pub. L. 94-455, set out as a note under section 501 of this title.

Amendment by section 1902(a)(4), (12)(A) of Pub. L. 94-455 applicable in the case of estates of decedents dying after Oct. 4, 1976, see section 1902(c)(1) of Pub. L. 94-455, set out as a note under section 2012 of this title.

Amendment by section 2009(b)(4)(B), (C) of Pub. L. 94-455 applicable with respect to transfers creating an interest in person disclaiming made after Dec. 31, 1976, see section 2009(e)(2) of Pub. L. 94-455, set out as a note under section 2518 of this title.

Amendment by section 2124(e)(2) of Pub. L. 94-455 applicable with respect to contributions or transfers made after June 13, 1976, see section 2124(e)(4) of Pub. L. 94-455, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Pub. L. 93-483, § 3(b), Oct. 26, 1974, 88 Stat. 1458, provided that: “The amendment made by subsection (a) [amending this section] shall apply with respect to estates of decedents dying after December 31, 1969.”

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to decedents dying after Dec. 31, 1970, see section 101(j) of Pub. L. 91-614, set out as an Effective Date note under section 2032 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by section 201(d)(1) of Pub. L. 91-172 applicable in the case of decedents dying after Dec. 31, 1969, with specified exceptions, see section 201(g)(4) of Pub. L. 91-172, set out as a note under section 170 of this title.

Amendment by section 201(d)(4)(A) of Pub. L. 91-172 applicable to gifts and transfers made after Dec. 31, 1969, see section 201(g)(4)(E) of Pub. L. 91-172, set out as a note under section 170 of this title.

EFFECTIVE DATE OF 1956 AMENDMENT

Act Aug. 6, 1956, ch. 1020, § 3, 70 Stat. 1075, provided that: “The amendments made by this Act [amending this section and section 6503 of this title] shall apply in the case of decedents dying after August 16, 1954.”

TRANSFER OF FUNCTIONS

United States International Development Cooperation Agency (other than Agency for International Development and Overseas Private Investment Corporation) abolished and functions and authorities transferred, see sections 6561 and 6562 of Title 22, Foreign Relations and Intercourse.

For transfer of functions, personnel, assets, and liabilities of the Overseas Private Investment Corporation to the United States International Development Finance Corporation and treatment of related references, see sections 9683 and 9686(d) of Title 22, Foreign Relations and Intercourse.

SPECIAL DONATIONS

Pub. L. 99-514, title XIV, §1422(d), Oct. 22, 1986, 100 Stat. 2717, provided that: "If the Secretary of the Interior acquires by donation after December 31, 1986, a conservation easement (within the meaning of section 2(h) of S. 720, 99th Congress, 1st Session, as in effect on August 16, 1986) [see Pub. L. 99-420, Sept. 25, 1986, §102(h), 99 Stat. 955, 957], such donation shall qualify for treatment under section 2055(f) or 2522(d) of the Internal Revenue Code of 1954 [now 1986], as added by this section."

CHARITABLE LEAD TRUSTS AND CHARITABLE REMAINDER TRUSTS IN CASE OF INCOME AND GIFT TAXES

Pub. L. 95-600, title V, §514(b), Nov. 6, 1978, 92 Stat. 2884, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "Under regulations prescribed by the Secretary of the Treasury or his delegate, in the case of trusts created before December 31, 1977, provisions comparable to section 2055(e)(3) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (a)) shall be deemed to be included in sections 170 and 2522 of the Internal Revenue Code of 1986."

EXTENSION OF PERIOD FOR FILING CLAIM FOR REFUND

Pub. L. 94-455, title XIII, §1304(b), Oct. 4, 1976, 90 Stat. 1716, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that: "A claim for refund or credit of an overpayment of the tax imposed by section 2001 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] allowable under section 2055(e)(3) of such Code (as amended by subsection (a)) shall not be denied because of the expiration of the time for filing such a claim under section 6511(a) if such claim is filed not later than June 30, 1978."

§ 2056. Bequests, etc., to surviving spouse**(a) Allowance of marital deduction**

For purposes of the tax imposed by section 2001, the value of the taxable estate shall, except as limited by subsection (b), be determined by deducting from the value of the gross estate an amount equal to the value of any interest in property which passes or has passed from the decedent to his surviving spouse, but only to the extent that such interest is included in determining the value of the gross estate.

(b) Limitation in the case of life estate or other terminable interest**(1) General rule**

Where, on the lapse of time, on the occurrence of an event or contingency, or on the failure of an event or contingency to occur, an interest passing to the surviving spouse will terminate or fail, no deduction shall be allowed under this section with respect to such interest—

(A) if an interest in such property passes or has passed (for less than an adequate and full consideration in money or money's

worth) from the decedent to any person other than such surviving spouse (or the estate of such spouse); and

(B) if by reason of such passing such person (or his heirs or assigns) may possess or enjoy any part of such property after such termination or failure of the interest so passing to the surviving spouse;

and no deduction shall be allowed with respect to such interest (even if such deduction is not disallowed under subparagraphs (A) and (B))—

(C) if such interest is to be acquired for the surviving spouse, pursuant to directions of the decedent, by his executor or by the trustee of a trust.

For purposes of this paragraph, an interest shall not be considered as an interest which will terminate or fail merely because it is the ownership of a bond, note, or similar contractual obligation, the discharge of which would not have the effect of an annuity for life or for a term.

(2) Interest in unidentified assets

Where the assets (included in the decedent's gross estate) out of which, or the proceeds of which, an interest passing to the surviving spouse may be satisfied include a particular asset or assets with respect to which no deduction would be allowed if such asset or assets passed from the decedent to such spouse, then the value of such interest passing to such spouse shall, for purposes of subsection (a), be reduced by the aggregate value of such particular assets.

(3) Interest of spouse conditional on survival for limited period

For purposes of this subsection, an interest passing to the surviving spouse shall not be considered as an interest which will terminate or fail on the death of such spouse if—

(A) such death will cause a termination or failure of such interest only if it occurs within a period not exceeding 6 months after the decedent's death, or only if it occurs as a result of a common disaster resulting in the death of the decedent and the surviving spouse, or only if it occurs in the case of either such event; and

(B) such termination or failure does not in fact occur.

(4) Valuation of interest passing to surviving spouse

In determining for purposes of subsection (a) the value of any interest in property passing to the surviving spouse for which a deduction is allowed by this section—

(A) there shall be taken into account the effect which the tax imposed by section 2001, or any estate, succession, legacy, or inheritance tax, has on the net value to the surviving spouse of such interest; and

(B) where such interest or property is encumbered in any manner, or where the surviving spouse incurs any obligation imposed by the decedent with respect to the passing of such interest, such encumbrance or obligation shall be taken into account in the same manner as if the amount of a gift to