

**§ 20.2002-1 Liability for payment of tax.**

The Federal estate tax imposed both with respect to the estates of citizens or residents and with respect to estates of nonresidents not citizens is payable by the executor or administrator of the decedent's estate. This duty applies to the entire tax, regardless of the fact that the gross estate consists in part of property which does not come within the possession of the executor or administrator. If there is no executor or administrator appointed, qualified and acting in the United States, any person in actual or constructive possession of any property of the decedent is required to pay the entire tax to the extent of the value of the property in his possession. See section 2203, defining the term "executor". The personal liability of the executor or such other person is described in section 3467 of the Revised Statutes (31 U.S.C. 192) as follows:

Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

As used in said section, the word "debt" includes a beneficiary's distributive share of an estate. Thus, if the executor pays a debt due by the decedent's estate or distributes any portion of the estate before all the estate tax is paid, he is personally liable, to the extent of the payment or distribution, for so much of the estate tax as remains due and unpaid. In addition, section 6324(a)(2) provides that if the estate tax is not paid when due, then the spouse, transferee, trustee (except the trustee of an employee's trust which meets the requirements of section 401(a)), surviving tenant, person in possession of the property by reason of the exercise, nonexercise, or release of a power of appointment, or beneficiary, who receives, or has on the date of the decedent's death, property included in the gross estate under section 2034 through 2042, is personally liable for the tax to the extent of the value, at

the time of the decedent's death, of such property. See also the following related sections of the Internal Revenue Code: Section 2204, discharge of executor from personal liability; section 2205, reimbursement out of estate; sections 2206 and 2207, liability of life insurance beneficiaries and recipients of property over which decedent had power of appointment; sections 6321 through 6325, concerning liens for taxes; and section 6901(a)(1), concerning the liabilities of transferees and fiduciaries.

**§ 20.2010-0T Table of contents (temporary).**

This section lists the table of contents for §§ 20.2010-1T through 20.2010-3T.

*§ 20.2010-1T Unified credit against estate tax; in general (temporary).*

- (a) General rule.
- (b) Special rule in case of certain gifts made before 1977.
- (c) Credit limitation.
- (d) Explanation of terms.
  - (1) Applicable credit amount.
  - (2) Applicable exclusion amount.
  - (3) Basic exclusion amount.
  - (4) Deceased spousal unused exclusion (DSUE) amount.
  - (5) Last deceased spouse.
  - (e) Effective/applicability date.
  - (f) Expiration date.

*§ 20.2010-2T Portability provisions applicable to estate of a decedent survived by a spouse (temporary).*

- (a) Election required for portability.
  - (1) Timely filing required.
  - (2) Portability election upon filing of estate tax return.
  - (3) Portability election not made; requirements for election not to apply.
  - (4) Election irrevocable.
  - (5) Estates eligible to make the election.
  - (6) Persons permitted to make the election.
  - (7) Requirements of return.
- (b) Computation required for portability election.
  - (1) General rule.
  - (2) Transitional rule.
  - (c) Computation of the DSUE amount.
    - (1) General rule.
    - (2) Special rule to consider gift taxes paid by decedent.
    - (3) [Reserved]
    - (4) Special rule in case of property passing to qualified domestic trust.
    - (5) Examples.
    - (d) Authority to examine returns of decedent.
    - (e) Effective/applicability date.