the foreign death tax). Stated algebraically, the ''first limitation'' (A) equals—

Value of property in foreign country subjected to foreign death tax, included in gross estate and for which a deduction is not allowed under section 2053(d)(C) ÷ Value of all property subjected to foreign death tax (D) × Amount of foreign death tax (B)

The values used in this proportion are the values determined for the purpose of the foreign death tax. The amount of the foreign death tax for which credit is allowable must be converted into United States money. The application of this paragraph may be illustrated by the following example:

*Example.* At the time of his death on June 1, 1966, the decedent, a citizen of the United States, owned stock in X Corporation (a corporation organized under the laws of Country Y) valued at $80,000. In addition, he owned bonds issued by Country Y valued at $80,000. The stock and bond certificates were in the United States. Decedent left by will $20,000 of the stock and $50,000 of the Country Y bonds to his surviving spouse. He left the rest of the stock and bonds to his son. Under the situs rules referred to in paragraph (a)(3) of § 20.2014–1 the stock is deemed situated in Country Y while the bonds are deemed to have their situs in the United States. (The bonds would be deemed to have their situs in Country Y if the decedent had died on or after November 14, 1966.) There is not death tax convention in existence between the United States and Country Y. The laws of Country Y provide for inheritance taxes computed as follows:

| | |
|---|---|
| Inheritance tax of surviving spouse: | |
| Value of stock | $20,000 |
| Value of bonds | 50,000 |
| Total value | 70,000 |
| Tax (16 percent rate) | 11,200 |
| Inheritance tax of son: | |
| Value of stock | 60,000 |
| Value of bonds | $30,000 |
| Total value | 90,000 |
| Tax (16 percent rate) | 14,400 |

The ''first limitation'' on the credit for foreign death taxes is:

$20,000 + $60,000 (factor C of the ratio stated at § 20.2014 − 2(a)) ÷ $70,000+ $90,000 (factor D of the ratio stated at § 20.2014 − 2(a)) × ($11,200+$14,400) (factor B of the ratio stated at § 20.2014–2(a)) = $12,800

(b) If a foreign country imposes more than one kind of death tax or imposes taxes at different rates upon the several shares of an estate, or if a foreign country and a political subdivision or possession thereof each imposes a death tax, a ''first limitation'' is to be computed separately for each tax or rate and the results added in order to determine the total ''first limitation.'' The application of this paragraph may be illustrated by the following example:

*Example.* The facts are the same as those contained in the example set forth in paragraph (a) of this section, except that the tax of the surviving spouse was computed at a 10 percent rate and amounted to $7,000, and the tax of the son was computed at a 20 percent rate and amounted to $18,000. In this case, the ''first limitation'' on the credit for foreign death taxes is computed as follows:

| | |
|---|---|
| ''First limitation'' with respect to inheritance tax of surviving spouse: | |
| [$20,000 (factor C of the ratio stated at § 20.2014–2(a)) ÷ $70,000 (factor D of the ratio stated at § 20.2014–2(a))] × $7,000 (factor B of the ratio stated at § 20.2014–2(a))= | $2,000. |
| ''First limitation'' with respect to inheritance tax of son: | |
| [$60,000 (factor C of the ratio stated at § 20.2014–2(a)) ÷ $90,000 (factor D of the ratio stated at § 20.2014–2(a))] × $18,000 (factor B of the ratio stated at § 20.2014–2(a))= | 12,000. |
| Total ''first limitation'' on the credit for foreign death taxes | 14,000 |

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 6600, 27 FR 4984, May 29, 1962; T.D. 6684, 28 FR 11408, Oct. 24, 1963; T.D. 7296, 38 FR 34193, Dec. 12, 1973; 39 FR 2090, Jan. 17, 1974]

### § 20.2014–3 "Second limitation".

(a) The amount of the Federal estate tax attributable to particular property situated in a foreign country, subjected to foreign death tax in that country, and included in the decedent's gross estate for Federal estate tax purposes is the ''second limitation.'' Thus, the credit is limited to an amount, E, which bears the same ratio to F (the gross Federal estate tax, reduced by any credit for State death taxes under section 2011 and by any credit for gift tax under section 2012) as G (the ''adjusted value of the property situated in the foreign country, subjected to foreign death tax, and included in the gross estate'', computed as described in paragraph (b) of this section) bears to H (the value of the entire gross estate,

reduced by the total amount of the deductions allowed under sections 2055 (charitable deduction) and 2056 (marital deduction)). Stated algebraically, the ''second limitation'' (E) equals:

''Adjusted value of the property situated in the foreign country, subjected to foreign death taxes, and included in the gross estate'' (G) ÷ Value of entire gross estate, less charitable and marital deductions (H) × Gross Federal estate tax, less credits for State death taxes and gift tax (F)

The values used in this proportion are the values determined for the purpose of the Federal estate tax.

(b) Adjustment is required to factor ''G'' of the ratio stated in paragraph (a) of this section if a deduction for foreign death taxes under section 2053(d), a charitable deduction under section 2055, or a marital deduction under section 2056 is allowed with respect to the foreign property. If a deduction for foreign death taxes is allowed, the value of the property situated in the foreign country, subjected to foreign death tax, and included in the gross estate does not include the value of any property in respect of which the deduction for foreign death taxes is allowed. See § 20.2014–7. If a charitable deduction or a marital deduction is allowed, the value of such foreign property (after exclusion of the value of any property in respect of which the deduction for foreign death taxes is allowed) is reduced as follows:

(1) If a charitable deduction or a marital deduction is allowed to a decedent's estate with respect to any part of the foreign property, except foreign property in respect of which a deduction for foreign death taxes is allowed, specifically bequeathed, devised, or otherwise specifically passing to a charitable organization or to the decedent's spouse, the value of the foreign property is reduced by the amount of the charitable deduction or marital deduction allowed with respect to such specific transfer. See example (1) of paragraph (c) of this section.

(2) If a charitable deduction or a marital deduction is allowed to a decedent's estate with respect to a bequest, devise or other transfer of an interest in a group of assets including both the foreign property and other property, the value of the foreign property is reduced by an amount, I, which bears the same ratio to J (the amount of the charitable deduction or marital deduction allowed with respect to such transfer of an interest in a group of assets) as K (the value of the foreign property, except foreign property in respect of which a deduction for foreign death taxes is allowed, included in the group of assets) bears to L (the value of the entire group of assets). As used in this subparagraph, the term ''group of assets'' has reference to those assets which, under applicable law, are chargeable with the charitable or marital transfer. See example (2) of paragraph (c) of this section.

Any reduction described in paragraph (b)(1) or (b)(2) of this section on account of the marital deduction must proportionately take into account, if applicable, the limitation on the aggregate amount of the marital deduction contained in § 20.2056(a)–1(c). See § 20.2014–3(c), *Example 3*.

(c) The application of paragraphs (a) and (b) of this section may be illustrated by the following examples. In each case, the computations relate to the amount of credit under section 2014 without regard to the amount of credit which may be allowable under an applicable death tax convention.

*Example (1).* (i) Decedent, a citizen and resident of the United States at the time of his death on February 1, 1967, left a gross estate of $1,000,000 which includes the following: shares of stock issued by a domestic corporation, valued at $750,000; bonds issued in 1960 by the United States and physically located in foreign Country X, valued at $50,000; and shares of stock issued by a Country X corporation, valued at $200,000, with respect to which death taxes were paid to Country X. Expenses, indebtedness, etc., amounted to $60,000. Decedent specifically bequeathed $40,000 of the stock issued by the Country X corporation to a U.S. charity and left the residue of his estate, in equal shares, to his son and daughter. The gross Federal estate tax is $266,500, and the credit for State death taxes is $27,600. Under the situs rules referred to in paragraph (a)(3) of § 20.2014–1, the shares of stock issued by the Country X corporation comprise the only property deemed to be situated in Country X. (The bonds also would be deemed to have their situs in Country X if the decedent had died before November 14, 1966.)

(ii) The ''second limitation'' on the credit for foreign death taxes is:

[($200,000 − $40,000 (factor G of the ratio stated at § 20.2014–3(a); see also § 20.2014–3(b)(1))) ÷ ($1,000,000 − $40,000 (factor H of the ratio stated at § 20.2014–3(a)))] × ($266,500 − $27,600) (factor F of the ratio stated at § 20.2014–3(a)) = $39,816.67.

The lesser of this amount and the amount of the ''first limitation'' (computed under § 20.2014–2) is the credit for foreign death taxes.

*Example (2).* (i) Decedent, a citizen and resident of the United States at the time of his death, left a gross estate of $1,000,000 which includes: shares of stock issued by a United States corporation, valued at $650,000; shares of stock issued by a Country X corporation, valued at $200,000; and life insurance, in the amount of $150,000, payable to a son. Expenses, indebtedness, etc., amounted to $40,000. The decedent made a specific bequest of $25,000 of the Country X corporation stock to Charity A and a general bequest of $100,000 to Charity B. The residue of his estate was left to his daughter. The gross Federal estate tax is $242,450 and the credit for State death taxes is $24,480. Under these facts and applicable law, neither the stock of the Country X corporation specifically bequeathed to Charity A nor the insurance payable to the son could be charged with satisfying the bequest to Charity B. Therefore, the ''group of assets'' which could be so charged is limited to stock of the Country X corporation valued at $175,000 and stock of the United States corporation valued at $650,000.

(ii) Factor ''G'' of the ratio which is used in determining the ''second limitation'' is computed as follows:

| | | |
|---|---|---|
| Value of property situated in Country X | | $200,000.00 |
| Less: | | |
| Reduction described in § 20.2014–3(b)(1) | $25,000.00 | |
| Reduction described in § 20.2014–3(b)(2) = [$175,000 (factor K of the ratio stated at § 20.2014–3(b)(2)) ÷ ($175,000 + $650,000 (factor L of the ratio stated at § 20.2014–3(b)(2)))] × $100,000 (factor J of the ratio stated at § 20.2014–3(b)(2)) = | 21,212.12 | |
| | | 46,212.12 |
| Factor ''G'' of the ratio | | 153,787.88 |

(iii) In this case, the ''second limitation'' on the credit for foreign death taxes is:

[$153,787.88 (factor G of the ratio stated at § 20.2014–3(a); see also subdivision (ii) above) ÷ ($1,000,000 − $125,000 (factor H of the ratio stated at § 20.2014–3(a)))] × ($242,450 − $24,480) (factor F of the ratio stated at § 20.2014–3(a)) = $38,309.88.

*Example (3).* (i) Decedent, a citizen and resident of the United States at the time of his death, left a gross estate of $850,000 which includes: shares of stock issued by United States corporations, valued at $440,000; real estate located in the United States, valued at $110,000; and shares of stock issued by Country X corporations, valued at $300,000. Expenses, indebtedness, etc., amounted to $50,000. Decedent devised $40,000 in real estate to a United States charity. In addition, he bequeathed to his wife $200,000 in United States stocks and $300,000 in Country X stocks. The residue of his estate passed to his children. The gross Federal estate tax is $81,700 and the credit for State death taxes is $5,520.

(ii) Decedent's adjusted gross estate is $800,000 (i.e., the $850,000, gross estate less $50,000, expenses, indebtedness, etc.). Assume that the limitation imposed by section 2056(c), as in effect before 1982, is applicable so that the aggregate allowable marital deduction is limited to one-half the adjusted gross estate, or $400,000 (which is 50 percent of $800,000). Factor ''G'' of the ratio which is used in determining the ''second limitation'' is computed as follows:

| | | |
|---|---|---|
| Value of property situated in Country X. | | $300,000 |
| Less: Reduction described in § 20.2014–3 (b)(1) determined as follows (see also end of § 20.2014–3(b))— | | |
| Total amount of bequests which qualify for the marital deduction: | | |
| Specific bequest of Country X stock | $300,000 | |
| Specific bequest of United States stock | 200,000 | |
| | 500,000 | |
| Limitation on aggregate marital deduction under section 2056(c) | 400,000 | |
| Part of specific bequest of Country X stock with respect to which the marital deduction is allowed—($400,000 ÷ $500,000 × $300,000) | | 240,000 |
| Factor ''G'' of the ratio | | 60,000 |

(iii) Thus, the ''second limitation'' on the credit for foreign death taxes is:

[$60,000 (factor G of the ratio stated at § 20.2014–3(a); see also subdivision (ii) above) ÷ ($850,000 − $40,000 − $400,000 (factor H of the ratio stated at § 20.2014–3(a)))] × ($81,700 − $5,520) (factor F of the ratio stated at § 20.2014–3(a)) = $11,148.29.

(d) If the foreign country imposes more than one kind of death tax or imposes taxes at different rates upon the several shares of an estate, or if the foreign country and a political subdivision or possession thereof each imposes a death tax, the ''second limitation'' is still computed by applying the ratio set forth in paragraph (a) of this section. Factor ''G'' of the ratio is determined by taking into consideration the

combined value of the foreign property which is subjected to each different tax or different rate. The combined value, however, cannot exceed the value at which such property was included in the gross estate for Federal estate tax purposes. Thus, if Country X imposes a tax on the inheritance of a surviving spouse at a 10-percent rate and on the inheritance of a son at a 20-percent rate, the combined value of their inheritances is taken into consideration in determining factor ''G'' of the ratio, which is then used in computing the ''second limitation.'' However, the ''first limitation'' is computed as provided in paragraph (b) of § 20.2014–2. The lesser of the ''first limitation'' and the ''second limitation'' is the credit for foreign death taxes.

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 6600, 27 FR 4984, May 29, 1962; T.D. 7296, 38 FR 34193, Dec. 12, 1973; T.D. 8522, 59 FR 9646, Mar. 1, 1994]

### § 20.2014–4 Application of credit in cases involving a death tax convention.

(a) *In general.* (1) If credit for a particular foreign death tax is authorized by a death tax convention, there is allowed either the credit provided for by the convention or the credit provided for by section 2014, whichever is the more beneficial to the estate. For cases where credit may be taken under both the death tax convention and section 2014, see paragraph (b) of this section. The application of this paragraph may be illustrated by the following example:

*Example.* (i) Decedent, a citizen of the United States and a domiciliary of foreign Country X at the time of his death on December 1, 1966, left a gross estate of $1 million which includes the following: Shares of stock issued by a Country X corporation, valued at $400,000; bonds issued in 1962 by the United States and physically located in Country X, valued at $350,000; and real estate located in the United States, valued at $250,000. Expenses, indebtedness, etc., amounted to $50,000. Decedent left his entire estate to his son. There is in effect a death tax convention between the United States and Country X which provides for the allowance of credit by the United States for succession duties imposed by the national government of Country X. The gross Federal estate tax is $307,200, and the credit for State death taxes is $33,760. Country X imposed a net succession duty on the stocks and bonds of $180,000. Under the situs rules referred to in paragraph (a)(3) of § 20.2014–1, the shares of stock comprise the only property deemed to be situated in Country X. (If the decedent has died before November 14, 1966, the bonds also would be deemed to have their situs in Country X.) Under the convention, both the stocks and the bonds are deemed to be situated in Country X. In this example all figures are rounded to the nearest dollar.

(ii)(*a*) The credit authorized by the convention for death taxes imposed by Country X is computed as follows:

| | |
|---|---|
| (*1*) Country X tax attributable to property situated in Country X and subjected to tax by both countries ($750,000÷$750,000×$180,000) | $180,000 |
| (*2*) Federal estate tax attributable to property situated in Country X and subjected to tax by both countries—($750,000 ÷ $1,000,000 × $273,440) | 205,080 |
| (*3*) Credit (subdivision (*1*) or (*2*), whichever is less) | 180,000 |

(*b*) The credit authorized by section 2014 for death taxes imposed by Country X is computed as follows:

| | |
|---|---|
| (*1*) ''First limitation'' computed under § 20.2014–2 ($400,000÷$750,000×$180,000) | $96,000 |
| (*2*) ''Second limitation'' computed under § 20.2014–3 ($400,000÷$1,000,000×$273,440) | 109,376 |
| (*3*) Credit (subdivision (*1*) or (*2*), whichever is less) | 96,000 |

(iii) On the basis of the facts contained in this example, the credit of $180,000 authorized by the convention is the more beneficial to the estate.

(2) It should be noted that the greater of the treaty credit and the statutory credit is not necessarily the more beneficial to the estate. Such is the situation, for example, in those cases which involve both a foreign death tax credit and a credit under section 2013 for tax on prior transfers. The reason is that the amount of the credit for tax on prior transfers may differ depending upon whether the credit for foreign death tax is taken under the treaty or under the statute. Therefore, under certain circumstances, the advantage of taking the greater of the treaty credit and the statutory credit may be more than offset by a resultant smaller credit for tax on prior transfers. The solution is to compute the net estate tax payable first on the assumption that the treaty credit will be taken and then on the assumption that the statutory credit will be taken. Such computations will indicate whether the treaty credit or the statutory credit is in fact the more beneficial to the estate.