

“(A) an instrument executed before the date which is 30 days after the date of the enactment of this Act [Aug. 13, 1981] provides for a power of appointment which may be exercised during any period after December 31, 1981.

“(B) such power of appointment is expressly defined in terms of, or by reference to, the amount of the gift tax exclusion under section 2503(b) of the Internal Revenue Code of 1986 [formerly I.R.C. 1954] (or the corresponding provision of prior law),

“(C) the instrument described in subparagraph (A) has not been amended on or after the date which is 30 days after the date of the enactment of this Act [Aug. 13, 1981], and

“(D) the State has not enacted a statute applicable to such gift under which such power of appointment is to be construed as being defined in terms of, or by reference to, the amount of the exclusion under such section 2503(b) after its amendment by subsection (a), then the amendment made by subsection (a) shall not apply to such gift.”

Amendment by section 442(a)(3) of Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Pub. L. 95-600, title VII, §702(j)(3)(B), Nov. 6, 1978, 92 Stat. 2932, provided that: “The amendment made by paragraph (2) [amending this section] shall apply to transfers made after December 31, 1976.”

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.

PLAN AMENDMENTS NOT REQUIRED UNTIL JANUARY 1, 1989

For provisions directing that if any amendments made by subtitle A or subtitle C of title XI [§§ 1101-1147 and 1171-1177] or title XVIII [§§ 1800-1899A] of Pub. L. 99-514 require an amendment to any plan, such plan amendment shall not be required to be made before the first plan year beginning on or after Jan. 1, 1989, see section 1140 of Pub. L. 99-514, as amended, set out as a note under section 401 of this title.

§ 2504. Taxable gifts for preceding calendar periods

(a) In general

In computing taxable gifts for preceding calendar periods for purposes of computing the tax for any calendar year—

(1) there shall be treated as gifts such transfers as were considered to be gifts under the gift tax laws applicable to the calendar period in which the transfers were made,

(2) there shall be allowed such deductions as were provided for under such laws, and

(3) the specific exemption in the amount (if any) allowable under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) shall be applied in all computations in respect of preceding calendar periods ending before January 1, 1977, for purposes of computing the tax for any calendar year.

(b) Exclusions from gifts for preceding calendar periods

In the case of gifts made to any person by the donor during preceding calendar periods, the amount excluded, if any, by the provisions of gift tax laws applicable to the periods in which

the gifts were made shall not, for purposes of subsection (a), be included in the total amount of the gifts made during such preceding calendar periods.

(c) Valuation of gifts

If the time has expired under section 6501 within which a tax may be assessed under this chapter 12 (or under corresponding provisions of prior laws) on—

(1) the transfer of property by gift made during a preceding calendar period (as defined in section 2502(b)); or

(2) an increase in taxable gifts required under section 2701(d),

the value thereof shall, for purposes of computing the tax under this chapter, be the value as finally determined (within the meaning of section 2001(f)(2)) for purposes of this chapter.

(d) Net gifts

The term “net gifts” as used in the corresponding provisions of prior laws shall be read as “taxable gifts” for purposes of this chapter.

(Aug. 16, 1954, ch. 736, 68A Stat. 405; Pub. L. 91-614, title I, §102(a)(4)(A), Dec. 31, 1970, 84 Stat. 1839; Pub. L. 94-455, title XX, §2001(c)(2)(A), Oct. 4, 1976, 90 Stat. 1853; Pub. L. 97-34, title IV, §442(a)(4)(A)-(D), Aug. 13, 1981, 95 Stat. 321; Pub. L. 105-34, title V, §506(d), Aug. 5, 1997, 111 Stat. 856; Pub. L. 105-206, title VI, §6007(e)(2)(B)[(C)], July 22, 1998, 112 Stat. 810.)

Editorial Notes

REFERENCES IN TEXT

The Tax Reform Act of 1976, referred to in subsec. (a)(3), is Pub. L. 94-455, Oct. 4, 1976, 90 Stat. 1520. Section 2521 of this title was repealed by section 2001(b)(3) of Pub. L. 94-455. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

1998—Subsec. (c). Pub. L. 105-206 substituted “gifts” for “certain gifts for preceding calendar periods” in heading and amended text generally. Prior to amendment, text read as follows: “If the time has expired within which a tax may be assessed under this chapter or under corresponding provisions of prior laws on the transfer of property by gift made during a preceding calendar period, as defined in section 2502(b), the value of such gift made in such preceding calendar period shall, for purposes of computing the tax under this chapter for any calendar year, be the value of such gift which was used in computing the tax for the last preceding calendar period for which a tax under this chapter or under corresponding provisions of prior laws was assessed or paid.”

1997—Subsec. (c). Pub. L. 105-34 struck out “, and if a tax under this chapter or under corresponding provisions of prior laws has been assessed or paid for such preceding calendar period” after “as defined in section 2502(b)”.

1981—Pub. L. 97-34, §442(a)(4)(D), substituted “calendar periods” for “years and quarters” in section catchline.

Subsec. (a). Pub. L. 97-34, §442(a)(4)(A), substituted in introductory text “preceding calendar periods” and “calendar year” for “preceding calendar years or calendar quarters” and “calendar quarter”, incorporated existing text in provisions designated pars. (1) to (3), and substituted in par. (1) “calendar period” for “years or calendar quarters” and in par. (3) “preceding calendar periods” and “calendar year” for “calendar years or calendar quarters” and “calendar quarter”.

Subsec. (b). Pub. L. 97-34, § 442(a)(4)(B), substituted in heading “calendar periods” for “years and quarters” and in text “preceding calendar periods” for “preceding calendar years and calendar quarters”, “the periods” for “the years and calendar quarters”, and “such preceding calendar periods” for “such years and calendar quarters”.

Subsec. (c). Pub. L. 97-34, § 442(a)(4)(C), substituted in heading “calendar periods” for “calendar years and quarters” and in text “preceding calendar period” for “preceding calendar year or calendar quarter” in four places, “any calendar year” for “any calendar quarter”, and “section 2502(b)” for “section 2502(c)”.

1976—Subsec. (a). Pub. L. 94-455 inserted “(as in effect before its repeal by the Tax Reform Act of 1976)” after “section 2521” and “ending before January 1, 1977” after “years or calendar quarters” and substituted “of” for “to previous” after “computations in respect”.

1970—Pub. L. 91-614 substituted “Taxable gifts for preceding years and quarters” for “Taxable gifts for preceding years” in section catchline.

Subsec. (a). Pub. L. 91-614 substituted “In computing taxable gifts for the preceding calendar years or calendar quarters for the purpose of computing the tax for any calendar quarter,” for “In computing taxable gifts for the calendar year 1954 and preceding calendar years for the purpose of computing the tax for the calendar year 1955 or any calendar year thereafter,” provided that the laws applicable in the calendar quarters as well as the years in which the transfers in question were made shall apply, and substituted “previous calendar years or calendar quarters for the purpose of computing the tax for any calendar year or calendar quarter” for “the calendar year 1954 and previous calendar years for the purpose of computing the tax for the calendar year 1955 or any calendar year thereafter”.

Subsec. (b). Pub. L. 91-614 inserted reference to calendar quarters in heading, substituted “during preceding calendar years and calendar quarters,” for “during the calendar year 1954 and preceding calendar years,” made reference to the amount excluded by gift tax laws applicable to the calendar quarters as well as years in which the gifts were made, and substituted “during such years and calendar quarters” for “during such year”.

Subsec. (c). Pub. L. 91-614 inserted reference to calendar quarters in heading, inserted “or calendar quarter” after “calendar year” in four places, and substituted “for any calendar quarter,” for “for the calendar year 1955 and subsequent calendar years.”

Subsec. (d). Pub. L. 91-614 struck out “For years before the calendar year 1955” from explanation of term “net gifts” as used in corresponding provisions of prior laws.

Statutory Notes and Related Subsidiaries

EFFECTIVE DATE OF 1998 AMENDMENT

Amendment by Pub. L. 105-206 effective, except as otherwise provided, as if included in the provisions of the Taxpayer Relief Act of 1997, Pub. L. 105-34, to which such amendment relates, see section 6024 of Pub. L. 105-206, set out as a note under section 1 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to gifts made after Aug. 5, 1997, see section 506(e)(1) of Pub. L. 105-34, as amended, set out as a note under section 2001 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97-34 applicable with respect to gifts made after Dec. 31, 1981, see section 442(e) of Pub. L. 97-34, set out as a note under section 2501 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.

§ 2505. Unified credit against gift tax

(a) General rule

In the case of a citizen or resident of the United States, there shall be allowed as a credit against the tax imposed by section 2501 for each calendar year an amount equal to—

(1) the applicable credit amount in effect under section 2010(c) which would apply if the donor died as of the end of the calendar year, reduced by

(2) the sum of the amounts allowable as a credit to the individual under this section for all preceding calendar periods.

For purposes of applying paragraph (2) for any calendar year, the rates of tax in effect under section 2502(a)(2) for such calendar year shall, in lieu of the rates of tax in effect for preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.

(b) Adjustment to credit for certain gifts made before 1977

The amount allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the individual after September 8, 1976.

(c) Limitation based on amount of tax

The amount of the credit allowed under subsection (a) for any calendar year shall not exceed the amount of the tax imposed by section 2501 for such calendar year.

(Added Pub. L. 94-455, title XX, § 2001(b)(2), Oct. 4, 1976, 90 Stat. 1849; amended Pub. L. 97-34, title IV, §§ 401(b), 442(a)(5), Aug. 13, 1981, 95 Stat. 299, 321; Pub. L. 101-508, title XI, § 11801(a)(40), (c)(19)(B), Nov. 5, 1990, 104 Stat. 1388-521, 1388-528; Pub. L. 105-34, title V, § 501(a)(2), Aug. 5, 1997, 111 Stat. 845; Pub. L. 107-16, title V, § 521(b), June 7, 2001, 115 Stat. 71; Pub. L. 111-312, title III, §§ 301(b), 302(b)(1)(A), (d)(2), 303(b)(1), Dec. 17, 2010, 124 Stat. 3300-3303.)

Editorial Notes

REFERENCES IN TEXT

The Tax Reform Act of 1976, referred to in subsec. (b), is Pub. L. 94-455, Oct. 4, 1976, 90 Stat. 1520. Section 2521 of this title was repealed by section 2001(b)(3) of Pub. L. 94-455. For complete classification of this Act to the Code, see Tables.

AMENDMENTS

2010—Subsec. (a). Pub. L. 111-312, § 302(d)(2), inserted concluding provisions.

Subsec. (a)(1). Pub. L. 111-312, § 303(b)(1), amended par. (1) generally. Prior to amendment, par. (1) read as follows: “the applicable credit amount in effect under section 2010(c) for such calendar year, reduced by”.

Pub. L. 111-312, § 302(b)(1)(A), struck out “(determined as if the applicable exclusion amount were \$1,000,000)” after “calendar year”.

Pub. L. 111-312, § 301(b), amended subsec. (a)(1) to read as if amendment by Pub. L. 107-16, § 521(b)(2), had never been enacted. See 2001 Amendment note below.