

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 by will

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.

(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.)

AMENDMENTS

1990—Subsec. (b). Pub. L. 101-508, §11601(b)(1)(A), redesignated former subsec. (c) as (b) and struck out former subsec. (b) which read as follows: “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 2036(c)(4), such person shall be entitled to recover from the original transferee (as defined in section 2036(c)(4)(C)(ii)) the amount which bears the same ratio to the total tax for such year under chapter 12 as—

“(1) the value of such property for purposes of chapter 12, bears to

“(2) the total amount of the taxable gifts for such year.”

Subsec. (c). Pub. L. 101-508, §11601(b)(1), redesignated subsec. (d) as (c) and substituted “subsection (a)” for “subsections (a) and (b)” and “subsections (a) and (b)” for “subsections (a), (b), and (c)”. Former subsec. (c) redesignated (b).

Subsecs. (d), (e). Pub. L. 101-508, §11601(b)(1)(A), redesignated subsecs. (d) and (e) as (c) and (d), respectively. Former subsec. (d) redesignated (c).

EFFECTIVE DATE OF 1990 AMENDMENT

Amendment by Pub. L. 101-508 applicable in the case of property transferred after Dec. 17, 1987, see section 11601(c) of Pub. L. 101-508, set out as a note under section 2036 of this title.

EFFECTIVE DATE

Section effective as if included in provisions of Revenue Act of 1987, Pub. L. 100-203, title X, except that if an amount is included in the gross estate of a decedent under section 2036 of this title other than solely by reason of section 2036(c) of this title, section applicable to such amount only with respect to property transferred after Nov. 10, 1988, see section 3031(h)(1), (3) of Pub. L. 100-647, set out as an Effective Date of 1988 Amendment note under section 2036 of this title.

§ 2208. Certain residents of possessions considered citizens of the United States

A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a “citizen” of the United States within the meaning of that term wherever used in this title unless he acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

(Added Pub. L. 85-866, title I, §102(a), Sept. 2, 1958, 72 Stat. 1674.)

EFFECTIVE DATE

Section applicable to estates of decedents dying after Sept. 2, 1958, see section 102(d) of Pub. L. 85-866, set out as an Effective Date of 1958 Amendment note under section 2011 of this title.

§ 2209. Certain residents of possessions considered nonresidents not citizens of the United States

A decedent who was a citizen of the United States and a resident of a possession thereof at the time of his death shall, for purposes of the tax imposed by this chapter, be considered a “nonresident not a citizen of the United States” within the meaning of that term wherever used in this title, but only if such person acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

(Added Pub. L. 86-779, §4(b)(1), Sept. 14, 1960, 74 Stat. 999.)

EFFECTIVE DATE

Section applicable with respect to estates of decedents dying after Sept. 14, 1960, see section 4(e)(2) of Pub. L. 86-779, set out as an Effective Date of 1960 Amendment note under section 2106 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 2102 of this title.

[§ 2210. Repealed. Pub. L. 101-239, title VII, § 7304(b)(1), Dec. 19, 1989, 103 Stat. 2353]

Section, added Pub. L. 98-369, div. A, title V, §544(a), July 18, 1984, 98 Stat. 892; amended Pub. L. 99-514, title XVIII, §§1854(d)(1)(A), (2)-(6), 1899A(37), Oct. 22, 1986, 100 Stat. 2879, 2880, 2960, related to liability for payment in case of transfer of employer securities to an employee stock ownership plan or a worker-owned cooperative.

EFFECTIVE DATE OF REPEAL

Repeal applicable to estates of decedents dying after July 12, 1989, see section 7304(b)(3) of Pub. L. 101-239, set out as an Effective Date of 1989 Amendment note under section 2002 of this title.

CHAPTER 12—GIFT TAX

Subchapter	Sec. ¹
A. Determination of Tax Liability	2501
B. Transfers	2511
C. Deductions	2521

¹ Section numbers editorially supplied.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 529, 1015, 2001, 2012, 2035, 2207A, 2612, 2642, 2652, 2661, 2663, 2701, 6103, 6161, 6212, 6324, 6501, 6901, 6905, 7463, 7517, 7851, 7872 of this title.

Subchapter A—Determination of Tax Liability

Sec.	
2501.	Imposition of tax.
2502.	Rate of tax.
2503.	Taxable gifts.
2504.	Taxable gifts for preceding calendar periods.
2505.	Unified credit against gift tax.

AMENDMENTS

1981—Pub. L. 97-34, title IV, §442(a)(4)(E), Aug. 13, 1981, 95 Stat. 321, substituted “preceding calendar periods” for “preceding years and quarters” in item 2504.

1976—Pub. L. 94-455, title XX, §2001(c)(2)(B)(i), Oct. 4, 1976, 90 Stat. 1853, added item 2505.

1970—Pub. L. 91-614, title I, §102(a)(4)(B), Dec. 31, 1970, 84 Stat. 1840, substituted “Taxable gifts for preceding years and quarters” for “Taxable gifts for preceding years” in item 2504.

§ 2501. Imposition of tax**(a) Taxable transfers****(1) General rule**

A tax, computed as provided in section 2502, is hereby imposed for each calendar year on the transfer of property by gift during such calendar year by any individual resident or nonresident.

(2) Transfers of intangible property

Except as provided in paragraph (3), paragraph (1) shall not apply to the transfer of intangible property by a nonresident not a citizen of the United States.

(3) Exception**(A) Certain individuals**

Paragraph (2) shall not apply in the case of a donor who, within the 10-year period ending with the date of transfer, lost United States citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

(B) Certain individuals treated as having tax avoidance purpose

For purposes of subparagraph (A), an individual shall be treated as having a principal purpose to avoid such taxes if such individual is so treated under section 877(a)(2).

(C) Exception for certain individuals

Subparagraph (B) shall not apply to a decedent meeting the requirements of section 877(c)(1).

(D) Credit for foreign gift taxes

The tax imposed by this section solely by reason of this paragraph shall be credited with the amount of any gift tax actually paid to any foreign country in respect of any gift which is taxable under this section solely by reason of this paragraph.

(E) Cross reference

For comparable treatment of long-term lawful permanent residents who ceased to be taxed as residents, see section 877(e).

(4) Burden of proof

If the Secretary establishes that it is reasonable to believe that an individual's loss of United States citizenship would, but for paragraph (3), result in a substantial reduction for the calendar year in the taxes on the transfer of property by gift, the burden of proving that such loss of citizenship did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A shall be on such individual.

(5) Transfers to political organizations

Paragraph (1) shall not apply to the transfer of money or other property to a political organization (within the meaning of section 527(e)(1)) for the use of such organization.

(b) Certain residents of possessions considered citizens of the United States

A donor who is a citizen of the United States and a resident of a possession thereof shall, for purposes of the tax imposed by this chapter, be considered a “citizen” of the United States within the meaning of that term wherever used in this title unless he acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

(c) Certain residents of possessions considered nonresidents not citizens of the United States

A donor who is a citizen of the United States and a resident of a possession thereof shall, for purposes of the tax imposed by this chapter, be considered a “nonresident not a citizen of the United States” within the meaning of that term wherever used in this title, but only if such donor acquired his United States citizenship solely by reason of (1) his being a citizen of such possession of the United States, or (2) his birth or residence within such possession of the United States.

(d) Cross references

(1) For increase in basis of property acquired by gift for gift tax paid, see section 1015(d).

(2) For exclusion of transfers of property outside the United States by a nonresident who is not a citizen of the United States, see section 2511(a).

(Aug. 16, 1954, ch. 736, 68A Stat. 403; Sept. 2, 1958, Pub. L. 85-866, title I, §§43(b), 102(b), 72 Stat. 1641, 1674; Sept. 14, 1960, Pub. L. 86-779, §4(d), 74 Stat. 1000; Nov. 13, 1966, Pub. L. 89-809, title I, §109(a), 80 Stat. 1574; Dec. 31, 1970, Pub. L. 91-614, title I, §102(a)(1), 84 Stat. 1838; Jan. 3, 1975, Pub. L. 93-625, §14(a), 88 Stat. 2121; Oct. 4, 1976, Pub. L. 94-455, title XIX, §§1902(a)(10), 1906(b)(13)(A), 90 Stat. 1805, 1834; Aug. 13, 1981, Pub. L. 97-34, title IV, §442(a)(1), 95 Stat. 320; Nov. 10, 1988, Pub. L. 100-647, title III, §3031(a)(2), 102 Stat. 3635; Nov. 5, 1990, Pub. L. 101-508, title XI, §11601(b)(2), 104 Stat. 1388-490; Aug. 21, 1996, Pub. L. 104-191, title V, §511(e)(2), (f)(2)(B), 110 Stat. 2098, 2100.)

AMENDMENTS

1996—Subsec. (a)(3). Pub. L. 104-191, §511(e)(2), substituted “Exception” for “Exceptions” in heading and amended text generally. Prior to amendment, text read