

**§ 20.2102-1 Estates of nonresidents not citizens; credits against tax.**

(a) *In general.* In arriving at the net estate tax payable with respect to the transfer of an estate of a nonresident who was not a citizen of the United States at the time of his death, the following credits are subtracted from the tax imposed by section 2101:

(1) The State death tax credit under section 2011, to the extent permitted by section 2102(b) and paragraph (b) of this section;

(2) The gift tax credit under section 2012; and

(3) The credit under section 2013 for tax on prior transfers.

Except as provided in section 2102(b) and paragraph (b) of this section (relating to a special limitation on the amount of the credit for State death taxes), the amount of each of these credits is determined in the same manner as that prescribed for its determination in the case of estates of citizens or residents of the United States. See §§ 20.2011-1 through 20.2013-6. Subject to the additional special limitation contained in section 2102(b) in the case of section 2015, the provisions of sections 2015 and 2016, relating respectively to the credit for death taxes on remainders and the recovery of taxes claimed as a credit, are applicable with respect to the credit for State death taxes in the case of the estates of nonresidents not citizens. However, no credit is allowed under section 2014 for foreign death taxes.

(b) *Special limitation—(1) In general.* In the case of estates of decedents dying on or after November 14, 1966, other than estates the estate tax treatment of which is subject to a Presidential proclamation made pursuant to section 2108(a), the maximum credit allowable under section 2011 for State death taxes against the tax imposed by section 2101 on the transfer of estates of nonresidents not citizens of the United States is an amount which bears the same ratio to the maximum credit computed as provided in section 2011(b) (and without regard to this special limitation) as the value of the property (determined in the same manner as that prescribed in paragraph (b) of § 20.2031-1 for the estates of citizens or residents of the United States) in re-

spect of which a State death tax was actually paid and which is included in the gross estate under section 2103 or, if applicable, section 2107(b) bears to the value (as so determined) of the total gross estate under section 2103 or 2107(b). For purposes of this special limitation, the term “State death taxes” means the taxes described in section 2011(a) and paragraph (a) of § 20.2011-1.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

*Example (1).* A, a nonresident not a citizen of the United States, died on February 15, 1967, owning real property in State Z valued at \$50,000 and stock in various domestic corporations valued at \$100,000 and not subject to death taxes in any State. State Z’s inheritance tax actually paid with respect to the real property in State Z is \$2,000. A’s taxable estate for Federal estate tax purposes is \$110,000, in respect of which the maximum credit under section 2011 would be \$720 in the absence of the special limitation contained in section 2102(b). However, under section 2102(b) and this paragraph the amount of the maximum credit allowable in respect to A’s estate for State death taxes is limited to the amount which bears the same ratio to \$720 (the maximum credit computed as provided in section 2011(b)) as \$50,000 (the value of the property in respect of which a State death tax was actually paid and which is included in A’s gross estate under section 2103) bears to \$150,000 (the value of A’s total gross estate under section 2103). Accordingly, the maximum credit allowable under section 2102 and this section for all State death taxes actually paid is \$240 ( $\$720 \times \$50,000 / \$150,000$ ).

*Example (2).* B, a nonresident not a citizen of the United States, died on January 15, 1967, owning real property in State X valued at \$100,000, real property in State Y valued at \$200,000, and stock in various domestic corporations valued at \$300,000 and not subject to death taxes in any State. States X and Y both imposed inheritance taxes. State X has, in addition to its inheritance tax, an estate tax equal to the amount by which the maximum State death tax credit allowable to an estate against its Federal estate tax exceeds the amount of the inheritance tax imposed by State X plus the amount of death taxes paid to other States. State Y has no estate tax. The amount of the inheritance tax actually paid to State X with respect to the real property situated in State X is \$4,000; the amount of the inheritance tax actually paid to State Y with respect to the real property situated in State Y is \$9,000. B’s taxable estate for Federal estate tax purposes is \$550,000, in respect of which the maximum

credit under section 2011 would be \$14,400 in the absence of the special limitation contained in section 2102(b). However, under section 2102(b) and this paragraph the amount of the maximum credit allowable in respect of B's estate for State death taxes is limited to the amount which bears the same ratio to \$14,400 (the maximum credit computed as provided in section 2011(b)) as \$300,000 (the value of the property in respect of which a State death tax was actually paid and which is included in B's gross estate under section 2103) bears to \$600,000 (the value of B's total gross estate under section 2103). Accordingly, the maximum credit allowable under section 2102 and this section for all State death taxes actually paid is \$7,200 ( $\$14,400 \times \$300,000 / \$600,000$ ), and the estate tax of State X is not applicable to B's estate.

(c) *Unified credit*—(1) *In general.* Subject to paragraph (c)(2) of this section, in the case of estates of decedents dying after November 10, 1988, a unified credit of \$13,000 is allowed against the tax imposed by section 2101 subject to the limitations of section 2102(c).

(2) *When treaty is applicable.* To the extent required under any treaty obligation of the United States, the estate of a nonresident not a citizen of the United States is allowed the unified credit permitted to a United States citizen or resident of \$192,800, multiplied by the proportion that the total gross estate of the decedent situated in the United States bears to the decedent's total gross estate wherever situated.

(3) *Certain residents of possessions.* In the case of a decedent who is considered to be a nonresident not a citizen of the United States under section 2209, there is allowed a unified credit equal to the greater of \$13,000, or \$46,800 multiplied by the proportion that the decedent's gross estate situated in the United States bears to the total gross estate of the decedent wherever situated.

[T.D. 7296, 38 FR 34194, Dec. 12, 1973, as amended at T.D. 8612, 60 FR 43552, Aug. 22, 1995]

**§ 20.2103-1 Estates of nonresidents not citizens; "entire gross estate".**

The "entire gross estate" wherever situated of a nonresident who was not a citizen of the United States at the time of his death is made up in the same way as the "gross estate" of a citizen or resident of the United States. See §§ 20.2031-1 through 20.2044-

1. See paragraphs (a) and (c) of § 20.2031-1 for the circumstances under which real property situated outside the United States is excluded from the gross estate of a citizen or resident of the United States. However, except as provided in section 2107(b) with respect to the estates of certain expatriates, in the case of a nonresident not a citizen, only that part of the entire gross estate which on the date of the decedent's death is situated in the United States is included in his taxable estate. In fact, property situated outside the United States need not be disclosed on the return unless section 2107 is applicable, certain deductions are claimed, or information is specifically requested. See §§ 20.2106-1, 20.2106-2, and 20.2107-1. For a description of property considered to be situated in the United States, see § 20.2104-1. For a description of property considered to be situated outside the United States, see § 20.2105-1.

[T.D. 7296, 38 FR 34195, Dec. 12, 1973]

**§ 20.2104-1 Estates of nonresidents not citizens; property within the United States.**

(a) *In general.* Property of a nonresident who was not a citizen of the United States at the time of his death is considered to be situated in the United States if it is—

(1) Real property located in the United States.

(2) Tangible personal property located in the United States, except certain works of art on loan for exhibition (see paragraph (b) of § 20.2105-1).

(3) In the case of an estate of a decedent dying before November 14, 1966, written evidence of intangible personal property which is treated as being the property itself, such as a bond for the payment of money, if it is physically located in the United States; except that this subparagraph shall not apply to obligations of the United States (but not its instrumentalities) issued before March 1, 1941, if the decedent was not engaged in business in the United States at the time of his death. See section 2106(c).

(4) Except as specifically provided otherwise in this section or in § 20.2105-1 (which specific exceptions, in the case of estates of decedents dying on or