

## § 2622. Taxable amount in case of taxable termination

### (a) In general

For purposes of this chapter, the taxable amount in the case of a taxable termination shall be—

- (1) the value of all property with respect to which the taxable termination has occurred, reduced by
- (2) any deduction allowed under subsection (b).

### (b) Deduction for certain expenses

For purposes of subsection (a), there shall be allowed a deduction similar to the deduction allowed by section 2053 (relating to expenses, indebtedness, and taxes) for amounts attributable to the property with respect to which the taxable termination has occurred.

(Added Pub. L. 94-455, title XX, §2006(a), Oct. 4, 1976, 90 Stat. 1888; amended Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2720.)

#### AMENDMENTS

1986—Pub. L. 99-514 amended section generally, substituting provisions relating to taxable amount in case of a taxable termination for former provisions which authorized the Secretary to promulgate regulations. See section 2663 of this title.

#### EFFECTIVE DATE OF 1986 AMENDMENT

Section 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 a note under section 2601 of this title.

## § 2623. Taxable amount in case of direct skip

For purposes of this chapter, the taxable amount in the case of a direct skip shall be the value of the property received by the transferee.

(Added Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2721.)

#### EFFECTIVE DATE

Section 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 a note under section 2601 of this title.

## § 2624. Valuation

### (a) General rule

Except as otherwise provided in this chapter, property shall be valued as of the time of the generation-skipping transfer.

### (b) Alternate valuation and special use valuation elections apply to certain direct skips

In the case of any direct skip of property which is included in the transferor's gross estate, the value of such property for purposes of this chapter shall be the same as its value for purposes of chapter 11 (determined with regard to sections 2032 and 2032A).

### (c) Alternate valuation election permitted in the case of taxable terminations occurring at death

If 1 or more taxable terminations with respect to the same trust occur at the same time as and

as a result of the death of an individual, an election may be made to value all of the property included in such terminations in accordance with section 2032.

### (d) Reduction for consideration provided by transferee

For purposes of this chapter, the value of the property transferred shall be reduced by the amount of any consideration provided by the transferee.

(Added Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2721.)

#### EFFECTIVE DATE

Section 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 a note under section 2601 of this title.

## Subchapter D—GST Exemption

Sec.

2631. GST exemption.

2632. Special rules for allocation of GST exemption.

## § 2631. GST exemption

### (a) General rule

For purposes of determining the inclusion ratio, every individual shall be allowed a GST exemption amount which may be allocated by such individual (or his executor) to any property with respect to which such individual is the transferor.

### (b) Allocations irrevocable

Any allocation under subsection (a), once made, shall be irrevocable.

### (c) GST exemption amount

For purposes of subsection (a), the GST exemption amount for any calendar year shall be equal to the applicable exclusion amount under section 2010(c) for such calendar year.

(Added Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2721; amended Pub. L. 105-34, title V, §501(d), Aug. 5, 1997, 111 Stat. 846; Pub. L. 105-206, title VI, §6007(a)(1), July 22, 1998, 112 Stat. 806; Pub. L. 107-16, title V, §521(c), June 7, 2001, 115 Stat. 72.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.*

#### AMENDMENTS

2001—Subsec. (a). Pub. L. 107-16, §§521(c)(1), 901, temporarily substituted “amount” for “of \$1,000,000”. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c). Pub. L. 107-16, §§521(c)(2), 901, temporarily amended heading and text of subsec. (c) generally, substituting provisions relating to the GST exemption amount for any calendar year for provisions which related to inflation adjustment of the \$1,000,000 amount contained in subsec. (a) in the case of any calendar year after 1998 and applicability of any increase for any such calendar year. See Effective and Termination Dates of 2001 Amendment note below.

1998—Subsec. (c). Pub. L. 105-206 reenacted heading without change and amended text generally. Prior to

amendment, text read as follows: “In the case of an individual who dies in any calendar year after 1998, the \$1,000,000 amount contained in subsection (a) shall be increased by an amount equal to—

“(1) \$1,000,000, multiplied by

“(2) the cost-of-living adjustment determined under section 1(f)(3) for such calendar year by substituting ‘calendar year 1997’ for ‘calendar year 1992’ in subparagraph (B) 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.”

1997—Subsec. (c). Pub. L. 105-34 added subsec. (c).

#### EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to estates of decedents dying, and generation-skipping transfers, after Dec. 31, 2003, see section 521(e)(3) of Pub. L. 107-16, set out as a note under section 2010 of this title.

Amendment by Pub. L. 107-16 inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2010, and the Internal Revenue Code of 1986 to be applied and administered to such estates, gifts, and transfers as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

#### EFFECTIVE DATE

Section 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 a note under section 2601 of this title.

### § 2632. Special rules for allocation of GST exemption

#### (a) Time and manner of allocation

##### (1) Time

Any allocation by an individual of his GST exemption under section 2631(a) may be made at any time on or before the date prescribed for filing the estate tax return for such individual's estate (determined with regard to extensions), regardless of whether such a return is required to be filed.

##### (2) Manner

The Secretary shall prescribe by forms or regulations the manner in which any allocation referred to in paragraph (1) is to be made.

#### (b) Deemed allocation to certain lifetime direct skips

##### (1) In general

If any individual makes a direct skip during his lifetime, any unused portion of such individual's GST exemption shall be allocated to the property transferred to the extent necessary to make the inclusion ratio for such property zero. If the amount of the direct skip exceeds such unused portion, the entire unused portion shall be allocated to the property transferred.

##### (2) Unused portion

For purposes of paragraph (1), the unused portion of an individual's GST exemption is

that portion of such exemption which has not previously been allocated by such individual (or treated as allocated under paragraph (1) or subsection (c)(1)).

#### (3) Subsection not to apply in certain cases

An individual may elect to have this subsection not apply to a transfer.

#### (c) Deemed allocation to certain lifetime transfers to GST trusts

##### (1) In general

If any individual makes an indirect skip during such individual's lifetime, any unused portion of such individual's GST exemption shall be allocated to the property transferred to the extent necessary to make the inclusion ratio for such property zero. If the amount of the indirect skip exceeds such unused portion, the entire unused portion shall be allocated to the property transferred.

##### (2) Unused portion

For purposes of paragraph (1), the unused portion of an individual's GST exemption is that portion of such exemption which has not previously been—

(A) allocated by such individual,

(B) treated as allocated under subsection

(b) with respect to a direct skip occurring during or before the calendar year in which the indirect skip is made, or

(C) treated as allocated under paragraph (1) with respect to a prior indirect skip.

#### (3) Definitions

##### (A) Indirect skip

For purposes of this subsection, the term “indirect skip” means any transfer of property (other than a direct skip) subject to the tax imposed by chapter 12 made to a GST trust.

##### (B) GST trust

The term “GST trust” means a trust that could have a generation-skipping transfer with respect to the transferor unless—

(i) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons—

(I) before the date that the individual attains age 46,

(II) on or before one or more dates specified in the trust instrument that will occur before the date that such individual attains age 46, or

(III) upon the occurrence of an event that, in accordance with regulations prescribed by the Secretary, may reasonably be expected to occur before the date that such individual attains age 46,

(ii) the trust instrument provides that more than 25 percent of the trust corpus must be distributed to or may be withdrawn by one or more individuals who are non-skip persons and who are living on the date of death of another person identified in the instrument (by name or by class) who is more than 10 years older than such individuals,