

(2) Taxable termination

In the case of a taxable termination or a direct skip from a trust, the tax shall be paid by the trustee.

(3) Direct skip

In the case of a direct skip (other than a direct skip from a trust), the tax shall be paid by the transferor.

(b) Source of tax

Unless otherwise directed pursuant to the governing instrument by specific reference to the tax imposed by this chapter, the tax imposed by this chapter on a generation-skipping transfer shall be charged to the property constituting such transfer.

(c) Cross reference

For provisions making estate and gift tax provisions with respect to transferee liability, liens, and related matters applicable to the tax imposed by section 2601, see section 2661.

(Added Pub. L. 94-455, title XX, §2006(a), Oct. 4, 1976, 90 Stat. 1881; amended Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2718.)

AMENDMENTS

1986—Pub. L. 99-514 amended section generally, substituting tax liability provisions consisting of language placing liability, under different circumstances, on the transferee, the trustee, or the transferor, the source of the tax, and a cross reference to section 2661 for former provisions which covered the question of liability for tax with language covering the trustee and the distributee, the limitation on personal liability of the trustee who relied on certain information furnished by the Secretary, the limitation on personal liability of distributee, and the lien on property transferred until the tax was paid in full or became unenforceable by reason of lapse of time.

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.

§ 2604. Credit for certain State taxes**(a) General rule**

If a generation-skipping transfer (other than a direct skip) occurs at the same time as and as a result of the death of an individual, a credit against the tax imposed by section 2601 shall be allowed in an amount equal to the generation-skipping transfer tax actually paid to any State in respect to any property included in the generation-skipping transfer.

(b) Limitation

The aggregate amount allowed as a credit under this section with respect to any transfer shall not exceed 5 percent of the amount of the tax imposed by section 2601 on such transfer.

(c) Termination

This section shall not apply to the generation-skipping transfers after December 31, 2004.

(Added Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2718; amended Pub. L. 107-16, title V, §532(c)(10), June 7, 2001, 115 Stat. 75.)

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. (c). Pub. L. 107-16, §§532(c)(10), 901, temporarily added subsec. (c). See Effective and Termination Dates of 2001 Amendment note below.

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, 2004, see section 532(d) of Pub. L. 107-16, set out as a note under section 2011 of this title.

Amendment by Pub. L. 107-16 inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2012, 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

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 B—Generation-Skipping Transfers

Sec.

- 2611. Generation-skipping transfer defined.
- 2612. Taxable termination; taxable distribution; direct skip.
- 2613. Skip person and non-skip person defined.

AMENDMENTS

1986—Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2718, substituted “Generation-Skipping Transfers” for “Definitions and Special Rules” in subchapter heading, substituted “Generation-skipping transfer defined” for “Generation-skipping transfer” in item 2611, “Taxable termination; taxable distribution; direct skip” for “Deemed transferor” in item 2612, and “Skip person and non-skip person defined” for “Other definitions” in item 2613, and struck out item 2614 “Special rules”.

§ 2611. Generation-skipping transfer defined**(a) In general**

For purposes of this chapter, the term “generation-skipping transfer” means—

- (1) a taxable distribution,
- (2) a taxable termination, and
- (3) a direct skip.

(b) Certain transfers excluded

The term “generation-skipping transfer” does not include—

- (1) any transfer which, if made inter vivos by an individual, would not be treated as a taxable gift by reason of section 2503(e) (relating to exclusion of certain transfers for educational or medical expenses), and
- (2) any transfer to the extent—

(A) the property transferred was subject to a prior tax imposed under this chapter,

(B) the transferee in the prior transfer was assigned to the same generation as (or a lower generation than) the generation assignment of the transferee in this transfer, and

(C) such transfers do not have the effect of avoiding tax under this chapter with respect to any transfer.

(Added Pub. L. 94-455, title XX, §2006(a), Oct. 4, 1976, 90 Stat. 1882; amended Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2718; Pub. L. 100-647, title I, §§1014(g)(1), (2), 1018(u)(43), Nov. 10, 1988, 102 Stat. 3562, 3592.)

AMENDMENTS

1988—Subsec. (a). Pub. L. 100-647, §§1014(g)(1), 1018(u)(43), substituted “generation-skipping transfer” for “generation-skipping transfers” and “means” for “mean”.

Subsec. (b). Pub. L. 100-647, §1014(g)(2), redesignated pars. (2) and (3) as (1) and (2), respectively, and struck out former par. (1) which read as follows: “any transfer (other than a direct skip) from a trust, to the extent such transfer is subject to a tax imposed by chapter 11 or 12 with respect to a person in the 1st generation below that of the grantor, and”.

1986—Pub. L. 99-514 amended section generally, substituting provisions defining “generation-skipping transfers” and what that term does not include, for former provisions which defined “generation-skipping transfer”, “transfer”, and “generation-skipping trust”, contained provisions to be used in determining the ascertainment of generation, and provided for a generation-skipping trust equivalent.

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 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.

§ 2612. Taxable termination; taxable distribution; direct skip

(a) Taxable termination

(1) General rule

For purposes of this chapter, the term “taxable termination” means the termination (by death, lapse of time, release of power, or otherwise) of an interest in property held in a trust unless—

(A) immediately after such termination, a non-skip person has an interest in such property, or

(B) at no time after such termination may a distribution (including distributions on termination) be made from such trust to a skip person.

(2) Certain partial terminations treated as taxable

If, upon the termination of an interest in property held in trust by reason of the death of a lineal descendant of the transferor, a specified portion of the trust’s assets are distributed to 1 or more skip persons (or 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property.

(b) Taxable distribution

For purposes of this chapter, the term “taxable distribution” means any distribution from

a trust to a skip person (other than a taxable termination or a direct skip).

(c) Direct skip

For purposes of this chapter—

(1) In general

The term “direct skip” means a transfer subject to a tax imposed by chapter 11 or 12 of an interest in property to a skip person.

(2) Look-thru rules not to apply

Solely for purposes of determining whether any transfer to a trust is a direct skip, the rules of section 2651(f)(2) shall not apply.

(Added Pub. L. 94-455, title XX, §2006(a), Oct. 4, 1976, 90 Stat. 1883; amended Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2719; Pub. L. 100-647, title I, §1014(g)(5)(B), (7), (15), Nov. 10, 1988, 102 Stat. 3564-3566; Pub. L. 105-34, title V, §511(b), Aug. 5, 1997, 111 Stat. 861.)

AMENDMENTS

1997—Subsec. (c)(2). Pub. L. 105-34, §511(b)(2), substituted “section 2651(f)(2)” for “section 2651(e)(2)”.

Pub. L. 105-34, §511(b)(1), redesignated par. (3) as (2) and struck out heading and text of former par. (2). Text read as follows: “For purposes of determining whether any transfer is a direct skip, if—

“(A) an individual is a grandchild of the transferor (or the transferor’s spouse or former spouse), and

“(B) as of the time of the transfer, the parent of such individual who is a lineal descendant of the transferor (or the transferor’s spouse or former spouse) is dead,

such individual shall be treated as if such individual were a child of the transferor and all of that grandchild’s children shall be treated as if they were grandchildren of the transferor. In the case of lineal descendants below a grandchild, the preceding sentence may be reapplied. If any transfer of property to a trust would be a direct skip but for this paragraph, any generation assignment under this paragraph shall apply also for purposes of applying this chapter to transfers from the portion of the trust attributable to such property.”

Subsec. (c)(3). Pub. L. 105-34, §511(b)(1), redesignated par. (3) as (2).

1988—Subsec. (a)(2). Pub. L. 100-647, §1014(g)(15), amended par. (2) generally. Prior to amendment, par. (2) read as follows: “If, upon the termination of an interest in property held in a trust, a specified portion of the trust assets are distributed to skip persons who are lineal descendants of the holder of such interest (or to 1 or more trusts for the exclusive benefit of such persons), such termination shall constitute a taxable termination with respect to such portion of the trust property.”

Subsec. (c)(2). Pub. L. 100-647, §1014(g)(7), in closing provisions, inserted at end “If any transfer of property to a trust would be a direct skip but for this paragraph, any generation assignment under this paragraph shall apply also for purposes of applying this chapter to transfers from the portion of the trust attributable to such property.”

Subsec. (c)(3). Pub. L. 100-647, §1014(g)(5)(B), added par. (3).

1986—Pub. L. 99-514 amended section generally, substituting provisions covering definition and application of “taxable termination”, “taxable distribution”, and “direct skip” for former provisions which indicated who the “deemed transferor” would be for purposes of this chapter and that, for purposes of determining the person deemed the transferor, a parent related to the grantor of a trust by blood or adoption was to be deemed more closely related than a parent related to a grantor by marriage.

EFFECTIVE DATE OF 1997 AMENDMENT

Section 511(c) of Pub. L. 105-34 provided that: “The amendments made by this section [amending this sec-

tion and section 2651 of this title] shall apply to terminations, distributions, and transfers occurring after December 31, 1997.”

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 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.

§ 2613. Skip person and non-skip person defined

(a) Skip person

For purposes of this chapter, the term “skip person” means—

(1) a natural person assigned to a generation which is 2 or more generations below the generation assignment of the transferor, or

(2) a trust—

(A) if all interests in such trust are held by skip persons, or

(B) if—

(i) there is no person holding an interest in such trust, and

(ii) at no time after such transfer may a distribution (including distributions on termination) be made from such trust to a nonskip person.

(b) Non-skip person

For purposes of this chapter, the term “non-skip person” means any person who is not a skip person.

(Added Pub. L. 94-455, title XX, §2006(a), Oct. 4, 1976, 90 Stat. 1884; amended Pub. L. 95-600, title VII, §702(n)(2), (3), Nov. 6, 1978, 92 Stat. 2935, 2936; Pub. L. 96-222, title I, §107(a)(2)(B), Apr. 1, 1980, 94 Stat. 222; Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2720; Pub. L. 100-647, title I, §1014(g)(5)(A), Nov. 10, 1988, 102 Stat. 3564.)

AMENDMENTS

1988—Subsec. (a)(1). Pub. L. 100-647 inserted “natural” before “person”.

1986—Pub. L. 99-514 amended section generally, substituting definitions of “skip person” and “non-skip person” for former provisions which defined and applied the terms “taxable distribution”, “taxable termination”, “younger generation beneficiary”, and “related or subordinate trustee”.

1980—Subsec. (e)(2)(A)(i). Pub. L. 96-222, §107(a)(2)(B)(i), inserted “(other than as a potential appointee under a power of appointment held by another)” after “trust”.

Subsec. (e)(2)(B). Pub. L. 96-222, §107(a)(2)(B)(ii), redesignated cls. (iii) to (v) as (iv) to (vi), added cl. (iii), and struck out cl. (vi) which related to an employee of a corporation in which the grantor or any beneficiary of the trust is an executive.

1978—Subsec. (b)(2)(B). Pub. L. 95-600, §702(n)(3), substituted “a present interest and a present power” for “an interest and a power” and “present interest or present power” for “interest or power” wherever appearing.

Subsec. (e). Pub. L. 95-600, §702(n)(2), inserted provisions relating to powers of independent trustees and definition of a related or subordinate trustee.

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 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.

EFFECTIVE DATE OF 1980 AMENDMENT

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.

EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(n)(5) of Pub. L. 95-600, as amended by Pub. L. 99-514, §2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(A) Except as provided in subparagraph (B), the amendments made by this subsection [amending this section, section 2602 of this title, and provisions set out as a note under section 2601 of this title] shall take effect as if included in chapter 13 of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] as added by section 2006 of the Tax Reform Act of 1976 [Pub. L. 94-455, title XX, §2006, Oct. 4, 1976, 90 Stat. 1879].

“(B) The amendment made by paragraph (1) [amending provisions set out as a note under section 2601 of this title] shall take effect on October 4, 1976.”

[§ 2614. Omitted]

CODIFICATION

Section, added Pub. L. 94-455, title XX, §2006(a), Oct. 4, 1976, 90 Stat. 1887; amended Pub. L. 95-600, title VII, §702(c)(1)(B), Nov. 6, 1978, 92 Stat. 2926; Pub. L. 96-223, title IV, §401(c)(3), Apr. 2, 1980, 94 Stat. 300, related to special rules for generation-skipping transfers, prior to the general revision of this chapter by Pub. L. 99-514, §1431(a).

Subchapter C—Taxable Amount

Sec.	
2621.	Taxable amount in case of taxable distribution.
2622.	Taxable amount in case of taxable termination.
2623.	Taxable amount in case of direct skip.
2624.	Valuation.

AMENDMENTS

1986—Pub. L. 99-514, title XIV, §1431(a), Oct. 22, 1986, 100 Stat. 2720, substituted “Taxable Amount” for “Administration” in subchapter heading, substituted “Taxable amount in case of taxable distribution” for “Administration” in item 2621 and “Taxable amount in case of taxable termination” for “Regulations” in item 2622, and added items 2623 and 2624.

§ 2621. Taxable amount in case of taxable distribution

(a) In general

For purposes of this chapter, the taxable amount in the case of any taxable distribution shall be—

(1) the value of the property received by the transferee, reduced by

(2) any expense incurred by the transferee in connection with the determination, collection,