

2001(c)(3) to reflect the difference between the amount of the credit provided under section 2102(c) and the amount of the credit provided under section 2010.”

1988—Subsec. (b). Pub. L. 100-647, § 5032(a), substituted “a tentative tax computed under section 2001(c)” for “a tentative tax computed in accordance with the rate schedule set forth in subsection (d)” in pars. (1) and (2).

Subsec. (d). Pub. L. 100-647, § 5032(c), struck out subsec. (d) which provided a rate schedule.

1976—Pub. L. 94-455 redesignated existing provisions as (a) to (d), inserted provisions for adjustments for taxable gifts, revised the tax rate schedule, and struck out provisions relating to property held by Alien Property Custodian.

1966—Subsec. (a). Pub. L. 89-809 substituted table to be used in computing the tax imposed on transfer of taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States for provisions sending taxpayer to table in section 2001 for computation of tax imposed.

#### EFFECTIVE DATE OF 2002 AMENDMENT

Amendment by Pub. L. 107-147 effective as if included in the provisions of the Economic Growth and Tax Relief Reconciliation Act of 2001, Pub. L. 107-16, to which such amendment relates, see section 411(x) of Pub. L. 107-147, set out as a note under section 25B of this title.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103-66 applicable in the case of decedents dying and gifts made after Dec. 31, 1992, see section 13208(c) of Pub. L. 103-66, set out as a note under section 2001 of this title.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101-239 effective, except as otherwise provided, as if included in the provision of the Technical and Miscellaneous Revenue Act of 1988, Pub. L. 100-647, to which such amendment relates, see section 7817 of Pub. L. 101-239, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Section 5032(d) of Pub. L. 100-647 provided that: “The amendments made by this section [amending this section and section 2102 of this title] shall apply to the estates of decedents dying after the date of the enactment of this Act [Nov. 10, 1988].”

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2001(d)(1) of Pub. L. 94-455, set out as a note under section 2001 of this title.

#### EFFECTIVE DATE OF 1966 AMENDMENT

Section 108(i) of Pub. L. 89-809 provided that: “The amendments made by this section [amending this section and sections 2102, 2104, 2105, 2106, and 6018 of this title and enacting sections 2107 and 2108 of this title] shall apply with respect to estates of decedents dying after the date of the enactment of this Act [Nov. 13, 1966].”

### § 2102. Credits against tax

#### (a) In general

The tax imposed by section 2101 shall be credited with the amounts determined in accordance with sections 2012 and 2013 (relating to gift tax and tax on prior transfers).

#### (b) Unified credit

##### (1) In general

A credit of \$13,000 shall be allowed against the tax imposed by section 2101.

##### (2) Residents of possessions of the United States

In the case of a decedent who is considered to be a “nonresident not a citizen of the

United States” under section 2209, the credit under this subsection shall be the greater of—

(A) \$13,000, or

(B) that proportion of \$46,800 which the value of that part of the decedent’s gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated.

### (3) Special rules

#### (A) Coordination with treaties

To the extent required under any treaty obligation of the United States, the credit allowed under this subsection shall be equal to the amount which bears the same ratio to the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death as the value of the part of the decedent’s gross estate which at the time of his death is situated in the United States bears to the value of his entire gross estate wherever situated. For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.

#### (B) Coordination with gift tax unified credit

If a credit has been allowed under section 2505 with respect to any gift made by the decedent, each dollar amount contained in paragraph (1) or (2) or subparagraph (A) of this paragraph (whichever applies) shall be reduced by the amount so allowed.

### (4) Limitation based on amount of tax

The credit allowed under this subsection shall not exceed the amount of the tax imposed by section 2101.

### (5) Application of other credits

For purposes of subsection (a), sections 2012 and 2013 shall be applied as if the credit allowed under this subsection were allowed under section 2010.

(Aug. 16, 1954, ch. 736, 68A Stat. 397; Pub. L. 89-809, title I, § 108(b), Nov. 13, 1966, 80 Stat. 1572; Pub. L. 94-455, title XX, § 2001(c)(1)(E)(i), Oct. 4, 1976, 90 Stat. 1851; Pub. L. 100-647, title V, § 5032(b), Nov. 10, 1988, 102 Stat. 3669; Pub. L. 104-188, title I, § 1704(f)(1), Aug. 20, 1996, 110 Stat. 1879; Pub. L. 105-34, title V, § 501(a)(1)(E), Aug. 5, 1997, 111 Stat. 845; Pub. L. 107-16, title V, § 532(c)(7), June 7, 2001, 115 Stat. 75.)

#### AMENDMENT OF SECTION

*For termination of amendment by section 901 of Pub. L. 107-16, see Effective and Termination Dates of 2001 Amendment note below.*

#### AMENDMENTS

2001—Subsec. (a). Pub. L. 107-16, §§ 532(c)(7)(A), 901, temporarily reenacted heading without change and amended text of subsec. (a) generally. Prior to amendment, text read as follows: “The tax imposed by section 2101 shall be credited with the amounts determined in accordance with sections 2011 to 2013, inclusive (relating to State death taxes, gift tax, and tax on prior transfers), subject to the special limitation provided in subsection (b).” See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (b). Pub. L. 107-16, §§ 532(c)(7)(B), 901, temporarily redesignated subsec. (c) as (b) and struck out

heading and text of former subsec. (b). Text read as follows: “The maximum credit allowed under section 2011 against the tax imposed by section 2101 for State death taxes paid shall be an amount which bears the same ratio to the credit computed as provided in section 2011(b) as the value of the property, as determined for purposes of this chapter, upon which State death taxes were paid and which is included in the gross estate under section 2103 bears to the value of the total gross estate under section 2103. For purposes of this subsection, the term ‘State death taxes’ means the taxes described in section 2011(a).” See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (b)(5). Pub. L. 107-16, §§532(c)(7)(C), 901, temporarily substituted “2012 and 2013” for “2011 to 2013, inclusive.”. See Effective and Termination Dates of 2001 Amendment note below.

Subsec. (c). Pub. L. 107-16, §§532(c)(7)(B), 901, temporarily redesignated subsec. (c) as (b). See Effective and Termination Dates of 2001 Amendment note below.

1997—Subsec. (c)(3)(A). Pub. L. 105-34 substituted “the applicable credit amount in effect under section 2010(c) for the calendar year which includes the date of death” for “\$192,800”.

1996—Subsec. (c)(3)(A). Pub. L. 104-188 inserted at end “For purposes of the preceding sentence, property shall not be treated as situated in the United States if such property is exempt from the tax imposed by this subchapter under any treaty obligation of the United States.”

1988—Subsec. (c)(1). Pub. L. 100-647, §5032(b)(1)(A), substituted “\$13,000” for “\$3,600”.

Subsec. (c)(2). Pub. L. 100-647, §5032(b)(1), substituted “\$13,000” for “\$3,600” in subpar. (A) and “\$46,800” for “\$15,075” in subpar. (B).

Subsec. (c)(3). Pub. L. 100-647, §5032(b)(2), amended par. (3) generally, substituting provision relating to special rules for coordination with treaties and with gift tax unified tax credit for provision relating to a phase-in of the par. (2)(B) amount for decedents dying during 1977, 1978, 1979, and 1980.

1976—Subsec. (c). Pub. L. 94-455 added subsec. (c).

1966—Pub. L. 89-809 redesignated existing provisions as subsec. (a), inserted reference to special limitation provided in subsec. (b), and added subsec. (b).

#### EFFECTIVE AND TERMINATION DATES OF 2001 AMENDMENT

Amendment by Pub. L. 107-16 applicable to estates of decedents dying, and generation-skipping transfers, after Dec. 31, 2004, see section 532(d) of Pub. L. 107-16, set out as a note under section 2011 of this title.

Amendment by Pub. L. 107-16 inapplicable to estates of decedents dying, gifts made, or generation skipping transfers, after Dec. 31, 2012, and the Internal Revenue Code of 1986 to be applied and administered to such estates, gifts, and transfers as if such amendment had never been enacted, see section 901 of Pub. L. 107-16, set out as a note under section 1 of this title.

#### EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105-34 applicable to estates of decedents dying, and gifts made, after Dec. 31, 1997, see section 501(f) of Pub. L. 105-34, set out as a note under section 2001 of this title.

#### EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100-647 applicable to estates of decedents dying after Nov. 10, 1988, see section 5032(d) of Pub. L. 100-647, set out as a note under section 2101 of this title.

#### EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94-455 applicable to estates of decedents dying after Dec. 31, 1976, see section 2001(d)(1) of Pub. L. 94-455, set out as a note under section 2001 of this title.

#### EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89-809 applicable with respect to estates of decedents dying after Nov. 13, 1966, see sec-

tion 108(i) of Pub. L. 89-809, set out as a note under section 2101 of this title.

### § 2103. Definition of gross estate

For the purpose of the tax imposed by section 2101, the value of the gross estate of every decedent nonresident not a citizen of the United States shall be that part of his gross estate (determined as provided in section 2031) which at the time of his death is situated in the United States.

(Aug. 16, 1954, ch. 736, 68A Stat. 397.)

### § 2104. Property within the United States

#### (a) Stock in corporation

For purposes of this subchapter shares of stock owned and held by a nonresident not a citizen of the United States shall be deemed property within the United States only if issued by a domestic corporation.

#### (b) Revocable transfers and transfers within 3 years of death

For purposes of this subchapter, any property of which the decedent has made a transfer, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, shall be deemed to be situated in the United States, if so situated either at the time of the transfer or at the time of the decedent's death.

#### (c) Debt obligations

For purposes of this subchapter, debt obligations of—

- (1) a United States person, or
- (2) the United States, a State or any political subdivision thereof, or the District of Columbia,

owned and held by a nonresident not a citizen of the United States shall be deemed property within the United States. With respect to estates of decedents dying after December 31, 1969, deposits with a domestic branch of a foreign corporation, if such branch is engaged in the commercial banking business, shall, for purposes of this subchapter, be deemed property within the United States. This subsection shall not apply to a debt obligation to which section 2105(b) applies.

(Aug. 16, 1954, ch. 736, 68A Stat. 397; Pub. L. 89-809, title I, §108(c), Nov. 13, 1966, 80 Stat. 1572; Pub. L. 91-172, title IV, §435(b), Dec. 30, 1969, 83 Stat. 625; Pub. L. 93-17, §3(a)(1), Apr. 10, 1973, 87 Stat. 12; Pub. L. 93-625, §9(b), Jan. 3, 1975, 88 Stat. 2116; Pub. L. 94-455, title XX, §2001(c)(1)(L), Oct. 4, 1976, 90 Stat. 1853; Pub. L. 100-647, title I, §1012(q)(11), Nov. 10, 1988, 102 Stat. 3525; Pub. L. 104-188, title I, §1704(t)(38), Aug. 20, 1996, 110 Stat. 1889; Pub. L. 111-226, title II, §217(c)(3), Aug. 10, 2010, 124 Stat. 2402.)

#### AMENDMENTS

2010—Subsec. (c). Pub. L. 111-226, in concluding provisions, struck out before period at end “or to a debt obligation of a domestic corporation if any interest on such obligation, were such interest received by the decedent at the time of his death, would be treated by reason of section 861(a)(1)(A) as income from sources without the United States”.

1996—Subsec. (c). Pub. L. 104-188 substituted “section 861(a)(1)(A)” for “subparagraph (A), (C), or (D) of section 861(a)(1)” in concluding provisions.