

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1983 AMENDMENT

Amendment by Pub. L. 97-448 effective, except as otherwise provided, as if it had been included in the provision of the Economic Recovery Tax Act of 1981, Pub. L. 97-34, to which such amendment relates, see section 109 of Pub. L. 97-448, set out as a note under section 1 of this title.

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.

§ 2045. Prior interests

Except as otherwise specifically provided by law, sections 2034 to 2042, inclusive, shall apply to the transfers, trusts, estates, interests, rights, powers, and relinquishment of powers, as severally enumerated and described therein, whenever made, created, arising, existing, exercised, or relinquished.

(Aug. 16, 1954, ch. 736, 68A Stat. 388, §2044; Pub. L. 94-455, title XX, §2001(c)(1)(M), Oct. 4, 1976, 90 Stat. 1853; renumbered §2045, Pub. L. 97-34, title IV, §403(d)(3)(A)(i), Aug. 13, 1981, 95 Stat. 304.)

Editorial Notes

PRIOR PROVISIONS

A prior section 2045 was renumbered section 2046 of this title.

AMENDMENTS

1976—Pub. L. 94-455 substituted “specifically provided by law” for “specifically provided therein”.

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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) of Pub. L. 94-455, set out as a note under section 2001 of this title.

§ 2046. Disclaimers

For provisions relating to the effect of a qualified disclaimer for purposes of this chapter, see section 2518.

(Added Pub. L. 94-455, title XX, §2009(b)(2), Oct. 4, 1976, 90 Stat. 1893, §2045; renumbered §2046, Pub. L. 97-34, title IV, §403(d)(3)(A)(i), Aug. 13, 1981, 95 Stat. 304.)

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EFFECTIVE DATE

Section applicable to transfers creating an interest in person disclaiming made after Dec. 31, 1976, see section 2009(e)(2) of Pub. L. 94-455, set out as a note under section 2518 of this title.

PART IV—TAXABLE ESTATE

Sec.	
2051.	Definition of taxable estate.
[2052.	Repealed.]
2053.	Expenses, indebtedness, and taxes.
2054.	Losses.
2055.	Transfers for public, charitable, and religious uses.
2056.	Bequests, etc., to surviving spouse.

Sec.	
2056A.	Qualified domestic trust.
[2057.	Repealed.]
2058.	State death taxes.

Editorial Notes

AMENDMENTS

2014—Pub. L. 113-295, div. A, title II, §221(a)(97)(A), Dec. 19, 2014, 128 Stat. 4051, which directed amendment of part IV of subchapter A of chapter 11 of this title by striking item 2057 from the table of sections for “such subpart”, was executed by striking item 2057 “Family-owned business interests” from the table of sections for this part, to reflect the probable intent of Congress.

2001—Pub. L. 107-16, title V, §532(c)(14), June 7, 2001, 115 Stat. 75, added item 2058.

1998—Pub. L. 105-206, title VI, §6006(b)(1)(F), July 22, 1998, 112 Stat. 808, added item 2057.

1990—Pub. L. 101-508, title XI, §11704(a)(39), Nov. 5, 1990, 104 Stat. 1388-520, amended directory language of section 5033(a)(3) of Pub. L. 100-647. See 1988 Amendment note below.

Pub. L. 101-508, title XI, §11704(a)(16), Nov. 5, 1990, 104 Stat. 1388-518, substituted “trust” for “trusts” in item 2056A.

1989—Pub. L. 101-239, title VII, §7304(a)(2)(E), Dec. 19, 1989, 103 Stat. 2353, struck out item 2057 “Sales of employer securities to employee stock ownership plans or worker-owned cooperatives”.

1988—Pub. L. 100-647, title V, §5033(a)(3), Nov. 10, 1988, 102 Stat. 3672, as amended by Pub. L. 101-508, title XI, §11704(a)(39), Nov. 5, 1990, 104 Stat. 1388-520, added item 2056A.

1986—Pub. L. 99-514, title XI, §1172(b)(3), Oct. 22, 1986, 100 Stat. 2515, added item 2057.

1981—Pub. L. 97-34, title IV, §427(b), Aug. 13, 1981, 95 Stat. 318, struck out item 2057 “Bequests, etc., to certain minor children”.

1976—Pub. L. 94-455, title XX, §2001(c)(1)(N)(iv), 2007(b), Oct. 4, 1976, 90 Stat. 1853, 1890, added item 2057 and struck out item 2052 “Exemption”.

§ 2051. Definition of taxable estate

For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate the deductions provided for in this part.

(Aug. 16, 1954, ch. 736, 68A Stat. 388; Pub. L. 95-600, title VII, §702(r)(2), Nov. 6, 1978, 92 Stat. 2938.)

Editorial Notes

AMENDMENTS

1978—Pub. L. 95-600 struck out “exemption and” after “gross estate the”.

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EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §702(r)(5), Nov. 6, 1978, 92 Stat. 2939, provided that: “The amendments made by this subsection [amending this section and sections 1016, 6324B, and 6698A of this title] shall apply to estates of decedents dying after December 31, 1976.”

[§ 2052. Repealed. Pub. L. 94-455, title XX, § 2001(a)(4), Oct. 4, 1976, 90 Stat. 1848]

Section, act Aug. 16, 1954, ch. 736, 68A Stat. 389, provided for an exemption of \$60,000 to be deducted from gross estate in determining value of taxable estate.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF REPEAL

Repeal applicable to estates of decedents dying after Dec. 31, 1976, see section 2001(d)(1) of Pub. L. 94-455, set

out as an Effective Date of 1976 Amendment note under section 2001 of this title.

§ 2053. Expenses, indebtedness, and taxes

(a) General rule

For purposes of the tax imposed by section 2001, the value of the taxable estate shall be determined by deducting from the value of the gross estate such amounts—

- (1) for funeral expenses,
- (2) for administration expenses,
- (3) for claims against the estate, and
- (4) for unpaid mortgages on, or any indebtedness in respect of, property where the value of the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate,

as are allowable by the laws of the jurisdiction, whether within or without the United States, under which the estate is being administered.

(b) Other administration expenses

Subject to the limitations in paragraph (1) of subsection (c), there shall be deducted in determining the taxable estate amounts representing expenses incurred in administering property not subject to claims which is included in the gross estate to the same extent such amounts would be allowable as a deduction under subsection (a) if such property were subject to claims, and such amounts are paid before the expiration of the period of limitation for assessment provided in section 6501.

(c) Limitations

(1) Limitations applicable to subsections (a) and (b)

(A) Consideration for claims

The deduction allowed by this section in the case of claims against the estate, unpaid mortgages, or any indebtedness shall, when founded on a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money's worth; except that in any case in which any such claim is founded on a promise or agreement of the decedent to make a contribution or gift to or for the use of any donee described in section 2055 for the purposes specified therein, the deduction for such claims shall not be so limited, but shall be limited to the extent that it would be allowable as a deduction under section 2055 if such promise or agreement constituted a bequest.

(B) Certain taxes

Any income taxes on income received after the death of the decedent, or property taxes not accrued before his death, or any estate, succession, legacy, or inheritance taxes, shall not be deductible under this section.

(C) Certain claims by remaindermen

No deduction shall be allowed under this section for a claim against the estate by a remainderman relating to any property described in section 2044.

(D) Section 6166 interest

No deduction shall be allowed under this section for any interest payable under sec-

tion 6601 on any unpaid portion of the tax imposed by section 2001 for the period during which an extension of time for payment of such tax is in effect under section 6166.

(2) Limitations applicable only to subsection (a)

In the case of the amounts described in subsection (a), there shall be disallowed the amount by which the deductions specified therein exceed the value, at the time of the decedent's death, of property subject to claims, except to the extent that such deductions represent amounts paid before the date prescribed for the filing of the estate tax return. For purposes of this section, the term "property subject to claims" means property includible in the gross estate of the decedent which, or the avails of which, would under the applicable law, bear the burden of the payment of such deductions in the final adjustment and settlement of the estate, except that the value of the property shall be reduced by the amount of the deduction under section 2054 attributable to such property.

(d) Certain foreign death taxes

(1) In general

Notwithstanding the provisions of subsection (c)(1)(B), for purposes of the tax imposed by section 2001, the value of the taxable estate may be determined, if the executor so elects before the expiration of the period of limitation for assessment provided in section 6501, by deducting from the value of the gross estate the amount (as determined in accordance with regulations prescribed by the Secretary) of any estate, succession, legacy, or inheritance tax imposed by and actually paid to any foreign country, in respect of any property situated within such foreign country and included in the gross estate of a citizen or resident of the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055. The determination under this paragraph 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. Any election under this paragraph shall be exercised in accordance with regulations prescribed by the Secretary.

(2) Condition for allowance of deduction

No deduction shall be allowed under paragraph (1) for a foreign death tax specified therein unless the decrease in the tax imposed by section 2001 which results from the deduction provided in paragraph (1) will inure solely for the benefit of the public, charitable, or religious transferees described in section 2055 or section 2106(a)(2). In any case where the tax imposed by section 2001 is equitably apportioned among all the transferees of property included in the gross estate, including those described in sections 2055 and 2106(a)(2) (taking into account any exemptions, credits, or deductions allowed by this chapter), in determining such decrease, there shall be disregarded any decrease in the Federal estate