is claimed. If the Commissioner does not furnish the factor, the claim for deduction must be supported by a full statement of the computation of the present value made in accordance with the principles set forth in this paragraph.

[T.D. 6296, 23 FR 4529, June 24, 1958]

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting §20.2055–2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

§20.2055–2T Transfers not exclusively for charitable purposes (temporary).

(a) through (e)(3)(ii). [Reserved] For further guidance see §20.2055–2(a) through (e)(3)(ii).

(e)(3)(iii) The rule in paragraphs (e)(2)(vi)(a) and (e)(2)(vii)(a) of this section that guaranteed annuity interests or unitrust interests, respectively, may be payable for a specified term of years or for the life or lives of only certain individuals is generally effective in the case of transfers pursuant to wills and revocable trusts when the decedent dies on or after April 4, 2000. Two exceptions from the application of this rule in paragraphs (e)(2)(vi)(a) and (e)(2)(vii)(a) of this section are provided in the case of transfers pursuant to a will or revocable trust executed on or before April 4, 2000. One exception is for a decedent who dies on or before July 5, 2001, without having republished the will (or amended the trust) by codicil or otherwise. The other exception is for a decedent who was on April 4, 2000, under a mental disability that prevented a change in the disposition of the decedent's property, and who either does not regain competence to dispose of such property before the date of death, or dies prior to the later of 90 days after the date on which the decedent first regains competence, or July 5, 2001, without having republished the will (or amended the trust) by codicil or otherwise. If a guaranteed annuity interest or unitrust interest created pursuant to a will or revocable trust when the decedent dies on or after April 4, 2000, uses an individual other than one permitted in paragraphs (e)(2)(vi)(a) and (vii)(a) of this section, and the interest does not qualify for this transitional relief, the interest may be reformed into a lead interest payable for a specified term of years. The term of years is determined by taking the factor for valuing the annuity or unitrust interest for the named individual measuring life and identifying the term of years (rounded up to the next whole year) that corresponds to the equivalent term of years factor for an annuity or unitrust interest. For example, in the case of an annuity interest payable for the life of an individual age 40 at the time of the transfer on or after May 1, 2009, assuming an interest rate of 7.4 percent under section 7520, the annuity factor from column 1 of Table S(7.4), contained in IRS Publication 1457, Actuarial Valuations Version 3A, for the life of an individual age 40 is 12.1519 (1.00000 minus .10076, divided by .074). Based on Table B(7.4), contained in Publication 1457, Actuarial Valuations Version 3A, the factor 12.1519 corresponds to a term of years between 32 and 33 years. Accordingly, the annuity interest must be reformed into an interest payable for a term of 33 years. A judicial reformation must be commenced prior to the later of July 5, 2001, or the date prescribed by section 2055(e)(3)(C)(iii). Any judicial reformation must be completed within a reasonable time after it is commenced. A non-judicial reformation is permitted if effective under state law, provided it is completed by the date on which a judicial reformation must be commenced. In the alternative, if a court, in a proceeding that is commenced on or before July 5, 2001, declares any transfer made pursuant to a will or revocable trust where the decedent dies on or after April 4, 2000, and on or before March 6, 2001, null and void ab initio, the Internal Revenue Service will treat such transfers in a manner similar to that described in section 2055(e)(3)(J).

(e)(4) through (f)(3). [Reserved] For further guidance see §20.2055–2(e)(4) through (f)(3).

(f)(4) *Other decedents.* The present value of an interest not described in paragraph (f)(2) of this section is to be determined under §20.2031–7T(d) in the case of decedents where the valuation date of the gross estate is on or after May 1, 2009, or under §20.2031–7A in the

case of decedents where the valuation date of the gross estate is before May 1, 2009.

(f)(5) [Reserved] For further guidance see § 20.2055–2(f)(5).

(f)(6) *Effective/applicability date.* Paragraphs (e)(3)(iii) and (f)(4) apply on or after May 1, 2009.

(f)(7) *Expiration date.* Paragraphs (e)(3)(iii) and (f)(4) expire on or before May 1, 2012.

[T.D. 9448, 74 FR 21510, May 7, 2009]

§ 20.2055–3 Effect of death taxes and administration expenses.

(a) *Death taxes*—(1) If under the terms of the will or other governing instruments, the law of the jurisdiction under which the estate is administered, or the law of the jurisdiction imposing the particular tax, the Federal estate tax, or any estate, succession, legacy, or inheritance tax is payable in whole or in part out of any property the transfer of which would otherwise be allowable as a deduction under section 2055, section 2055(c) provides that the sum deductible is the amount of the transferred property reduced by the amount of the tax. Section 2055(c) in effect provides that the deduction is based on the amount actually available for charitable uses, that is, the amount of the fund remaining after the payment of all death taxes. Thus, if $50,000 is bequeathed for a charitable purpose and is subjected to a State inheritance tax of $5,000, payable out of the $50,000, the amount deductible is $45,000. If a life estate is bequeathed to an individual with remainder over to a charitable organization, and by the local law the inheritance tax upon the life estate is paid out of the corpus with the result that the charitable organization will be entitled to receive only the amount of the fund less the tax, the deduction is limited to the present value, as of the date of the testator's death, of the remainder of the fund so reduced. If a testator bequeaths his residuary estate, or a portion of it, to charity, and his will contains a direction that certain inheritance taxes, otherwise payable from legacies upon which they were imposed, shall be payable out of the residuary estate, the deduction may not exceed the bequest to charity thus reduced pursuant to the direction of the will. If a residuary estate, or a portion of it, is bequested to charity, and by the local law the Federal estate tax is payable out of the residuary estate, the deduction may not exceed that portion of the residuary estate bequeathed to charity as reduced by the Federal estate tax. The return should fully disclose the computation of the amount to be deducted. If the amount to be deducted is dependent upon the amount of any death tax which has not been paid before the filing of the return, there should be submitted with the return a computation of that tax.

(2) It should be noted that if the Federal estate tax is payable out of a charitable transfer so that the amount of the transfer otherwise passing to charity is reduced by the amount of the tax, the resultant decrease in the amount passing to charity will further reduce the allowable deduction. In such a case, the amount of the charitable deduction can be obtained only by a series of trial-and-error computations, or by a formula. If, in addition, interdependent State and Federal taxes are involved, the computation becomes highly complicated. Examples of methods of computation of the charitable deduction and the marital deduction (with which similar problems are encountered) in various situations are contained in supplemental instructions to the estate tax return.

(3) For the allowance of a deduction to a decedent's estate for certain State death taxes imposed upon charitable transfers, see section 2053(d) and § 20.2053–9.

(b) *Administration expenses*—(1) *Definitions*—(i) *Management expenses.* Estate management expenses are expenses that are incurred in connection with the investment of estate assets or with their preservation or maintenance during a reasonable period of administration. Examples of these expenses could include investment advisory fees, stock brokerage commissions, custodial fees, and interest.

(ii) *Transmission expenses.* Estate transmission expenses are expenses that would not have been incurred but for the decedent's death and the consequent necessity of collecting the decedent's assets, paying the decedent's debts and death taxes, and distributing