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Reg. Section 20.2031-1(b)

Definition of gross estate; valuation of property

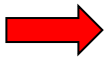
(a) Definition of gross estate. Except as otherwise provided in this paragraph the value of the gross estate of a decedent who was a citizen or resident of the United States at the time of his death is the total value of the interests described in sections 2033 through 2044. The gross estate of a decedent who died before October 17, 1962, does not include real property situated outside the United States (as defined in paragraph (b)(1) of §20.0-1). Except as provided in paragraph (c) of this section (relating to the estates of decedents dying after October 16, 1962, and before July 1, 1964), in the case of a decedent dying after October 16, 1962, real property situated outside the United States which comes within the scope of sections 2033 through 2044 is included in the gross estate to the same extent as any other property coming within the scope of those sections. In arriving at the value of the gross estate the interests described in sections 2033 through 2044 are valued as described in this section, §§20.2031-2 through 20.2031-9 and §20.2032-1. The contents of sections 2033 through 2044 are, in general, as follows:

(1) Sections 2033 and 2034 are concerned mainly with interests in property passing through the decedent's probate estate. Section 2033 includes in the decedent's gross estate any interest that the decedent had in property at the time of his death. Section 2034 provides that any interest of the decedent's surviving spouse in the decedent's property, such as dower or curtesy, does not prevent the inclusion of such property in the decedent's gross estate.

(2) Sections 2035 through 2038 deal with interests in property transferred by the decedent during his life under such circumstances as to bring the interests within the decedent's gross estate. Section 2035 includes in the decedent's gross estate property transferred in contemplation of death, even though the decedent had no interest in, or control over, the property at the time of his death. Section 2036 provides for the inclusion of transferred property with respect to which the decedent retained the income or the power to designate who shall enjoy the income. Section 2037 includes in the decedent's gross estate certain transfers under which the beneficial enjoyment of the property could be obtained only by surviving the decedent. Section 2038 provides for the inclusion of transferred property if the decedent had at the time of his death the power to change the beneficial enjoyment of the property. It should be noted that there is considerable overlap in the application of sections 2036 through 2038 with respect to reserved powers, so that transferred property may be includible in the decedent's gross estate in varying degrees under more than one of those sections.

(3) Sections 2039 through 2042 deal with special kinds of property and powers. Sections 2039 and 2040 concern annuities and jointly held property respectively. Section 2041 deals with powers held by the decedent over the beneficial enjoyment of property not originating with the decedent. Section 2042 concerns insurance under policies on the life of the decedent.

(4) Section 2043 concerns the sufficiency of consideration for transfers made by the decedent during his life. This has a bearing on the amount to be included in the decedent's gross estate under sections 2035 through 2038, and 2041. Section 2044 deals with retroactivity.



(b) Valuation of property in general. The value of every item of property includible in a decedent's gross estate under sections 2031 through 2044 is its fair market value at the time of the decedent's death, except that if the executor elects the alternate valuation method under section 2032, it is the fair market value thereof at the date, and with the adjustments, prescribed in that section. The fair market value is the price at which the property would change hands between a willing buyer and a willing seller, neither being under any compulsion to buy or to sell and both having reasonable knowledge of relevant facts. The fair market value of a particular item of property includible in the decedent's gross estate is not to be determined by a forced sale price. Nor is the fair market value of an item of property to be determined by the sale price of the item in a market other than that in which such item is most commonly sold to the public, taking into account the location of the item wherever appropriate. Thus, in the case of an item of property includible in the decedent's gross estate, which is generally obtained by the public in the retail market, the fair market value of such an item of property is the price at which the item or a comparable item would be sold at retail. For example, the fair market value of an automobile (an article generally obtained by the public in the retail market) includible in the decedent's gross estate is the price for which an automobile of the same or approximately the same description, make, model, age, condition, etc., could be purchased by a member of the general public and not the price for which the particular automobile of the decedent would be purchased by a dealer in used automobiles. Examples of items of property which are generally sold to the public at retail may be found in §§20.2031-6 and 20.2031-8. The value is generally to be determined by ascertaining as a basis the fair market value as of the applicable valuation date of each unit of property. For example, in the case of shares of stock or bonds, such unit of property is generally a share of stock or a bond. Livestock, farm machinery, harvested and growing crops must generally be itemized and the value of each item separately returned. Property shall not be returned at the value at which it is assessed for local tax purposes unless that value represents the fair market value as of the applicable valuation date. All relevant facts and elements of value as of the applicable valuation date shall be considered in every case. The value of items of property which were held by the decedent for sale in the course of a business generally should be reflected in the value of the business. For valuation of interests in businesses, see §20.2031-3. See §20.2031-2 and §§20.2031-4 through 20.2031-8 for further information concerning the valuation of other particular kinds of property. For certain circumstances under which the sale of an item of property at a price below its fair market value may result in a deduction for the estate, see paragraph (d)(2) of §20.2053-3.

(c) Real property situated outside the United States; gross estate of decedent dying after October 16, 1962, and before July 1, 1964.

(1) In general. In the case of a decedent dying after October 16, 1962, and before July 1, 1964, the value of real property situated outside the United States (as defined in paragraph (b)(1) of §20.0-1) is not included in the gross estate of the decedent-

(i) Under section 2033, 2034, 2035(a), 2036(a), 2037(a), or 2038(a) to the extent the real property, or the decedent's interest in it, was acquired by the decedent before February 1, 1962;

(ii) Under section 2040 to the extent such property or interest was acquired by the decedent before February 1, 1962, or was held by the decedent and the survivor in a joint tenancy or tenancy by the entirety before February 1, 1962; or

(iii) Under section 2041(a) to the extent that before February 1, 1962, such property or interest was subject to a general power of appointment (as defined in section 2041) possessed by the decedent.

(2) Certain property treated as acquired before February 1, 1962. For purposes of this paragraph real property situated outside the United States (including property held by the decedent and the survivor in a joint tenancy or tenancy by the entirety), or an interest in such property or a general power of appointment in respect of such property, which was acquired by the decedent after January 31, 1962, is treated as acquired by the decedent before February 1, 1962, if

(i) Such property, interest, or power was acquired by the decedent by gift within the meaning of section 2511, or from a prior decedent by devise or inheritance, or by reason of death, form of ownership, or other conditions (including the exercise or nonexercise of a power of appointment); and

(ii) Before February 1, 1962, the donor or prior decedent had acquired the property or his interest therein or had possessed a power of appointment in respect thereof.

(3) Certain property treated as acquired after January 31, 1962. For purposes of this paragraph that portion of capital additions or improvements made after January 31, 1962, to real property situated outside the United States is, to the extent that it materially increases the value of the property, treated as real property acquired after January 31, 1962. Accordingly, the gross estate may include the value of improvements on unimproved real property, such as office buildings, factories, houses, fences, drainage ditches, and other capital items, and the value of capital additions and improvements to existing improvements, placed on real property after January 31, 1962, whether or not the value of such real property or existing improvements is included in the gross estate.