

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes

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."

Statutory Notes and Related Subsidiaries

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.)

Editorial Notes

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