1976—Subsec. (a). Pub. L. 94–455, §§1906(b)(13)(A), 2004(f)(6), substituted ''6166 or 6166A'' for ''or 6166'' after ''6161, 6163'' and struck out ''or his delegate'' in two places after ''Secretary''.

Subsec. (b). Pub. L. 94–455, §§1902(a)(9), 1906(b)(13)(A), 2004(f)(4), (6), substituted ''6166 or 6166A'' for ''or 6166'' after ''6161, 6163'', ''has been'' for ''has not been'' after ''payment of which'', and struck out ''or his delegate'' after ''Secretary''.

Subsec. (c). Pub. L. 94–455, §2004(d)(2), added subsec. (c).

1970—Pub. L. 91–614, §101(d)(1)(A), substituted ''fiduciary'' for ''executor'' in section catchline.

Subsec. (a). Pub. L. 91–614, §§101(d)(1)(B), (C), (f), designated existing provisions as subsec. (a), inserted ''General Rule—'' immediately preceding first sentence and permitted a discharge of the executor even where an extension of time has been granted under sections 6161, 6163, or 6166 of this title, where a bond, if required, is provided to assure payment of taxes for which the extension was granted, and substituted ''9 months'' for ''1 year'' in two places.

Subsec. (b). Pub. L. 91–614, §101(d)(1)(D), added subsec. (b).

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–34 applicable to estates of decedents dying after Dec. 31, 1981, see section 422(f)(1) of Pub. L. 97–34, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95–600, title VII, §702(p)(2), Nov. 6, 1978, 92 Stat. 2937, provided that: ''The amendment made by paragraph (1) [amending this section] shall apply with respect to the estates of decedents dying after December 31, 1976.''

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by section 1902(a)(9) of Pub. L. 94–455 applicable in the case of estates of decedents dying after Dec. 31, 1970, see section 1902(c)(1) of Pub. L. 94–455, set out as a note under section 2012 of this title.

Amendment by section 2004(d)(4) of Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2004(g) of Pub. L. 94–455, set out as a note under section 6166 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by section 101(d)(1) of 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 a note under section 2032 of this title.

Pub. L. 91–614, title I, §101(f), Dec. 31, 1970, 84 Stat. 1838, provided that the amendment made by that section is effective with respect to the estates of decedents dying after Dec. 31, 1973.

§ 2205. Reimbursement out of estate

If the tax or any part thereof is paid by, or collected out of, that part of the estate passing to or in the possession of any person other than the executor in his capacity as such, such person shall be entitled to reimbursement out of any part of the estate still undistributed or by a just and equitable contribution by the persons whose interest in the estate of the decedent would have been reduced if the tax had been paid before the distribution of the estate or whose interest is subject to equal or prior liability for the payment of taxes, debts, or other charges against the estate, it being the purpose and intent of this chapter that so far as is practicable and unless otherwise directed by the will of the decedent the tax shall be paid out of the estate before its distribution.

(Aug. 16, 1954, ch. 736, 68A Stat. 402.)

§ 2206. Liability of life insurance beneficiaries

Unless the decedent directs otherwise in his will, if any part of the gross estate on which tax has been paid consists of proceeds of policies of insurance on the life of the decedent receivable by a beneficiary other than the executor, the executor shall be entitled to recover from such beneficiary such portion of the total tax paid as the proceeds of such policies bear to the taxable estate. If there is more than one such beneficiary, the executor shall be entitled to recover from such beneficiaries in the same ratio. In the case of such proceeds receivable by the surviving spouse of the decedent for which a deduction is allowed under section 2056 (relating to marital deduction), this section shall not apply to such proceeds except as to the amount thereof in excess of the aggregate amount of the marital deductions allowed under such section.

(Aug. 16, 1954, ch. 736, 68A Stat. 402; Pub. L. 94–455, title XX, §2001(c)(1)(H), Oct. 4, 1976, 90 Stat. 1852.)

AMENDMENTS

1976—Pub. L. 94–455 substituted ''the taxable estate'' for ''the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate, determined under section 2051'' after ''policies bear to''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2001(d)(1) of Pub. L. 94–455, set out as a note under section 2001 of this title.

§ 2207. Liability of recipient of property over which decedent had power of appointment

Unless the decedent directs otherwise in his will, if any part of the gross estate on which the tax has been paid consists of the value of property included in the gross estate under section 2041, the executor shall be entitled to recover from the person receiving such property by reason of the exercise, nonexercise, or release of a power of appointment such portion of the total tax paid as the value of such property bears to the taxable estate. If there is more than one such person, the executor shall be entitled to recover from such persons in the same ratio. In the case of such property received by the surviving spouse of the decedent for which a deduction is allowed under section 2056 (relating to marital deduction), this section shall not apply to such property except as to the value thereof reduced by an amount equal to the excess of the aggregate amount of the marital deductions allowed under section 2056 over the amount of proceeds of insurance upon the life of the decedent receivable by the surviving spouse for which proceeds a marital deduction is allowed under such section.

(Aug. 16, 1954, ch. 736, 68A Stat. 402; Pub. L. 94–455, title XX, §2001(c)(1)(I), Oct. 4, 1976, 90 Stat. 1852.)

AMENDMENTS

1976—Pub. L. 94–455 substituted ''the taxable estate'' for ''the sum of the taxable estate and the amount of the exemption allowed in computing the taxable estate,

determined under section 2052, or section 2106(a), as the case may be'' after ''property bears to''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2001(d)(1) of Pub. L. 94–455, set out as a note under section 2001 of this title.

§ 2207A. Right of recovery in the case of certain marital deduction property

(a) Recovery with respect to estate tax

(1) In general

If any part of the gross estate consists of property the value of which is includible in the gross estate by reason of section 2044 (relating to certain property for which marital deduction was previously allowed), the decedent's estate shall be entitled to recover from the person receiving the property the amount by which—

(A) the total tax under this chapter which has been paid, exceeds

(B) the total tax under this chapter which would have been payable if the value of such property had not been included in the gross estate.

(2) Decedent may otherwise direct

Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.

(b) Recovery with respect to gift tax

If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2519, such person shall be entitled to recover from the person receiving the property the amount by which—

(1) the total tax for such year under chapter 12, exceeds

(2) the total tax which would have been payable under such chapter for such year if the value of such property had not been taken into account for purposes of chapter 12.

(c) More than one recipient of property

For purposes of this section, if there is more than one person receiving the property, the right of recovery shall be against each such person.

(d) Taxes and interest

In the case of penalties and interest attributable to additional taxes described in subsections (a) and (b), rules similar to subsections (a), (b), and (c) shall apply.

(Added Pub. L. 97–34, title IV, § 403(d)(4)(A), Aug. 13, 1981, 95 Stat. 304; amended Pub. L. 105–34, title XIII, § 1302(a), Aug. 5, 1997, 111 Stat. 1039.)

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105–34 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''Paragraph (1) shall not apply if the decedent otherwise directs by will.''

EFFECTIVE DATE OF 1997 AMENDMENT

Pub. L. 105–34, title XIII, § 1302(c), Aug. 5, 1997, 111 Stat. 1039, provided that: ''The amendments made by this section [amending this section and section 2207B of this title] shall apply with respect to the estates of decedents dying after the date of the enactment of this Act [Aug. 5, 1997].''

EFFECTIVE DATE

Section applicable to estates of decedents dying after Dec. 31, 1981, see section 403(e) of Pub. L. 97–34, set out as an Effective Date of 1981 Amendment note under section 2056 of this title.

§ 2207B. Right of recovery where decedent retained interest

(a) Estate tax

(1) In general

If any part of the gross estate on which tax has been paid consists of the value of property included in the gross estate by reason of section 2036 (relating to transfers with retained life estate), the decedent's estate shall be entitled to recover from the person receiving the property the amount which bears the same ratio to the total tax under this chapter which has been paid as—

(A) the value of such property, bears to

(B) the taxable estate.

(2) Decedent may otherwise direct

Paragraph (1) shall not apply with respect to any property to the extent that the decedent in his will (or a revocable trust) specifically indicates an intent to waive any right of recovery under this subchapter with respect to such property.

(b) More than one recipient

For purposes of this section, if there is more than 1 person receiving the property, the right of recovery shall be against each such person.

(c) Penalties and interest

In the case of penalties and interest attributable to the additional taxes described in subsection (a), rules similar to the rules of subsections (a) and (b) shall apply.

(d) No right of recovery against charitable remainder trusts

No person shall be entitled to recover any amount by reason of this section from a trust to which section 664 applies (determined without regard to this section).

(Added Pub. L. 100–647, title III, § 3031(f)(1), Nov. 10, 1988, 102 Stat. 3637; amended Pub. L. 101–508, title XI, § 11601(b)(1), Nov. 5, 1990, 104 Stat. 1388–490; Pub. L. 105–34, title XIII, § 1302(b), Aug. 5, 1997, 111 Stat. 1039.)

AMENDMENTS

1997—Subsec. (a)(2). Pub. L. 105–34 amended heading and text of par. (2) generally. Prior to amendment, text read as follows: ''Paragraph (1) shall not apply if the decedent otherwise directs in a provision of his will (or a revocable trust) specifically referring to this section.''

1990—Subsec. (b). Pub. L. 101–508, § 11601(b)(1)(A), redesignated former subsec. (c) as (b) and struck out former subsec. (b) which read as follows: ''If for any calendar year tax is paid under chapter 12 with respect to any person by reason of property treated as transferred by such person under section 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which