

out former subsec. (c), which related to dollar limitation on contributions to qualified funeral trusts.

1998—Subsec. (b). Pub. L. 105-206, §6013(b)(1), inserted concluding provisions.

Subsec. (f). Pub. L. 105-206, §6013(b)(2), inserted “and of trusts terminated during the year” before period at end.

EFFECTIVE DATE OF 2008 AMENDMENT

Pub. L. 110-317, §9(c), Aug. 29, 2008, 122 Stat. 3530, provided that: “The amendments made by this section [amending this section] shall apply to taxable years beginning after the date of the enactment of this Act [Aug. 29, 2008].”

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 1309(c) of Pub. L. 105-34 provided that: “The amendments made by this section [enacting this section] shall apply to taxable years ending after the date of the enactment of this Act [Aug. 5, 1997].”

PART II—INCOME IN RESPECT OF DECEDENTS

- Sec.
- 691. Recipients of income in respect of decedents.
- 692. Income taxes of members of Armed Forces, astronauts, and victims of certain terrorist attacks on death.

AMENDMENTS

2003—Pub. L. 108-121, title I, §110(a)(3)(B), Nov. 11, 2003, 117 Stat. 1342, inserted “, astronauts,” after “Forces” in item 692.

2002—Pub. L. 107-134, title I, §101(c)(2), Jan. 23, 2002, 115 Stat. 2429, substituted “Income taxes of members of Armed Forces and victims of certain terrorist attacks on death” for “Income taxes of members of Armed Forces on death” in item 692.

§ 691. Recipients of income in respect of decedents

(a) Inclusion in gross income

(1) General rule

The amount of all items of gross income in respect of a decedent which are not properly includible in respect of the taxable period in which falls the date of his death or a prior period (including the amount of all items of gross income in respect of a prior decedent, if the right to receive such amount was acquired by reason of the death of the prior decedent or by bequest, devise, or inheritance from the prior decedent) shall be included in the gross income, for the taxable year when received, of:

- (A) the estate of the decedent, if the right to receive the amount is acquired by the decedent’s estate from the decedent;
- (B) the person who, by reason of the death of the decedent, acquires the right to receive the amount, if the right to receive the amount is not acquired by the decedent’s estate from the decedent; or
- (C) the person who acquires from the decedent the right to receive the amount by bequest, devise, or inheritance, if the amount is received after a distribution by the decedent’s estate of such right.

(2) Income in case of sale, etc.

If a right, described in paragraph (1), to receive an amount is transferred by the estate of the decedent or a person who received such right by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent, there shall be included in the gross income of the estate or such person, as the case may be, for the taxable period in which the transfer occurs, the fair market value of such right at the time of such transfer plus the amount by which any consideration for the transfer exceeds such fair market value. For purposes of this paragraph, the term “transfer” includes sale, exchange, or other disposition, or the satisfaction of an installment obligation at other than face value, but does not include transmission at death to the estate of the decedent or a transfer to a person pursuant to the right of such person to receive such amount by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent.

(3) Character of income determined by reference to decedent

The right, described in paragraph (1), to receive an amount shall be treated, in the hands of the estate of the decedent or any person who acquired such right by reason of the death of the decedent, or by bequest, devise, or inheritance from the decedent, as if it had been acquired by the estate or such person in the transaction in which the right to receive the income was originally derived and the amount includible in gross income under paragraph (1) or (2) shall be considered in the hands of the estate or such person to have the character which it would have had in the hands of the decedent if the decedent had lived and received such amount.

(4) Installment obligations acquired from decedent

In the case of an installment obligation reportable by the decedent on the installment method under section 453, if such obligation is acquired by the decedent’s estate from the decedent or by any person by reason of the death of the decedent or by bequest, devise, or inheritance from the decedent—

- (A) an amount equal to the excess of the face amount of such obligation over the basis of the obligation in the hands of the decedent (determined under section 453B) shall, for the purpose of paragraph (1), be considered as an item of gross income in respect of the decedent; and
- (B) such obligation shall, for purposes of paragraphs (2) and (3), be considered a right to receive an item of gross income in respect of the decedent, but the amount includible in gross income under paragraph (2) shall be reduced by an amount equal to the basis of the obligation in the hands of the decedent (determined under section 453B).

(5) Other rules relating to installment obligations

(A) In general

In the case of an installment obligation reportable by the decedent on the installment

method under section 453, for purposes of paragraph (2)—

(i) the second sentence of paragraph (2) shall be applied by inserting “(other than the obligor)” after “or a transfer to a person”;

(ii) any cancellation of such an obligation shall be treated as a transfer, and

(iii) any cancellation of such an obligation occurring at the death of the decedent shall be treated as a transfer by the estate of the decedent (or, if held by a person other than the decedent before the death of the decedent, by such person).

(B) Face amount treated as fair market value in certain cases

In any case to which the first sentence of paragraph (2) applies by reason of subparagraph (A), if the decedent and the obligor were related persons (within the meaning of section 453(f)(1)), the fair market value of the installment obligation shall be treated as not less than its face amount.

(C) Cancellation includes becoming unenforceable

For purposes of subparagraph (A), an installment obligation which becomes unenforceable shall be treated as if it were canceled.

(b) Allowance of deductions and credit

The amount of any deduction specified in section 162, 163, 164, 212, or 611 (relating to deductions for expenses, interest, taxes, and depletion) or credit specified in section 27 (relating to foreign tax credit), in respect of a decedent which is not properly allowable to the decedent in respect of the taxable period in which falls the date of his death, or a prior period, shall be allowed:

(1) Expenses, interest, and taxes

In the case of a deduction specified in sections 162, 163, 164, or 212 and a credit specified in section 27, in the taxable year when paid—

(A) to the estate of the decedent; except that

(B) if the estate of the decedent is not liable to discharge the obligation to which the deduction or credit relates, to the person who, by reason of the death of the decedent or by bequest, devise, or inheritance acquires, subject to such obligation, from the decedent an interest in property of the decedent.

(2) Depletion

In the case of the deduction specified in section 611, to the person described in subsection (a)(1)(A), (B), or (C) who, in the manner described therein, receives the income to which the deduction relates, in the taxable year when such income is received.

(c) Deduction for estate tax

(1) Allowance of deduction

(A) General rule

A person who includes an amount in gross income under subsection (a) shall be allowed, for the same taxable year, as a deduc-

tion an amount which bears the same ratio to the estate tax attributable to the net value for estate tax purposes of all the items described in subsection (a)(1) as the value for estate tax purposes of the items of gross income or portions thereof in respect of which such person included the amount in gross income (or the amount included in gross income, whichever is lower) bears to the value for estate tax purposes of all the items described in subsection (a)(1).

(B) Estates and trusts

In the case of an estate or trust, the amount allowed as a deduction under subparagraph (A) shall be computed by excluding from the gross income of the estate or trust the portion (if any) of the items described in subsection (a)(1) which is properly paid, credited, or to be distributed to the beneficiaries during the taxable year.

(2) Method of computing deduction

For purposes of paragraph (1)—

(A) The term “estate tax” means the tax imposed on the estate of the decedent or any prior decedent under section 2001 or 2101, reduced by the credits against such tax.

(B) The net value for estate tax purposes of all the items described in subsection (a)(1) shall be the excess of the value for estate tax purposes of all the items described in subsection (a)(1) over the deductions from the gross estate in respect of claims which represent the deductions and credit described in subsection (b). Such net value shall be determined with respect to the provisions of section 421(c)(2), relating to the deduction for estate tax with respect to stock options to which part II of subchapter D applies.

(C) The estate tax attributable to such net value shall be an amount equal to the excess of the estate tax over the estate tax computed without including in the gross estate such net value.

(3) Special rule for generation-skipping transfers

In the case of any tax imposed by chapter 13 on a taxable termination or a direct skip occurring as a result of the death of the transferor, there shall be allowed a deduction (under principles similar to the principles of this subsection) for the portion of such tax attributable to items of gross income of the trust which were not properly includible in the gross income of the trust for periods before the date of such termination.

(4) Coordination with capital gain provisions

For purposes of sections 1(h), 1201, 1202, and 1211, the amount taken into account with respect to any item described in subsection (a)(1) shall be reduced (but not below zero) by the amount of the deduction allowable under paragraph (1) of this subsection with respect to such item.

(d) Amounts received by surviving annuitant under joint and survivor annuity contract

(1) Deduction for estate tax

For purposes of computing the deduction under subsection (c)(1)(A), amounts received by a surviving annuitant—

(A) as an annuity under a joint and survivor annuity contract where the decedent annuitant died after December 31, 1953, and after the annuity starting date (as defined in section 72(c)(4)), and

(B) during the surviving annuitant's life expectancy period, shall, to the extent included in gross income under section 72, be considered as amounts included in gross income under subsection (a).

(2) Net value for estate tax purposes

In determining the net value for estate tax purposes under subsection (c)(2)(B) for purposes of this subsection, the value for estate tax purposes of the items described in paragraph (1) of this subsection shall be computed—

(A) by determining the excess of the value of the annuity at the date of the death of the deceased annuitant over the total amount excludable from the gross income of the surviving annuitant under section 72 during the surviving annuitant's life expectancy period, and

(B) by multiplying the figure so obtained by the ratio which the value of the annuity for estate tax purposes bears to the value of the annuity at the date of the death of the deceased.

(3) Definitions

For purposes of this subsection—

(A) The term "life expectancy period" means the period beginning with the first day of the first period for which an amount is received by the surviving annuitant under the contract and ending with the close of the taxable year with or in which falls the termination of the life expectancy of the surviving annuitant. For purposes of this subparagraph, the life expectancy of the surviving annuitant shall be determined, as of the date of the death of the deceased annuitant, with reference to actuarial tables prescribed by the Secretary.

(B) The surviving annuitant's expected return under the contract shall be computed, as of the death of the deceased annuitant, with reference to actuarial tables prescribed by the Secretary.

(e) Cross reference

For application of this section to income in respect of a deceased partner, see section 753.

(Aug. 16, 1954, ch. 736, 68A Stat. 235; Pub. L. 88-272, title II, §221(c)(2), Feb. 26, 1964, 78 Stat. 75; Pub. L. 88-570, §1, Sept. 2, 1964, 78 Stat. 854; Pub. L. 94-455, title XIX, §§1901(a)(91), 1906(b)(13)(A), 1951(b)(10)(A), title XX, §§2005(a)(4), 2006(b)(3), Oct. 4, 1976, 90 Stat. 1779, 1834, 1839, 1876, 1889; Pub. L. 95-600, title VII, §702(b)(1), Nov. 6, 1978, 92 Stat. 2925; Pub. L. 96-222, title I, §101(a)(8)(A), Apr. 1, 1980, 94 Stat. 201; Pub. L. 96-223, title IV, §401(a), Apr. 2, 1980, 94 Stat. 299; Pub. L. 96-471, §§2(b)(5), 3, Oct. 19, 1980, 94 Stat. 2254; Pub. L. 97-34, title IV, §403(a)(2)(C), Aug. 13, 1981, 95 Stat. 301; Pub. L. 98-369, div. A, title IV, §474(r)(18), July 18, 1984, 98 Stat. 843; Pub. L. 99-514, title III, §301(b)(8), title XIV, §1432(a)(3), Oct. 22, 1986, 100 Stat. 2217, 2729; Pub. L. 100-203, title X, §10202(c)(3), Dec. 22,

1987, 101 Stat. 1330-392; Pub. L. 100-647, title I, §1011A(g)(10), Nov. 10, 1988, 102 Stat. 3482; Pub. L. 101-239, title VII, §7841(d)(3), Dec. 19, 1989, 103 Stat. 2428; Pub. L. 101-508, title XI, §11101(d)(4), Nov. 5, 1990, 104 Stat. 1388-405; Pub. L. 102-318, title V, §521(b)(27), July 3, 1992, 106 Stat. 312; Pub. L. 103-66, title XIII, §13113(d)(4), Aug. 10, 1993, 107 Stat. 430; Pub. L. 104-188, title I, §§1401(b)(9), 1704(t)(73), Aug. 20, 1996, 110 Stat. 1789, 1891; Pub. L. 105-34, title X, §1073(b)(1), Aug. 5, 1997, 111 Stat. 948; Pub. L. 108-311, title IV, §402(a)(4), Oct. 4, 2004, 118 Stat. 1184.)

AMENDMENTS

2004—Subsec. (c)(4). Pub. L. 108-311 struck out "of any gain" before "taken into account".

1997—Subsec. (c)(1)(C). Pub. L. 105-34 struck out heading and text of subpar. (C). Text read as follows: "For purposes of this subsection, no deduction shall be allowed for the portion of the estate tax attributable to the increase in such tax under section 4980A(d)."

1996—Subsec. (c)(5). Pub. L. 104-188, §1704(t)(73), provided that section 521(b)(27) of Pub. L. 102-318 shall be applied as if "Section 691(c)(5)" appeared instead of "Section 691(c)". See 1992 Amendment note below.

Pub. L. 104-188, §1401(b)(9), struck out par. (5) which read as follows:

"(5) COORDINATION WITH SECTION 402(d).—For purposes of section 402(d) (other than paragraph (1)(C) thereof), the total taxable amount of any lump sum distribution shall be reduced by the amount of the deduction allowable under paragraph (1) of this subsection which is attributable to the total taxable amount (determined without regard to this paragraph)."

1993—Subsec. (c)(4). Pub. L. 103-66 inserted "1202," after "1201,".

1992—Subsec. (c)(5). Pub. L. 102-318, which directed that section 691(c) be amended "in the text and heading" by substituting "402(d)" for "402(e)", was executed by making the substitution in subsec. (c)(5). See 1996 Amendment note above.

1990—Subsec. (c)(4). Pub. L. 101-508 substituted "1(h)" for "1(j)".

1989—Subsec. (c)(5). Pub. L. 101-239 substituted "paragraph (1)(C)" for "paragraph (1)(D)".

1988—Subsec. (c)(1)(C). Pub. L. 100-647 added subpar. (C).

1987—Subsec. (a)(4), (5)(A). Pub. L. 100-203 struck out "or 453A" after "section 453".

1986—Subsec. (c)(3). Pub. L. 99-514, §1432(a)(3), amended par. (3) generally. Prior to amendment, par. (3) read as follows: "For purposes of this section—

"(A) the tax imposed by section 2601 or any State inheritance tax described in section 2602(c)(5)(B) on any generation-skipping transfer shall be treated as a tax imposed by section 2001 on the estate of the deemed transferor (as defined in section 2612(a));

"(B) any property transferred in such a transfer shall be treated as if it were included in the gross estate of the deemed transferor at the value of such property taken into account for purposes of the tax imposed by section 2601; and

"(C) under regulations prescribed by the Secretary, any item of gross income subject to the tax imposed under section 2601 shall be treated as income described in subsection (a) if such item is not properly includible in the gross income of the trust on or before the date of the generation-skipping transfer (within the meaning of section 2611(a)) and if such transfer occurs at or after the death of the deemed transferor (as so defined)."

Subsec. (c)(4). Pub. L. 99-514, §301(b)(8), substituted "capital gain provisions" for "capital gain deduction, etc." in heading and in text substituted "1(j), 1201, and 1211" for "1201, 1202, and 1211, and for purposes of section 57(a)(9)".

1984—Subsec. (b). Pub. L. 98-369 substituted "section 27" for "section 33" in provisions preceding par. (1) and in provisions of par. (1) preceding subpar. (A).

1981—Subsec. (c)(3)(A). Pub. L. 97-34 substituted “section 2602(c)(5)(B)” for “section 2602(c)(5)(C)”.

1980—Subsec. (a)(4). Pub. L. 96-471, §2(b)(5), substituted “reportable by the decedent on the installment method under section 453 or 453A” for “received by a decedent on the sale or other disposition of property, the income from which was properly reportable by the decedent on the installment basis under section 453” in text preceding subpar. (A) and “section 453B” for “section 453(d)” in subpars. (A) and (B).

Subsec. (a)(5). Pub. L. 96-471, §3, added par. (5).

Subsec. (c)(2)(A), (C). Pub. L. 96-223 repealed the amendments made by Pub. L. 94-455, §2005(a)(4). See 1976 Amendment notes below.

Subsec. (c)(5). Pub. L. 96-222 added par. (5).

1978—Subsec. (c)(4). Pub. L. 95-600 added par. (4).

1976—Subsec. (c)(1)(B). Pub. L. 94-455, §1901(a)(91), struck out provision that this subparagraph applies to same taxable years, and to same extent, as is provided in section 683 of this title.

Subsec. (c)(2)(A). Pub. L. 94-455, §2005(a)(4)(A), substituted “Federal and State estate taxes (within the meaning of section 1023(f)(3))” for “the tax imposed on the estate of the decedent or any prior decedent under section 2001 or 2101, reduced by the credits against such tax”. See Repeals note below.

Subsec. (c)(2)(C). Pub. L. 94-455, §2005(a)(4)(B), substituted “which bears the same ratio to the estate tax as such net value bears to the value of the gross estate” for “equal to the excess of the estate tax over the estate tax computed without including in the gross estate such net value”. See Repeals note below.

Subsec. (c)(3). Pub. L. 94-455, §2006(b)(3), added par. (3).

Subsec. (d)(3)(A), (B). Pub. L. 94-455, §1906(b)(13)(A), struck out “or his delegate” after “Secretary”.

Subsecs. (e), (f). Pub. L. 94-455, §1951(b)(10)(A), redesignated subsec. (f) as (e) and struck out former subsec. (e) relating to certain installment obligations transmitted at death.

1964—Subsec. (c)(2)(B). Pub. L. 88-272 substituted “421(c)(2), relating to the deduction for estate tax with respect to stock options to which part II of subchapter D applies” for “421(d)(6)(B), relating to the deduction for estate tax with respect to restricted stock options”.

Subsecs. (e), (f). Pub. L. 88-570 added subsec. (e) and redesignated former subsec. (e) as (f).

EFFECTIVE DATE OF 2004 AMENDMENT

Amendment by Pub. L. 108-311 effective as if included in section 302 of the Jobs and Growth Tax Relief Reconciliation Act of 2003, Pub. L. 108-27, see section 402(b) of Pub. L. 108-311, set out a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to estates of decedents dying after Dec. 31, 1996, see section 1073(c) of Pub. L. 105-34, set out as an Effective Date of Repeal note under section 4980A of this title.

EFFECTIVE DATE OF 1996 AMENDMENT

Amendment by section 1401(b)(9) of Pub. L. 104-188 applicable to taxable years beginning after Dec. 31, 1999, with retention of certain transition rules, see section 1401(c) of Pub. L. 104-188, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable to stock issued after Aug. 10, 1993, see section 13113(e) of Pub. L. 103-66, set out as a note under section 53 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Amendment by Pub. L. 102-318 applicable to distributions after Dec. 31, 1992, see section 521(e) of Pub. L. 102-318, set out as a note under section 402 of this title.

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable to taxable years beginning after Dec. 31, 1990, see section 11101(e)

of Pub. L. 101-508, set out as a note under section 1 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 1987 AMENDMENT

Amendment by Pub. L. 100-203 applicable to dispositions in taxable years beginning after Dec. 31, 1987, with special rules for non-dealers and coordination with Tax Reform Act of 1986, see section 10202(e)(1), (3), (5) of Pub. L. 100-203, set out as a note under section 453 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by section 301(b)(8) of Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1986, see section 301(c) of Pub. L. 99-514, set out as a note under section 62 of this title.

Amendment by section 1432(a)(3) of Pub. L. 99-514 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 an Effective Date note under section 2601 of this title.

EFFECTIVE DATE OF 1984 AMENDMENT

Amendment by Pub. L. 98-369 applicable to taxable years beginning after Dec. 31, 1983, and to carrybacks from such years, see section 475(a) of Pub. L. 98-369, set out as a note under section 21 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable to estates of decedents dying after Dec. 31, 1981, but inapplicable under certain conditions under will executed before date which is 30 days after Aug. 13, 1981, or under trust created by such date, see section 403(e) of Pub. L. 97-34, set out as a note under section 2056 of this title.

EFFECTIVE DATE OF 1980 AMENDMENTS AND REVIVAL OF PRIOR LAW

For effective date of amendment by section 2(b)(5) of Pub. L. 96-471, see section 6(a)(1) of Pub. L. 96-471, set out as an Effective Date note under section 453 of this title.

Section 6(b) of Pub. L. 96-471 provided: “The amendment made by section 3 [amending this section] shall apply in the case of decedents dying after the date of the enactment of this Act [Oct. 19, 1980].”

Amendment by Pub. L. 96-223 (repealing section 2005(a)(4) of Pub. L. 94-455 and the amendments made thereby, which had amended this section) applicable in respect of decedents dying after Dec. 31, 1976, and except for certain elections, this title to be applied and administered as if those repealed provisions had not been enacted, see section 401(b), (e) of Pub. L. 96-223, set out as a note under section 1023 of this title.

Section 101(b)(1)(D) of Pub. L. 96-222 provided that: “The amendment made by subsection (a)(7) [probably means subsection (a)(8), which amended this section and section 2039 of this title] shall apply with respect to the estates of decedents dying after the date of the enactment of this Act [Apr. 1, 1980].”

EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(b)(2) of Pub. L. 95-600 provided that: “The amendment made by paragraph (1) [amending this section] shall apply with respect to decedents dying after the date of the enactment of this Act [Nov. 6, 1978].”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1901(a)(91) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976,

see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

Amendment by section 1951(b)(10)(A) of Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1951(d) of Pub. L. 94-455, set out as a note under section 72 of this title.

Amendment by section 2005(a)(4)(A), (B) of Pub. L. 94-455 applicable in respect of decedents dying after Dec. 31, 1979, see section 2005(f)(1) of Pub. L. 94-455, set out as a note under section 1015 of this title.

For effective date of amendment by section 2006(b)(3) of Pub. L. 94-455, see section 2006(c) of Pub. L. 94-455, set out as an Effective Date note under section 2601 of this title.

EFFECTIVE DATE OF 1964 AMENDMENT

Amendment by Pub. L. 88-272 applicable to taxable years ending after Dec. 31, 1963, see section 221(e) of Pub. L. 88-272, set out as a note under section 421 of this title.

REPEALS

Pub. L. 94-455, §2005(a)(4), cited as a credit to this section, and the amendments made thereby, were repealed by Pub. L. 96-223, title IV, §401(a), 94 Stat. 299, resulting in the text of this section reading as it read prior to enactment of section 2005(a)(4). See Effective Date of 1980 Amendments and Revival of Prior Law note above.

SAVINGS PROVISION

Section 1951(b)(10)(B) of Pub. L. 94-455 provided that: "Notwithstanding subparagraph (A) [amending this section], any election made under section 691(e) to have subsection (a)(4) of such section apply in the case of an installment obligation shall continue to be effective with respect to taxable years beginning after December 31, 1976. Section 691(c) shall not apply in respect of any amount included in gross income by reason of the preceding sentence. The liability under bond filed under section 44(d) of the Internal Revenue Code of 1939 (or corresponding provisions of prior law) in respect of which such an election applies is hereby released with respect to taxable years to which such election applies."

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1998

For provisions directing that if any amendments made by subtitle D [§§1401-1465] of title I of Pub. L. 104-188 require an amendment to any plan or annuity contract, such amendment shall not be required to be made before the first day of the first plan year beginning on or after Jan. 1, 1998, see section 1465 of Pub. L. 104-188, set out as a note under section 401 of this title.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1994

For provisions directing that if any amendments made by subtitle B [§§521-523] of title V of Pub. L. 102-318 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1994, see section 523 of Pub. L. 102-318, set out as a note under section 401 of this title.

§ 692. Income taxes of members of Armed Forces, astronauts, and victims of certain terrorist attacks on death

(a) General rule

In the case of any individual who dies while in active service as a member of the Armed Forces of the United States, if such death occurred while serving in a combat zone (as determined under section 112) or as a result of wounds, disease, or injury incurred while so serving—

(1) any tax imposed by this subtitle shall not apply with respect to the taxable year in

which falls the date of his death, or with respect to any prior taxable year ending on or after the first day he so served in a combat zone after June 24, 1950; and

(2) any tax under this subtitle and under the corresponding provisions of prior revenue laws for taxable years preceding those specified in paragraph (1) which is unpaid at the date of his death (including interest, additions to the tax, and additional amounts) shall not be assessed, and if assessed the assessment shall be abated, and if collected shall be credited or refunded as an overpayment.

(b) Individuals in missing status

For purposes of this section, in the case of an individual who was in a missing status within the meaning of section 6013(f)(3)(A), the date of his death shall be treated as being not earlier than the date on which a determination of his death is made under section 556 of title 37 of the United States Code. Except in the case of the combat zone designated for purposes of the Vietnam conflict, the preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning more than 2 years after the date designated under section 112 as the date of termination of combatant activities in a combat zone.

(c) Certain military or civilian employees of the United States dying as a result of injuries

(1) In general

In the case of any individual who dies while a military or civilian employee of the United States, if such death occurs as a result of wounds or injury which was incurred while the individual was a military or civilian employee of the United States and which was incurred in a terroristic or military action, any tax imposed by this subtitle shall not apply—

(A) with respect to the taxable year in which falls the date of his death, and

(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds or injury were incurred.

(2) Terroristic or military action

For purposes of paragraph (1), the term "terroristic or military action" means—

(A) any terroristic activity which a preponderance of the evidence indicates was directed against the United States or any of its allies, and

(B) any military action involving the Armed Forces of the United States and resulting from violence or aggression against the United States or any of its allies (or threat thereof).

For purposes of the preceding sentence, the term "military action" does not include training exercises.

(3) Treatment of multinational forces

For purposes of paragraph (2), any multinational force in which the United States is participating shall be treated as an ally of the United States.

(d) Individuals dying as a result of certain attacks**(1) In general**

In the case of a specified terrorist victim, any tax imposed by this chapter shall not apply—

(A) with respect to the taxable year in which falls the date of death, and

(B) with respect to any prior taxable year in the period beginning with the last taxable year ending before the taxable year in which the wounds, injury, or illness referred to in paragraph (3) were incurred.

(2) \$10,000 minimum benefit

If, but for this paragraph, the amount of tax not imposed by paragraph (1) with respect to a specified terrorist victim is less than \$10,000, then such victim shall be treated as having made a payment against the tax imposed by this chapter for such victim's last taxable year in an amount equal to the excess of \$10,000 over the amount of tax not so imposed.

(3) Taxation of certain benefits

Subject to such rules as the Secretary may prescribe, paragraph (1) shall not apply to the amount of any tax imposed by this chapter which would be computed by only taking into account the items of income, gain, or other amounts attributable to—

(A) deferred compensation which would have been payable after death if the individual had died other than as a specified terrorist victim, or

(B) amounts payable in the taxable year which would not have been payable in such taxable year but for an action taken after September 11, 2001.

(4) Specified terrorist victim

For purposes of this subsection, the term "specified terrorist victim" means any decedent—

(A) who dies as a result of wounds or injury incurred as a result of the terrorist attacks against the United States on April 19, 1995, or September 11, 2001, or

(B) who dies as a result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.

Such term shall not include any individual identified by the Attorney General to have been a participant or conspirator in any such attack or a representative of such an individual.

(5) Relief with respect to astronauts

The provisions of this subsection shall apply to any astronaut whose death occurs in the line of duty, except that paragraph (3)(B) shall be applied by using the date of the death of the astronaut rather than September 11, 2001.

(Aug. 16, 1954, ch. 736, 68A Stat. 238; Pub. L. 93-597, §4(a), Jan. 2, 1975, 88 Stat. 1952; Pub. L. 94-455, title XIX, §1901(a)(92), Oct. 4, 1976, 90 Stat. 1780; Pub. L. 94-569, §3(c), Oct. 20, 1976, 90 Stat. 2699; Pub. L. 97-448, title III, §307(b), Jan. 12, 1983, 96 Stat. 2407; Pub. L. 98-259, §1(a), Apr. 10, 1984, 98 Stat. 142; Pub. L. 98-369, div. A, title

VII, §722(g)(2), (3), July 18, 1984, 98 Stat. 974; Pub. L. 99-514, title XVII, §1708(a)(2), Oct. 22, 1986, 100 Stat. 2782; Pub. L. 107-134, title I, §§101(a), (c)(1), 113(b), Jan. 23, 2002, 115 Stat. 2428, 2435; Pub. L. 108-121, title I, §110(a)(1), (3)(A), Nov. 11, 2003, 117 Stat. 1342.)

AMENDMENTS

2003—Pub. L. 108-121, §110(a)(3)(A), inserted "astronauts," after "Forces" in section catchline.

Subsec. (d)(5). Pub. L. 108-121, §110(a)(1), added par. (5).

2002—Pub. L. 107-134, §101(c)(1), amended section catchline generally. Prior to amendment, catchline read as follows: "Income taxes on members of Armed Forces on death".

Subsec. (c). Pub. L. 107-134, §113(b)(2), struck out "sustained overseas" after "injuries" in heading.

Subsec. (c)(1). Pub. L. 107-134, §113(b)(1), struck out "outside the United States" before "in a terroristic or military action" in introductory provisions.

Subsec. (d). Pub. L. 107-134, §101(a), added subsec. (d).

1986—Subsec. (b). Pub. L. 99-514 amended last sentence generally. Prior to amendment, sentence read as follows: "The preceding sentence shall not cause subsection (a)(1) to apply for any taxable year beginning—

"(1) after December 31, 1982, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(2) more than 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in paragraph (1)."

1984—Subsec. (c). Pub. L. 98-259 added subsec. (c).

Subsec. (c)(1). Pub. L. 98-369, §722(g)(2), which directed amendment of par. (1) of this section by substituting "as a result of wounds or injury which was incurred while the individual was a military or civilian employee of the United States and which was incurred" for "as a result of wounds or injury incurred" was executed to par. (1) of subsec. (c) to reflect the probable intent of Congress.

Subsec. (c)(2)(A). Pub. L. 98-369, §722(g)(3), inserted "which a preponderance of the evidence indicates was".

1983—Subsec. (b)(1). Pub. L. 97-448 substituted "December 31, 1982" for "January 2, 1978".

1976—Subsec. (b). Pub. L. 94-569 substituted "to apply for any taxable year beginning" for "to apply for any taxable year beginning more than 2 years after" in provisions preceding par. (1), substituted "after January 2, 1978" for "the date of enactment of this subsection" in par. (1), and substituted "more than 2 years after the date designated" for "the date designated" in par. (2).

Pub. L. 94-455 substituted "of members" for "on members" in heading.

1975—Subsec. (a). Pub. L. 93-597, §4(a)(1), (2), designated existing provisions as subsec. (a), added heading, and in subsec. (a) as so designated, struck out "during an induction period (as defined in section 112(c)(5))", respectively.

Subsec. (b). Pub. L. 93-597, §4(a)(3), added subsec. (b).

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108-121 applicable with respect to any astronaut whose death occurs after Dec. 31, 2002, see section 110(a)(4) of Pub. L. 108-121, set out as a note under section 5 of this title.

EFFECTIVE DATE OF 2002 AMENDMENT

Pub. L. 107-134, title I, §101(d), Jan. 23, 2002, 115 Stat. 2429, provided that:

"(1) EFFECTIVE DATE.—The amendments made by this section [amending this section and sections 5 and 6013 of this title] shall apply to taxable years ending before, on, or after September 11, 2001.

"(2) WAIVER OF LIMITATIONS.—If refund or credit of any overpayment of tax resulting from the amend-

ments made by this section is prevented at any time before the close of the 1-year period beginning on the date of the enactment of this Act [Jan. 23, 2002] by the operation of any law or rule of law (including res judicata), such refund or credit may nevertheless be made or allowed if claim therefor is filed before the close of such period.”

Amendment by section 113(b) of Pub. L. 107-134 applicable to taxable years ending on or after Sept. 11, 2001, see section 113(c) of Pub. L. 107-134, set out as a note under section 104 of this title.

EFFECTIVE DATE OF 1986 AMENDMENT

Amendment by Pub. L. 99-514 applicable to taxable years beginning after Dec. 31, 1982, see section 1708(b) of Pub. L. 99-514, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Section 722(g)(5) of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(A) IN GENERAL.—The amendments made by this subsection [amending this section and enacting and amending provisions set out below] shall take effect as if they were included in the amendments made by section 1 of Public Law 98-259 [amending this section and enacting provisions set out below].

“(B) STATUTE OF LIMITATIONS WAIVED.—Notwithstanding section 6511 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the time for filing a claim for credit or refund of any overpayment of tax resulting from the amendments made by this subsection shall not expire before the date 1 year after the date of the enactment of this Act [July 18, 1984].”

Section 1(b) of Pub. L. 98-259 as amended by Pub. L. 98-369, div. A, title VII, § 722(g)(1), July 18, 1984, 98 Stat. 974; Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(1) IN GENERAL.—The amendment made by subsection (a) [amending this section] shall apply with respect to all taxable years (whether beginning before, on, or after the date of enactment of this Act [Apr. 10, 1984]) of individuals dying after November 17, 1978, as a result of wounds or injuries incurred after such date.

“(2) STATUTE OF LIMITATIONS WAIVED.—Notwithstanding section 6511 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the time for filing a claim for credit or refund of any overpayment of tax resulting from the amendment made by subsection (a) shall not expire before the date 1 year after the date of the enactment of this Act.”

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 effective for taxable years beginning after Dec. 31, 1976, see section 1901(d) of Pub. L. 94-455, set out as a note under section 2 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 4(b) of Pub. L. 93-597 provided that: “The amendments made by subsection (a) [amending this section] shall apply to taxable years ending on or after February 28, 1961.”

REFUNDS AND CREDITS OF OVERPAYMENTS FOR TAXABLE YEARS ENDING ON OR AFTER FEBRUARY 28, 1961, RESULTING FROM APPLICATION OF PROVISIONS

Section 4(c) of Pub. L. 93-597, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “If the refund or credit of any overpayment for any taxable year ending on or after February 28, 1961, resulting from the application of section 692 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (as amended by subsection (a) of this section) is prevented at any time before the expiration of one year after the date of the enactment of this Act [Jan. 2, 1975] by the operation of any law or rule of law, but would not have been so prevented if claim for refund or credit therefor were made on the due date for the return for the taxable year of

his death (or any later year), refund or credit of such overpayment may, nevertheless, be made or allowed if claim therefor is filed before the expiration of such one-year period.”

TREATMENT OF DIRECTOR GENERAL OF MULTINATIONAL FORCE IN SINAI

Section 722(g)(4) of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that: “For purposes of section 692(c) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954], the Director General of the Multinational Force and Observers in the Sinai who died on February 15, 1984, shall be treated as if he were a civilian employee of the United States while he served as such Director General.”

Subchapter K—Partners and Partnerships

Part

- I. Determination of tax liability.
- II. Contributions, distributions, and transfers.
- III. Definitions.
- IV. Special rules for electing large partnerships.

AMENDMENTS

1997—Pub. L. 105-34, title XII, § 1221(b), Aug. 5, 1997, 111 Stat. 1008, added item for part IV.

PART I—DETERMINATION OF TAX LIABILITY

Sec.

- 701. Partners, not partnership, subject to tax.
- 702. Income and credits of partner.
- 703. Partnership computations.
- 704. Partner's distributive share.
- 705. Determination of basis of partner's interest.
- 706. Taxable years of partner and partnership.
- 707. Transactions between partner and partnership.
- 708. Continuation of partnership.
- 709. Treatment of organization and syndication fees.

AMENDMENTS

1976—Pub. L. 94-455, title II, § 213(b)(2), title XIX, § 1901(b)(23), Oct. 4, 1976, 90 Stat. 1547, 1798, struck out part IV “Effective date for subchapter” in table of parts of subchapter K of chapter 1 and added item 709.

§ 701. Partners, not partnership, subject to tax

A partnership as such shall not be subject to the income tax imposed by this chapter. Persons carrying on business as partners shall be liable for income tax only in their separate or individual capacities.

(Aug. 16, 1954, ch. 736, 68A Stat. 239.)

§ 702. Income and credits of partner

(a) General rule

In determining his income tax, each partner shall take into account separately his distributive share of the partnership's—

- (1) gains and losses from sales or exchanges of capital assets held for not more than 1 year,
- (2) gains and losses from sales or exchanges of capital assets held for more than 1 year,
- (3) gains and losses from sales or exchanges of property described in section 1231 (relating to certain property used in a trade or business and involuntary conversions),
- (4) charitable contributions (as defined in section 170(c)),
- (5) dividends with respect to which section 1(h)(11) or part VIII of subchapter B applies,