

tion [enacting section 2058 of this title and amending this section and sections 2011, 2013 to 2016, 2053, 2056A, 2102, 2106, 2107, 2201, 2604, 6511, and 6612 of this title] shall apply to estates of decedents dying, and generation-skipping transfers, after December 31, 2004.”

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 1976 AMENDMENT

Pub. L. 94-455, title XIX, §1902(c)(1), Oct. 4, 1976, 90 Stat. 1806, as amended by Pub. L. 95-600, title VII, §703(j)(12), Nov. 6, 1978, 92 Stat. 2942, provided that: “The amendments made by paragraphs (1) through (8), and paragraphs (12)(A), (B), and (C), of subsection (a) and by subsection (b) [amending this section and sections 2011, 2013, 2016, 2038, 2053, 2055, 2056, 2106, 2107, 2108, 2201, 6167, and 6503 of this title, repealing section 2202 of this title, and enacting provisions set out as a note under section 2201 of this title] shall apply in the case of estates of decedents dying after the date of the enactment of this Act [Oct. 4, 1976], and the amendment made by paragraph (9) of subsection (a) [amending section 2204 of this title] shall apply in the case of estates of decedents dying after December 31, 1970.”

Amendment by section 2001(a)(3), (c)(1)(B) of 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.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91-614 applicable with respect to gifts made after Dec. 31, 1970, see section 102(e) of Pub. L. 91-614, set out as a note under section 2501 of this title.

§ 2013. Credit for tax on prior transfers

(a) General rule

The tax imposed by section 2001 shall be credited with all or a part of the amount of the Federal estate tax paid with respect to the transfer of property (including property passing as a result of the exercise or non-exercise of a power of appointment) to the decedent by or from a person (herein designated as a “transferor”) who died within 10 years before, or within 2 years after, the decedent’s death. If the transferor died within 2 years of the death of the decedent, the credit shall be the amount determined under subsections (b) and (c). If the transferor predeceased the decedent by more than 2 years, the credit shall be the following percentage of the amount so determined—

- (1) 80 percent, if within the third or fourth years preceding the decedent’s death;
- (2) 60 percent, if within the fifth or sixth years preceding the decedent’s death;
- (3) 40 percent, if within the seventh or eighth years preceding the decedent’s death; and
- (4) 20 percent, if within the ninth or tenth years preceding the decedent’s death.

(b) Computation of credit

Subject to the limitation prescribed in subsection (c), the credit provided by this section shall be an amount which bears the same ratio to the estate tax paid (adjusted as indicated hereinafter) with respect to the estate of the transferor as the value of the property trans-

ferred bears to the taxable estate of the transferor (determined for purposes of the estate tax) decreased by any death taxes paid with respect to such estate. For purposes of the preceding sentence, the estate tax paid shall be the Federal estate tax paid increased by any credits allowed against such estate tax under section 2012, or corresponding provisions of prior laws, on account of gift tax, and for any credits allowed against such estate tax under this section on account of prior transfers where the transferor acquired property from a person who died within 10 years before the death of the decedent.

(c) Limitation on credit

(1) In general

The credit provided in this section shall not exceed the amount by which—

(A) the estate tax imposed by section 2001 or section 2101 (after deducting the credits provided for in sections 2010, 2012, and 2014) computed without regard to this section, exceeds

(B) such tax computed by excluding from the decedent’s gross estate the value of such property transferred and, if applicable, by making the adjustment hereinafter indicated.

If any deduction is otherwise allowable under section 2055 or section 2106(a)(2) (relating to charitable deduction) then, for the purpose of the computation indicated in subparagraph (B), the amount of such deduction shall be reduced by that part of such deduction which the value of such property transferred bears to the decedent’s entire gross estate reduced by the deductions allowed under sections 2053 and 2054, or section 2106(a)(1) (relating to deduction for expenses, losses, etc.). For purposes of this section, the value of such property transferred shall be the value as provided for in subsection (d) of this section.

(2) Two or more transferors

If the credit provided in this section relates to property received from 2 or more transferors, the limitation provided in paragraph (1) of this subsection shall be computed by aggregating the value of the property so transferred to the decedent. The aggregate limitation so determined shall be apportioned in accordance with the value of the property transferred to the decedent by each transferor.

(d) Valuation of property transferred

The value of property transferred to the decedent shall be the value used for the purpose of determining the Federal estate tax liability of the estate of the transferor but—

(1) there shall be taken into account the effect of the tax imposed by section 2001 or 2101, or any estate, succession, legacy, or inheritance tax, on the net value to the decedent of such property;

(2) where such property is encumbered in any manner, or where the decedent incurs any obligation imposed by the transferor with respect to such property, such encumbrance or obligation shall be taken into account in the same manner as if the amount of a gift to the decedent of such property was being determined; and

(3) if the decedent was the spouse of the transferor at the time of the transferor's death, the net value of the property transferred to the decedent shall be reduced by the amount allowed under section 2056 (relating to marital deductions), as a deduction from the gross estate of the transferor.

(e) Property defined

For purposes of this section, the term “property” includes any beneficial interest in property, including a general power of appointment (as defined in section 2041).

(f) Treatment of additional tax imposed under section 2032A

If section 2032A applies to any property included in the gross estate of the transferor and an additional tax is imposed with respect to such property under section 2032A(c) before the date which is 2 years after the date of the decedent's death, for purposes of this section—

(1) the additional tax imposed by section 2032A(c) shall be treated as a Federal estate tax payable with respect to the estate of the transferor; and

(2) the value of such property and the amount of the taxable estate of the transferor shall be determined as if section 2032A did not apply with respect to such property.

(Aug. 16, 1954, ch. 736, 68A Stat. 377; Pub. L. 94-455, title XIX, §1902(a)(2), title XX, §§2001(c)(1)(C), 2003(c), 2006(b)(2), Oct. 4, 1976, 90 Stat. 1804, 1850, 1862, 1888; Pub. L. 99-514, title XIV, §1432(c)(2), Oct. 22, 1986, 100 Stat. 2730; Pub. L. 100-647, title I, §1011A(g)(7), Nov. 10, 1988, 102 Stat. 3481; Pub. L. 105-34, title X, §1073(b)(2), Aug. 5, 1997, 111 Stat. 948; Pub. L. 107-16, title V, §532(c)(2), June 7, 2001, 115 Stat. 74.)

Editorial Notes

AMENDMENTS

2001—Subsec. (c)(1)(A). Pub. L. 107-16 struck out “2011,” after “sections 2010.”

1997—Subsec. (g). Pub. L. 105-34 struck out heading and text of subsec. (g). Prior to amendment, text read as follows: “For purposes of this section, the estate tax paid shall not include any portion of such tax attributable to section 4980A(d).”

1988—Subsec. (g). Pub. L. 100-647 added subsec. (g).

1986—Subsec. (g). Pub. L. 99-514 struck out subsec. (g) which provided for treatment of tax imposed on certain generation-skipping transfers.

1976—Subsec. (b). Pub. L. 94-455, §2001(c)(1)(C)(i), struck out “and increased by the exemption provided for by section 2052 or section 2106(a)(3), or the corresponding provisions of prior laws, in determining the taxable estate of the transferor for purposes of the estate tax” after “death taxes paid with respect to such estate”.

Subsec. (c)(1)(A). Pub. L. 94-455, §2001(c)(1)(C)(ii), substituted “credits provided for in sections 2010, 2011, 2012, and 2014 computed” for “credits for State death taxes, gift tax, and foreign death taxes provided for in sections 2011, 2012, and 2014 computed”.

Subsec. (d)(3). Pub. L. 94-455, §1902(a)(2), struck out “, or the corresponding provision of prior law,” after “marital deductions”.

Subsec. (f). Pub. L. 94-455, §2003(c), added subsec. (f).

Subsec. (g). Pub. L. 94-455, §2006(b)(2), added subsec. (g).

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE 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 2012 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 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

Amendment by 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 1976 AMENDMENT

Amendment by section 1902(a)(2) of Pub. L. 94-455 applicable to estates of decedents dying after Oct. 4, 1976, see section 1902(c)(1) of Pub. L. 94-455, set out as a note under section 2012 of this title.

§ 2014. Credit for foreign death taxes

(a) In general

The tax imposed by section 2001 shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property situated within such foreign country and included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent). The determination of the country within which property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2101 and following) in determining whether property is situated within or without the United States.

(b) Limitations on credit

The credit provided in this section with respect to such taxes paid to any foreign country—

(1) shall not, with respect to any such tax, exceed an amount which bears the same ratio to the amount of such tax actually paid to such foreign country as the value of property which is—

- (A) situated within such foreign country,
- (B) subjected to such tax, and
- (C) included in the gross estate

bears to the value of all property subjected to such tax; and

(2) shall not, with respect to all such taxes, exceed an amount which bears the same ratio to the tax imposed by section 2001 (after deducting from such tax the credits provided by sections 2010 and 2012) as the value of property which is—

- (A) situated within such foreign country,
- (B) subjected to the taxes of such foreign country, and