

1986—Pub. L. 99-514, title XIV, §1431(b), Oct. 22, 1986, 100 Stat. 2729, struck out “certain” after “Tax on” in item for chapter 13.

1976—Pub. L. 94-455, title XX, §2006(b)(1), Oct. 4, 1976, 90 Stat. 1888, added item for chapter 13.

#### SUBTITLE REFERRED TO IN OTHER SECTIONS

This subtitle is referred to in sections 404, 877, 6019, 6211, 6212, 6213, 6214, 6404, 6501, 6662, 6871, 6901, 7701, 7702 of this title.

### CHAPTER 11—ESTATE TAX

Subchapter	Sec. <sup>1</sup>
A. Estates of citizens or residents .....	2001
B. Estates of nonresidents not citizens .....	2101
C. Miscellaneous .....	2201

#### CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 667, 1014, 1040, 2519, 2612, 2624, 2642, 2652, 2661, 2663, 2701, 4980A, 6103, 6161, 6163, 6212, 6314, 6324, 6324A, 6501, 6601, 6662, 6871, 6901, 6905, 7269, 7404, 7463, 7481, 7517, 7851, 7872 of this title.

#### Subchapter A—Estates of Citizens or Residents

Part	
I.	Tax imposed.
II.	Credits against tax.
III.	Gross estate.
IV.	Taxable estate.

#### PART I—TAX IMPOSED

Sec.	
2001.	Imposition and rate of tax.
2002.	Liability for payment.

#### AMENDMENTS

1976—Pub. L. 94-455, title XX, §2001(c)(1)(N)(i), Oct. 4, 1976, 90 Stat. 1853, substituted “Imposition and rate of tax” for “Rate of tax” in item 2001.

### § 2001. Imposition and rate of tax

#### (a) Imposition

A tax is hereby imposed on the transfer of the taxable estate of every decedent who is a citizen or resident of the United States.

#### (b) Computation of tax

The tax imposed by this section shall be the amount equal to the excess (if any) of—

(1) a tentative tax computed under subsection (c) on the sum of—

(A) the amount of the taxable estate, and  
(B) the amount of the adjusted taxable gifts, over

(2) the aggregate amount of tax which would have been payable under chapter 12 with respect to gifts made by the decedent after December 31, 1976, if the provisions of subsection (c) (as in effect at the decedent's death) had been applicable at the time of such gifts.

For purposes of paragraph (1)(B), the term “adjusted taxable gifts” means the total amount of the taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

#### (c) Rate schedule

##### (1) In general

**If the amount with respect to which the tentative tax to be computed is:**

Not over \$10,000 ..... 18 percent of such amount.

Over \$10,000 but not over \$20,000.	\$1,800, plus 20 percent of the excess of such amount over \$10,000.
Over \$20,000 but not over \$40,000.	\$3,800, plus 22 percent of the excess of such amount over \$20,000.
Over \$40,000 but not over \$60,000.	\$8,200 plus 24 percent of the excess of such amount over \$40,000.
Over \$60,000 but not over \$80,000.	\$13,000, plus 26 percent of the excess of such amount over \$60,000.
Over \$80,000 but not over \$100,000.	\$18,200, plus 28 percent of the excess of such amount over \$80,000.
Over \$100,000 but not over \$150,000.	\$23,800, plus 30 percent of the excess of such amount over \$100,000.
Over \$150,000 but not over \$250,000.	\$38,800, plus 32 percent of the excess of such amount over \$150,000.
Over \$250,000 but not over \$500,000.	\$70,800, plus 34 percent of the excess of such amount over \$250,000.
Over \$500,000 but not over \$750,000.	\$155,800, plus 37 percent of the excess of such amount over \$500,000.
Over \$750,000 but not over \$1,000,000.	\$248,300, plus 39 percent of the excess of such amount over \$750,000.
Over \$1,000,000 but not over \$1,250,000.	\$345,800, plus 41 percent of the excess of such amount over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000.	\$448,300, plus 43 percent of the excess of such amount over \$1,250,000.
Over \$1,500,000 but not over \$2,000,000.	\$555,800, plus 45 percent of the excess of such amount over \$1,500,000.
Over \$2,000,000 but not over \$2,500,000.	\$780,800, plus 49 percent of the excess of such amount over \$2,000,000.
Over \$2,500,000 but not over \$3,000,000.	\$1,025,800, plus 53% of the excess over \$2,500,000.
Over \$3,000,000 .....	\$1,290,800, plus 55% of the excess over \$3,000,000.

#### (2) Phaseout of graduated rates and unified credit

The tentative tax determined under paragraph (1) shall be increased by an amount equal to 5 percent of so much of the amount (with respect to which the tentative tax is to be computed) as exceeds \$10,000,000 but does not exceed \$21,040,000.

#### (d) Adjustment for gift tax paid by spouse

For purposes of subsection (b)(2), if—

(1) the decedent was the donor of any gift one-half of which was considered under section 2513 as made by the decedent's spouse, and

(2) the amount of such gift is includible in the gross estate of the decedent,

any tax payable by the spouse under chapter 12 on such gift (as determined under section 2012(d)) shall be treated as a tax payable with respect to a gift made by the decedent.

#### (e) Coordination of sections 2513 and 2035

If—

(1) the decedent's spouse was the donor of any gift one-half of which was considered under section 2513 as made by the decedent, and

(2) the amount of such gift is includible in the gross estate of the decedent's spouse by reason of section 2035,

such gift shall not be included in the adjusted taxable gifts of the decedent for purposes of subsection (b)(1)(B), and the aggregate amount determined under subsection (b)(2) shall be reduced by the amount (if any) determined under subsection (d) which was treated as a tax payable by the decedent's spouse with respect to such gift.

(Aug. 16, 1954, ch. 736, 68A Stat. 373; Oct. 4, 1976, Pub. L. 94-455, title XX, § 2001(a)(1), 90 Stat. 1846; Nov. 6, 1978, Pub. L. 95-600, title VII, § 702(h)(1), 92 Stat. 2930; Aug. 13, 1981, Pub. L. 97-34, title IV, § 402(a)-(c), 95 Stat. 300; July 18, 1984, Pub. L. 98-369, div. A, title I, § 21(a), 98 Stat. 506; Dec. 22, 1987, Pub. L. 100-203, title X, § 10401(a)-(b)(2)(A), 101 Stat. 1330-430, 1330-431; Aug. 10, 1993, Pub. L. 103-66, title XIII, § 13208(a)-(b)(2), 107 Stat. 469.)

#### AMENDMENTS

1993—Subsec. (c)(1). Pub. L. 103-66, § 13208(a), substituted in table provisions that if the amount on which the tax is computed is over \$2,500,000 but not over \$3,000,000, then the tentative tax is \$1,025,800, plus 53% of the excess over \$2,500,000 and if the amount on which the tax is computed is over \$3,000,000, then the tentative tax is \$1,290,800, plus 55% of the excess over \$3,000,000 for provisions that if the amount on which the tax is computed is over \$2,500,000, then the tentative tax is \$1,025,800, plus 50% of the excess over \$2,500,000.

Subsec. (c)(2), (3). Pub. L. 103-66, § 13208(b)(1), (2), redesignated par. (3) as (2), struck out “(\$18,340,000 in the case of decedents dying, and gifts made, after 1992)” after “exceed \$21,040,000”, and struck out former par. (2) which related to the rates of tax on estates under this section for the years 1982 to 1992.

1987—Subsec. (b)(1). Pub. L. 100-203, § 10401(b)(2)(A)(i), substituted “under subsection (c)” for “in accordance with the rate schedule set forth in subsection (c)”.

Subsec. (b)(2). Pub. L. 100-203, § 10401(b)(2)(A)(ii), substituted “the provisions of subsec. (c)” for “the rate schedule set forth in subsection (c)”.

Subsec. (c)(2)(A). Pub. L. 100-203, § 10401(a)(1), substituted “1993” for “1988”.

Subsec. (c)(2)(D). Pub. L. 100-203, § 10401(a)(2), (3), substituted in heading “After 1983 and before 1993” for “For 1984, 1985, 1986, or 1987”, and in text “after 1983 and before 1993” for “in 1984, 1985, 1986, or 1987”.

Subsec. (c)(3). Pub. L. 100-203, § 10401(b)(1), added par. (3).

1984—Subsec. (c)(2)(A), (D). Pub. L. 98-369 substituted “1988” for “1985” in subpar. (A) and substituted “1984, 1985, 1986, or 1987” for “1984” in heading and text of subpar. (D).

1981—Subsec. (b)(2). Pub. L. 97-34, § 402(c), inserted “which would have been” before “payable” and “, if the rate schedule set forth in subsection (c) (as in effect at the decedent's death) had been applicable at the time of such gifts” after “December 31, 1976.”

Subsec. (c). Pub. L. 97-34, § 402(a), (b)(1), designated existing provision as par. (1), inserted heading “In general” and substituted in table provision that if the amount computed is over \$2,500,000 then the tentative tax is \$1,025,800 plus 50% of the excess over \$2,500,000 for provisions that if the amount computed is over \$2,500,000 but not over \$3,000,000, then the tentative tax is \$1,025,800 plus 53% of the excess over \$2,500,000, over \$3,000,000 but not over \$3,500,000 then the tentative tax is \$1,290,800 plus 57% of the excess over \$3,000,000, over \$3,500,000 but not over \$4,000,000 then the tentative tax is \$1,575,800 plus 61% of the excess over \$3,500,000, over \$4,000,000 but not over \$4,500,000 then the tentative tax is \$1,880,800 plus 65% of the excess over \$4,000,000, over \$4,500,000 but not over \$5,000,000 then the tentative tax is \$2,205,800 plus 69% of the excess over \$4,500,000, over \$5,000,000 then the tentative tax is \$2,550,800 plus 70% of the excess over \$5,000,000, and added par. (2).

1978—Subsec. (e). Pub. L. 95-600 added subsec. (e).

1976—Pub. L. 94-455 substituted provisions setting a unified rate schedule for estate and gift taxes ranging from 18 percent for the first \$10,000 in taxable transfers to 70 percent of taxable transfers in excess of \$5,000,000, with provision for adjustments for gift taxes paid by spouses, for provisions setting an estate tax of 3 percent of the first \$5,000 of the taxable estate to 77 percent of the taxable estate in excess of \$10,000,000.

#### EFFECTIVE DATE OF 1993 AMENDMENT

Section 13208(c) of Pub. L. 103-66 provided that: “The amendments made by this section [amending this section and section 2101 of this title] shall apply in the case of decedents dying and gifts made after December 31, 1992.”

#### EFFECTIVE DATE OF 1987 AMENDMENT

Section 10401(c) of Pub. L. 100-203 provided that: “The amendments made by this section [amending this section and section 2502 of this title] shall apply in the case of decedents dying, and gifts made, after December 31, 1987.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 21(b) of Pub. L. 98-369 provided that: “The amendments made by subsection (a) [amending this section] shall apply to the estates of decedents dying after, and gifts made after, December 31, 1983.”

#### EFFECTIVE DATE OF 1981 AMENDMENT

Section 402(d) of Pub. L. 97-34 provided that: “The amendments made by this section [amending this section] shall apply to estates of decedents dying after, and gifts made after, December 31, 1981.”

#### EFFECTIVE DATE OF 1978 AMENDMENT

Section 702(h)(3) of Pub. L. 95-600 provided that: “The amendments made by this subsection [amending this section and section 2602 of this title] shall apply with respect to the estates of decedents dying after December 31, 1976, except that such amendments shall not apply to transfers made before January 1, 1977.”

#### EFFECTIVE DATE OF 1976 AMENDMENT

Section 2001(d)(1) of Pub. L. 94-455 provided that: “The amendments made by subsections (a) [enacting section 2010, amending this section and sections 2012 and 2035, and repealing section 2052 of this title] and (c)(1) [amending sections 2011, 2012, 2013, 2014, 2038, 2044, 2101, 2102, 2104, 2106, 2107, 2206, 2207, and 6018 of this title] shall apply to the estates of decedents dying after December 31, 1976; except that the amendments made by subsection (a)(5) [amending section 2035 of this title] and subparagraphs (K) and (L) of subsection (c)(1) [amending sections 2038 and 2104 of this title] shall not apply to transfers made before January 1, 1977.”

#### SHORT TITLE

Pub. L. 91-614, § 1(a), Dec. 31, 1970, 84 Stat. 1836, provided that: “This Act [enacting section 6905 of this title, section 1232a of Title 15, Commerce and Trade, and section 1033 of former Title 31, Money and Finance, amending sections 56, 1015, 1223, 2012, 2032, 2055, 2204, 2501, 2502, 2503, 2504, 2512, 2513, 2515, 2521, 2522, 2523, 4061, 4063, 4216, 4251, 4491, 6019, 6040, 6075, 6091, 6161, 6212, 6214, 6324, 6412, 6416, 6501, 6504, and 6512 of this title, and enacting provisions set out as notes under sections 56, 2032, 2204, 2501, 4063, 4216, 4251, 4491, and 6905 of this title] may be cited as the ‘Excise, Estate, and Gift Tax Adjustment Act of 1970’.”

#### CLARIFICATION OF TREATMENT OF CERTAIN EXEMPTIONS FOR PURPOSES OF FEDERAL ESTATE AND GIFT TAXES

Section 641 of Pub. L. 98-369, as amended by Pub. L. 99-514, § 2, Oct. 22, 1986, 100 Stat. 2095, provided that:

“(a) GENERAL RULE.—Nothing in any provision of law exempting any property (or interest therein) from taxation shall exempt the transfer of such property (or in-

terest therein) from Federal estate, gift, and generation-skipping transfer taxes. In the case of any provision of law enacted after the date of the enactment of this Act [July 18, 1984], such provision shall not be treated as exempting the transfer of property from Federal estate, gift, and generation-skipping transfer taxes unless it refers to the appropriate provisions of the Internal Revenue Code of 1986 [formerly I.R.C. 1954].

“(b) EFFECTIVE DATE.—

“(1) IN GENERAL.—The provisions of subsection (a) shall apply to the estates of decedents dying, gifts made, and transfers made on or after June 19, 1984.

“(2) TREATMENT OF CERTAIN TRANSFERS TREATED AS TAXABLE.—The provisions of subsection (a) shall also apply in the case of any transfer of property (or interest therein) if at any time there was filed an estate or gift tax return showing such transfer as subject to Federal estate or gift tax.

“(3) NO INFERENCE.—No inference shall arise from paragraphs (1) and (2) that any transfer of property (or interest therein) before June 19, 1984, is exempt from Federal estate and gift taxes.”

#### REPORTS WITH TRANSFERS OF PUBLIC HOUSING BONDS

Section 642 of Pub. L. 98-369 provided that:

“(a) GENERAL RULE.—With respect to transfers of public housing bonds occurring after December 31, 1983, and before June 19, 1984, the taxpayer shall report the date and amount of such transfer and such other information as the Secretary of the Treasury or his delegate shall prescribe by regulations to allow the determination of the tax and interest due if it is ultimately determined that such transfers are subject to estate, gift, or generation-skipping tax.

“(b) PENALTY FOR FAILURE TO REPORT.—Any taxpayer failing to provide the information required by subsection (a) shall be liable for a penalty equal to 25 percent of the excess of (1) the estate, gift, or generation-skipping tax that is payable assuming that such transfers are subject to tax, over (2) the tax payable assuming such transfers are not so subject.”

#### CROSS REFERENCES

Credits against tax, see section 2011 et seq. of this title.

Estates of nonresidents not citizens, see section 2101 of this title.

Recipients of income in respect to decedents, see section 691 of this title.

Taxable estate, see section 2051 et seq. of this title.

#### SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 163, 691, 1016, 2010, 2011, 2012, 2013, 2014, 2015, 2032A, 2051, 2053, 2054, 2055, 2056, 2056A, 2101, 2107, 2502, 2641, 2661, 6018, 6019, 6166, 7481 of this title.

### § 2002. Liability for payment

The tax imposed by this chapter shall be paid by the executor.

(Aug. 16, 1954, ch. 736, 68A Stat. 374; July 18, 1984, Pub. L. 98-369, div. A, title V, § 544(b)(1), 98 Stat. 894; Dec. 19, 1989, Pub. L. 101-239, title VII, § 7304(b)(2)(A), 103 Stat. 2353.)

#### AMENDMENTS

1989—Pub. L. 101-239 substituted “The” for “Except as provided in section 2210, the”.

1984—Pub. L. 98-369 inserted exception phrase.

#### EFFECTIVE DATE OF 1989 AMENDMENT

Section 7304(b)(3) of Pub. L. 101-239 provided that: “The amendments made by this subsection [amending this section and section 6018 of this title and repealing section 2210 of this title] shall apply to estates of decedents dying after July 12, 1989.”

#### EFFECTIVE DATE OF 1984 AMENDMENT

Section 544(d) of Pub. L. 98-369 provided that: “The amendments made by this section [enacting section

2210 of this title and amending this section and sections 6018 and 6166 of this title] shall apply to those estates of decedents which are required to file returns on a date (including any extensions) after the date of enactment of this Act [July 18, 1984].”

#### CROSS REFERENCES

Definition of executor, see section 2203 of this title.

Discharge of executor from personal liability, see section 2204 of this title.

Liability—

Life insurance beneficiaries, see section 2206 of this title.

Recipient of property over which decedent had power of appointment, see section 2207 of this title.

Reimbursement of distributees out of estate, see section 2205 of this title.

### PART II—CREDITS AGAINST TAX

Sec.

2010. Unified credit against estate tax.

2011. Credit for State death taxes.

2012. Credit for gift tax.

2013. Credit for tax on prior transfers.

2014. Credit for foreign death taxes.

2015. Credit for death taxes on remainders.

2016. Recovery of taxes claimed as credit.

#### AMENDMENTS

1976—Pub. L. 94-455, title XX, § 2001(c)(1)(N)(ii), Oct. 4, 1976, 90 Stat. 1853, added item 2010.

### § 2010. Unified credit against estate tax

#### (a) General rule

A credit of \$192,800 shall be allowed to the estate of every decedent against the tax imposed by section 2001.

#### (b) Adjustment to credit for certain gifts made before 1977

The amount of the credit allowable under subsection (a) shall be reduced by an amount equal to 20 percent of the aggregate amount allowed as a specific exemption under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) with respect to gifts made by the decedent after September 8, 1976.

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

The amount of the credit allowed by subsection (a) shall not exceed the amount of the tax imposed by section 2001.

(Added Pub. L. 94-455, title XX, § 2001(a)(2), Oct. 4, 1976, 90 Stat. 1848; amended Pub. L. 97-34, title IV, § 401(a)(1), (2)(A), Aug. 13, 1981, 95 Stat. 299; Pub. L. 101-508, title XI, § 11801(a)(39), (c)(19)(A), Nov. 5, 1990, 104 Stat. 1388-521, 1388-528.)

#### REFERENCES IN TEXT

The Tax Reform Act of 1976, referred to in subsec. (b), is Pub. L. 94-455, Oct. 4, 1976, 90 Stat. 1520, as amended. For complete classification of this Act to the Code, see Tables.

Section 2521 of this title, referred to in subsec. (b), was repealed by section 2001(b)(3) of Pub. L. 94-455, applicable to gifts made after Dec. 31, 1976.

#### AMENDMENTS

1990—Subsecs. (b) to (d). Pub. L. 101-508 redesignated subsecs. (c) and (d) as (b) and (c), respectively, and struck out former subsec. (b) which provided for a phase-in of the unified credit against estate tax.

1981—Subsec. (a). Pub. L. 97-34, § 401(a)(1), substituted “\$192,800” for “\$47,000”.