

Title 24—Housing and Urban Development
CHAPTER X—FEDERAL INSURANCE ADMINISTRATION, DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT
SUBCHAPTER B—NATIONAL FLOOD INSURANCE PROGRAM

[Docket No. FI-266]

PART 1914—AREAS ELIGIBLE FOR THE SALE OF INSURANCE

Status of Participating Communities

Section 1914.4 of Part 1914 of Subchapter B of Chapter X of Title 24 of the Code of Federal Regulations is amended by adding in alphabetical sequence a new entry to the table. In this entry, a complete chronology of effective dates appears for each listed community. Each date appearing in the last column of the table is followed by a designation which indicates whether the date signifies the effective date of the authorization of the sale of flood insurance in the area under the emergency or the regular flood insurance program. The entry reads as follows:

§ 1914.4 Status of participating communities.

State	County	Location	Map No.	State map repository	Local map repository	Effective date of authorization of sale of flood insurance for area
Maryland	Anne Arundel	Annapolis, City of				Dec. 7, 1973. Emergency.
Massachusetts	Barnstable	Harwich, Town of				Dec. 10, 1973. Emergency.
Missouri	St. Louis	Bellevue, City of				Do.
Do.	do	Bridgeton, City of				Do.
New York	Livingston	Avon, Village of				Do.
Pennsylvania	Wayne	Paupack, Township of				Do.
South Carolina	Lancaster	Lancaster, City of				Dec. 7, 1973. Emergency.

(National Flood Insurance Act of 1968 (title XIII of the Housing and Urban Development Act of 1968), effective Jan. 28, 1969 (33 FR 17804, Nov. 28, 1968), as amended (secs. 408-410, Pub. L. 91-152, Dec. 24, 1969), 42 U.S.C. 4001-4127; and Secretary's delegation of authority to Federal Insurance Administrator, 34 FR 2680, Feb. 27, 1969)

Issued: December 3, 1973.

CHARLES W. WIECKING,
Acting Federal Insurance Administrator.

[FR Doc.73-26343 Filed 12-11-73;8:45 am]

Title 25—Indians
CHAPTER I—BUREAU OF INDIAN AFFAIRS
PART 221—OPERATION AND MAINTENANCE CHARGES

Water on the Ahtanum Indian Irrigation Project

These final regulations are issued under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in section 15 (a) of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9).

Beginning on page 23954 of the FEDERAL REGISTER of September 5, 1973, (38 FR 171), there was published a notice of intention to modify § 221.1 of Part 221, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations by changing the rate for annual operation and maintenance assessments on the Ahtanum Indian Irrigation Project for Calendar Year 1974 and subsequent years. This modification was proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210).

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

During this period no comments, suggestions, or objections were submitted. It has been determined that sufficient justification exists for modifying the rate for water charges for the Ahtanum Indian Irrigation Project as set forth below.

The modified § 221.1 shall become effective January 11, 1974.

§ 221.1 Charges.

Pursuant to the provisions of the Acts of August 1, 1914 and March 7, 1928 (38 Stat. 583 and 45 Stat. 210; 25 U.S.C. 385, 387), the operation and maintenance charges on lands of the Ahtanum Indian Irrigation Project, Yakima Indian Reservation, Washington, for the Calendar Year 1974 and subsequent years until further notice, are hereby fixed at \$3.75 per acre per annum for each irrigable acre of land to which water can be delivered from the project works.

RICHARD M. BALSIGER,
Acting Area Director.

DECEMBER 3, 1973.

[FR Doc.73-26303 Filed 12-11-73;8:45 am]

PART 221—OPERATION AND MAINTENANCE CHARGES

Basic and Other Water Charges on the Wapato Indian Irrigation Project

These final regulations are issued under the authority delegated to the Com-

missioner of Indian Affairs by the Secretary of the Interior in section 15(a) of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by Sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9).

Beginning on page 23955 of the FEDERAL REGISTER of September 5, 1973 (38 FR 171), there was published a notice of intention to modify § 221.86 of 25 CFR Part 221 of the Code of Federal Regulations by changing the basic rate for annual operation and maintenance assessments on the Wapato Indian Irrigation Project for Calendar Year 1974 and subsequent years. This modification was proposed pursuant to the authority contained in the Acts of August 1, 1914 (38 Stat. 583), and March 7, 1928 (45 Stat. 210).

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

During this period no comments, suggestions, or objections were submitted. It has been determined that sufficient justification exists for modifying the rate for basic and other water charges for the Wapato Indian Irrigation Project as set forth below.

The modified § 221.86 shall become effective January 11, 1974.

§ 221.86 Charges.

The operation and maintenance charges on assessable lands under the Wapato Indian Irrigation Project, Yakima Indian Reservation, Washington, are hereby fixed as follows:

(a) Pursuant to the provisions of the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583, 45 Stat. 210; 25 U.S.C. 385, 387), the basic operation and maintenance assessment rates for the Calendar Year 1974 and subsequent years until further notice are:

(1) Minimum charges for all tracts in noncontiguous single ownership	\$10.80
(2) Flat rate upon all farm units or tracts for each assessable acre except Additional Works lands	10.80
(3) Storage operation and maintenance. For all lands with a storage water right, known as "B" lands, in addition to other charges per acre	0.60
(4) Flat rate upon all farm units or tracts for each assessable acre of Additional Works lands	11.30

(b) Pursuant to the provisions of the Act of September 26, 1961 (75 Stat. 680), there shall be assessed and collected from all lands except Additional Works lands beginning with the Calendar Year 1967 and until further notice but not to exceed a period of 10 years, an annual per acre charge of \$0.20 to defray the cost of replacing a wooden pipeline.

RICHARD M. BALSIGER,
Acting Area Director.

DECEMBER 3, 1973.

[FR Doc. 73-26288 Filed 12-11-73; 8:45 am]

PART 221—OPERATION AND MAINTENANCE CHARGES

Water Charges on Toppenish-Simcoe Indian Irrigation Project

These final regulations are issued under the authority delegated to the Commissioner of Indian Affairs by the Secretary of the Interior in section 15(a) of Secretarial Order 2508 (10 BIAM 2.1) and redelegated by the Commissioner to the Area Directors in 10 BIAM 3. The authority to issue regulations is vested in the Secretary of the Interior by Sections 161, 463, and 465 of the Revised Statutes (5 U.S.C. 301; 25 U.S.C. 2 and 9).

Beginning on page 23954 of the FEDERAL REGISTER of September 5, 1973 (FR Doc. 73-18683) there was published a notice of intention to modify § 221.73 of Part 221, Subchapter T, Chapter I, of Title 25 of the Code of Federal Regulations by changing the basic rate for annual operation and maintenance assessments on the Toppenish-Simcoe Indian Irrigation Project for Calendar Year 1974 and subsequent years. This modification was proposed pursuant to the authority contained in the Acts of August 1,

1914 (38 Stat. 583) and March 7, 1928 (45 Stat. 210).

Interested persons were given 30 days in which to submit written comments, suggestions, or objections regarding the proposed regulations.

During this period no comments, suggestions, or objections were submitted. It has been determined that sufficient justification exists for modifying the rate for water charges for the Toppenish-Simcoe Indian Irrigation Project as set forth below.

The modified § 221.73 shall become effective on January 11, 1974.

§ 221.73 Charges.

Pursuant to the provisions of the Acts of August 1, 1914, and March 7, 1928 (38 Stat. 583 and 45 Stat. 210; 25 U.S.C. 385, 387), the operation and maintenance charges for the lands under the Toppenish-Simcoe Irrigation Project, Yakima Indian Reservation, Washington, for the Calendar Year 1974 and subsequent years until further notice, are hereby fixed as follows:

All lands for which application for water is made and approved by Project Engineer, per acre \$4.10

RICHARD M. BALSIGER,
Acting Area Director.

DECEMBER 3, 1973.

[FR Doc. 73-26321 Filed 12-11-73; 8:45 am]

Title 26—Internal Revenue

CHAPTER I—INTERNAL REVENUE SERVICE, DEPARTMENT OF THE TREASURY SUBCHAPTER B—ESTATE AND GIFT TAXES

[T.D. 7296]

PART 20—ESTATE TAX; ESTATES OF DECEDENTS DYING AFTER AUGUST 16, 1954

PART 25—GIFT TAX; GIFTS MADE AFTER DECEMBER 31, 1954

Estate Tax Credit for Foreign Death Taxes; Estate and Gift Tax Treatment of Transfers of Nonresidents not Citizens of the United States

By a notice of proposed rule making appearing in the Federal Register for December 30, 1972 (37 FR 28901), amendments to the Estate Tax Regulations (26 CFR Part 20) and the Gift Tax Regulations (26 CFR Part 25) were proposed in order to conform such regulations to the amendments of the Internal Revenue Code of 1954 made by sections 106(b)(3), 108, and 109 of the Foreign Investors Tax Act of 1966 (80 Stat. 1570, 1571, and 1574) and by section 435(b) of the Tax Reform Act of 1969 (83 Stat. 625).

Section 106(b)(3) of the 1966 Act limits the applicability of the "similar credit" requirement of section 2014 of the Code to estates of decedents who were citizens of a foreign country with respect to which a special Presidential proclamation has been made. The "similar credit" requirement conditions the allowance under section 2014 of a Federal estate tax credit for foreign death taxes upon the allowance by the foreign coun-

try imposing the death taxes of a similar credit to the estates of U.S. citizens who were residents of that foreign country. The amendment applies to estates of decedents dying after November 13, 1966.

Section 108 of the 1966 Act relates to the Federal estate tax treatment of estates of decedents who were non-residents not citizens of the United States, and who died after November 13, 1966. It increases the exemption from \$2,000 to \$3,000, substantially reduces the tax rates, provides a special limitation on the amount of the credit allowable for State death taxes, provides new situs rules with respect to debt obligations and similar property, and adds new sections 2107 and 2108 to the Code. New section 2107 provides for special estate tax treatment in cases of certain decedents who made tax-motivated expatriations from the United States. New section 2108 provides for the application of certain estate tax provisions as they existed prior to amendment by the 1966 Act, in cases of estates of decedents who were residents of a foreign country with respect to which the President has made a special proclamation resulting from the President's finding, among other things, that the foreign country imposes a more burdensome tax on estates of citizens of the United States who were not residents of that foreign country than the United States imposes on the estates of decedents who were residents of that foreign country and not citizens of the United States.

Section 109 of the 1966 Act relates to the Federal gift tax treatment of gifts made after December 31, 1966, by non-residents not citizens of the United States. It provides that gifts of intangible personal property by such donors are not subject to the gift tax except in cases of certain donors who made tax-motivated expatriations from the United States. It also provides special situs rules for stock in a corporation and for debt obligations and similar property.

Section 435(b) of the 1969 Act changed the date from "December 31, 1972" to "December 31, 1969" in the rule under section 2104(c) of the Code relating to deposits with a domestic banking branch of a foreign corporation. This rule provides generally that, in the case of decedents dying after December 31, 1969, deposits with a branch in the United States of a foreign corporation have a situs in the United States if the branch is engaged in the commercial banking business.

Paragraph 1. No objection to the rules proposed having been received during the 30-day period prescribed in the notice, the amendments of the regulations as so proposed are hereby adopted without change.

Par. 2. Section 20.0-1 is amended by striking out the last sentence of paragraph (a)(1).

Par. 3. Section 25.0-1 is amended by striking out the last sentence of paragraph (a)(1).

(This Treasury decision is issued under the authority contained in section 7805 of the

Internal Revenue Code of 1954 (68A Stat. 917; 26 U.S.C. 7805).)

[SEAL] DONALD C. ALEXANDER,
Commissioner of Internal Revenue.

Approved: December 7, 1973.

FREDERIC W. HICKMAN,
Assistant Secretary of the Treasury.

A. Part 20 of 26 CFR Chapter I is amended as follows:

PARAGRAPH 1. Section 20.0-1 is amended by revising paragraph (b) (1), (2), and (4) to read as follows:

§ 20.0-1 Introduction.

(b) *Scope of regulations*—(1) *Estates of citizens or residents*. Subchapter A of chapter 11 of the Code pertains to the taxation of the estate of a person who was a citizen or a resident of the United States at the time of his death. A "resident" decedent is a decedent who, at the time of his death, had his domicile in the United States. The term "United States", as used in the estate tax regulations, includes only the States and the District of Columbia. The term also includes the Territories of Alaska and Hawaii prior to their admission as States. See section 7701(a)(9). A person acquires a domicile in a place by living there, for even a brief period of time, with no definite present intention of later removing therefrom. Residence without the requisite intention to remain indefinitely will not suffice to constitute domicile, nor will intention to change domicile effect such a change unless accompanied by actual removal. For the meaning of the term "citizen of the United States" as applied in a case where the decedent was a resident of a possession of the United States, see § 20.2208-1. The regulations pursuant to subchapter A are set forth in §§ 20.2001 to 20.2056 (e)-3.

(2) *Estates of nonresidents not citizens*. Subchapter B of chapter 11 of the Code pertains to the taxation of the estate of a person who was a nonresident not a citizen of the United States at the time of his death. A "nonresident" decedent is a decedent who, at the time of his death, had his domicile outside the United States under the principles set forth in subparagraph (1) of this paragraph. (See, however, section 2202 with respect to missionaries in foreign service.) The regulations pursuant to subchapter B are set forth in §§ 20.2101 to 20.2108.

(4) *Procedure and administration provisions*. Subtitle F of the Internal Revenue Code contains some sections which are applicable to the Federal estate tax. The regulations pursuant to those sections are set forth in §§ 20.6001 to 20.7404. Such regulations do not purport to be all the regulations on procedure and administration which are pertinent to estate tax matters. For the remainder of the regulations on procedure and administration which are pertinent to es-

tate tax matters, see Part 301 (Regulations on Procedure and Administration) of this chapter.

PAR. 2. Section 20.0-2 is amended by revising paragraph (c) to read as follows:

§ 20.0-2 General description of tax.

(c) *Method of determining tax; estate of nonresident not a citizen*. In general, the method to be used in determining the Federal estate tax imposed upon the transfer of an estate of a decedent who was a nonresident not a citizen of the United States is similar to that described in paragraph (b) of this section with respect to the estate of a citizen or resident. Briefly stated, the steps are as follows: First, ascertain the sum of the value of that part of the decedent's "entire gross estate" which at the time of his death was situated in the United States (see §§ 20.2103-1 and 20.2104-1) and, in the case of an estate of an expatriate to which section 2107 applies, any amounts includible in his gross estate under section 2107(b) (see paragraph (b) of § 20.2107-1); second, determine the value of the taxable estate by subtracting from the amount determined under the first step the amount of the allowable deductions (see § 20.2106-1); third, compute the gross estate tax on the taxable estate (see § 20.2101-1); and fourth, subtract from the gross estate tax the total amount of any allowable credits in order to arrive at the net estate tax payable (see § 20.2102-1 and paragraph (c) of § 20.2107-1).

PAR. 3. Section 20.2013-2 is amended by revising paragraph (c) to read as follows:

§ 20.2013-2 "First limitation".

(c)(1) For purposes of the ratio stated in paragraph (a) of this section, the "transferor's adjusted taxable estate" referred to as factor "D" is the amount of the transferor's taxable estate (or net estate) decreased by the amount of any "death taxes" paid with respect to his gross estate and increased by the amount of the exemption allowed in computing his taxable estate (or net estate). The amount of the transferor's taxable estate (or net estate) is determined in accordance with the provisions of § 20.2051-1 in the case of a citizen or resident of the United States or of § 20.2106-1 in the case of a nonresident not a citizen of the United States (or the corresponding provisions of prior regulations). The term "death taxes" means the Federal estate tax plus all other estate, inheritance, legacy, succession, or similar death taxes imposed by, and paid to, any taxing authority, whether within or without the United States. However, only the net amount of such taxes paid is taken into consideration.

(2) The amount of the exemption depends upon the citizenship and residence of the transferor at the time of his death.

Except in the case of a decedent described in section 2209 (relating to certain residents of possessions of the United States who are considered nonresidents not citizens), if the decedent was a citizen or resident of the United States, the exemption is the \$60,000 authorized by section 2052 (or the corresponding provisions of prior law). If the decedent was a nonresident not a citizen of the United States, or is considered under section 2209 to have been such a nonresident, the exemption is the \$30,000 or \$2,000, as the case may be, authorized by section 2106(a)(3) (or the corresponding provisions of prior law), or such larger amount as is authorized by section 2106(a)(3)(B) or may have been allowed as an exemption pursuant to the prorated exemption provisions of an applicable death tax convention. See § 20.2052-1 and paragraph (a)(3) of § 20.2106-1.

PAR. 4. Section 20.2013-3 is amended by revising paragraph (a)(1) to read as follows:

§ 20.2013-3 "Second limitation".

(a) The amount of the Federal estate tax attributable to the transferred property in the present decedent's estate is the "second limitation". Thus, the credit is limited to the difference between—

(1) The net estate tax payable (see paragraph (b)(5) or (c), as the case may be, of § 20.0-2) with respect to the present decedent's estate, determined without regard to any credit for tax on prior transfers under section 2013 or any credit for foreign death taxes claimed under the provisions of a death tax convention, and

PAR. 5. Section 20.2013-4 is amended by revising that part of paragraph (a) which precedes example (1) therein to read as follows:

§ 20.2013-4 Valuation of property transferred.

(a) For purposes of section 2013 and §§ 20.2013 to 20.2013-6, the value of the property transferred to the decedent is the value at which the property was included in the transferor's gross estate for the purpose of the Federal estate tax (see sections 2031, 2032, 2103, and 2107, and the regulations thereunder) reduced as indicated in paragraph (b) of this section. If the decedent received a life estate or remainder or other limited interests in property included in the transferor's gross estate, the value of the interest is determined as of the date of the transferor's death on the basis of recognized valuation principles (see especially §§ 20.2031-7 and 20.2031-10). The application of this paragraph may be illustrated by the following examples:

PAR. 6. Section 20.2014 is amended by revising section 2014(a), by adding a new section 2014(h), and by revising the historical note. These amended and added provisions read as follows:

§ 20.2014 Statutory provisions; credit for foreign death taxes.

Sec. 2014. Credit for foreign death taxes—
(a) *In general.* The tax imposed by section 2001 shall be credited with the amount of any estate, inheritance, legacy, or succession taxes actually paid to any foreign country in respect of any property situated within such foreign country and included in the gross estate (not including any such taxes paid with respect to the estate of a person other than the decedent). The determination of the country within which property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2101 and following) in determining whether property is situated within or without the United States.

(h) *Similar credit required for certain alien residents.* Whenever the President finds that—

(1) A foreign country, in imposing estate, inheritance, legacy, or succession taxes, does not allow to citizens of the United States resident in such foreign country at the time of death a credit similar to the credit allowed under subsection (a).

(2) Such foreign country, when requested by the United States to do so has not acted to provide such a similar credit in the case of citizens of the United States resident in such foreign country at the time of death, and

(3) It is in the public interest to allow the credit under subsection (a) in the case of citizens or subjects of such foreign country only if it allows such a similar credit in the case of citizens of the United States resident in such foreign country at the time of death,

the President shall proclaim that, in the case of citizens or subjects of such foreign country dying while the proclamation remains in effect, the credit under subsection (a) shall be allowed only if such foreign country allows such a similar credit in the case of citizens of the United States resident in such foreign country at the time of death.

[Sec. 2014 as amended by sec. 102(c)(2), Technical Amendments Act 1958 (72 Stat. 1674); sec. 2, Act of Aug. 21, 1959 (Pub. L. 86-175, 73 Stat. 397); sec. 106(b)(3) Foreign Investors Tax Act 1966 (80 Stat. 1570)]

PAR. 7. Section 20.2014-1 is amended by revising paragraph (a) (1) and (3) and by adding a new paragraph (c). These amended and added provisions read as follows:

§ 20.2014-1 Credit for foreign death taxes.

(a) *In general.* (1) A credit is allowed under section 2014 against the Federal estate tax for any estate, inheritance, legacy, or succession taxes actually paid to any foreign country (hereinafter referred to as "foreign death taxes"). The credit is allowed only for foreign death taxes paid (i) with respect to property situated within the country to which the tax is paid, (ii) with respect to property included in the decedent's gross estate, and (iii) with respect to the decedent's estate. The credit is allowable to the estate of a decedent who was a citizen of the United States at the time of his death. The credit is also allowable, as provided in paragraph (c) of this section, to the estate of a decedent who

was a resident but not a citizen of the United States at the time of his death. The credit is not allowable to the estate of a decedent who was neither a citizen nor a resident of the United States at the time of his death. See paragraph (b)(1) of § 20.0-1 for the meaning of the term "resident" as applied to a decedent. The credit is allowable not only for death taxes paid to foreign countries which are states in the international sense, but also for death taxes paid to possessions or political subdivisions of foreign states. With respect to the estate of a decedent dying after September 2, 1958, the term "foreign country", as used in this section and §§ 20.2014-2 to 20.2014-6, includes a possession of the United States. See §§ 20.2011-1 and 20.2011-2 for the allowance of a credit for death taxes paid to a possession of the United States in the case of a decedent dying before September 3, 1958. No credit is allowable for interest or penalties paid in connection with foreign death taxes.

(3) No credit is allowable under section 2014 in connection with property situated outside of the foreign country imposing the tax for which credit is claimed. However, such a credit may be allowable under certain death tax conventions. In the case of a tax imposed by a political subdivision of a foreign country, credit for the tax shall be allowed with respect to property having a situs in that foreign country, even though, under the principles described in this subparagraph, the property has a situs in a political subdivision different from the one imposing the tax. Whether or not particular property of a decedent is situated in the foreign country imposing the tax is determined in accordance with the same principles that would be applied in determining whether or not similar property of a nonresident decedent not a citizen of the United States is situated within the United States for Federal estate tax purposes. See §§ 20.2104-1 and 20.2105-1. For example, under § 20.2104-1 shares of stock are deemed to be situated in the United States only if issued by a domestic corporation. Thus, a share of corporate stock is regarded as situated in the foreign country imposing the tax only if the issuing corporation is incorporated in that country. Further, under § 20.2105-1 amounts receivable as insurance on the life of a nonresident not a citizen of the United States at the time of his death are not deemed situated in the United States. Therefore, in determining the credit under section 2014 in the case of a decedent who was a citizen or resident of the United States, amounts receivable as insurance on the life of the decedent and payable under a policy issued by a corporation incorporated in a foreign country are not deemed situated in such foreign country. In addition, under § 20.2105-1 in the case of an estate of a nonresident not a citizen of the United States who died on or after November 14, 1966, a debt obligation of a domestic corporation is not considered to

be situated in the United States if any interest thereon would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(B) (relating to interest received from a domestic corporation less than 20 percent of whose gross income for a 3-year period was derived from sources within the United States). Accordingly, a debt obligation the primary obligor on which is a corporation incorporated in the foreign country imposing the tax is not considered to be situated in that country if, under circumstances corresponding to those described in § 20.2105-1 less than 20 percent of the gross income of the corporation for the 3-year period was derived from sources within that country. Further, under § 20.2104-1 in the case of an estate of a nonresident not a citizen of the United States who died before November 14, 1966, a bond for the payment of money is not situated within the United States unless it is physically located in the United States. Accordingly, in the case of the estate of a decedent dying before November 14, 1966, a bond is deemed situated in the foreign country imposing the tax only if it is physically located in that country. Finally, under § 20.2105-1 moneys deposited in the United States with any person carrying on the banking business by or for a nonresident not a citizen of the United States who died before November 14, 1966, and who was not engaged in business in the United States at the time of death are not deemed situated in the United States. Therefore, an account with a foreign bank in the foreign country imposing the tax is not considered to be situated in that country under corresponding circumstances.

(c) *Credit allowable to estate of resident not a citizen.* (1) In the case of an estate of a decedent dying before November 14, 1966, who was a resident but not a citizen of the United States, a credit is allowed to the estate under section 2014 only if the foreign country of which the decedent was a citizen or subject, in imposing foreign death taxes, allows a similar credit to the estates of citizens of the United States who were resident in that foreign country at the time of death.

(2) In the case of an estate of a decedent dying on or after November 14, 1966, who was a resident but not a citizen of the United States, a credit is allowed to the estate under section 2014 without regard to the similar credit requirement of subparagraph (1) of this paragraph unless the decedent was a citizen or subject of a foreign country with respect to which there is in effect at the time of the decedent's death a Presidential proclamation, as authorized by section 2014(h), reinstating the similar credit requirement. In the case of an estate of a decedent who was a resident of the United States and a citizen or subject of a foreign country with respect to which such a proclamation has been made, and who dies while the proclamation is in effect, a credit is allowed under section 2014 only if that foreign country,

in imposing foreign death taxes, allows a similar credit to the estates of citizens of the United States who were resident in that foreign country at the time of death. The proclamation authorized by section 2014(h) for the reinstatement of the similar credit requirement with respect to the estates of citizens or subjects of a specific foreign country may be made by the President whenever he finds that—

(i) The foreign country, in imposing foreign death taxes, does not allow a similar credit to the estates of citizens of the United States who were resident in the foreign country at the time of death,

(ii) The foreign country, after having been requested to do so, has not acted to provide a similar credit to the estates of such citizens, and

(iii) It is in the public interest to allow the credit under section 2014 to the estates of citizens or subjects of the foreign country only if the foreign country allows a similar credit to the estates of citizens of the United States who were resident in the foreign country at the time of death.

The proclamation for the reinstatement of the similar credit requirement with respect to the estates of citizens or subjects of a specific foreign country may be revoked by the President. In that case,

\$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))

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
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Inheritance tax of son:	
Value of stock.....	60,000
Value of bonds.....	30,000
Total value.....	90,000

Tax (16 percent rate).....	14,400
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The "first limitation" on the credit for foreign death taxes is:

PAR. 9. Section 20.2014-3 is amended by revising subdivision (i) in Example (1) in paragraph (c) to read as follows:

§ 20.2014-3 "Second limitation".

(c) * * *

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

a credit is allowed under section 2014, to the estate of a decedent who was a citizen or subject of that foreign country and a resident of the United States at the time of death, without regard to the similar credit requirement if the decedent dies after the proclamation reinstating the similar credit requirement has been revoked.

PAR. 8. Section 20.2014-2 is amended by revising the example in paragraph (a) to read as follows:

§ 20.2014-2 "First limitation".

(a) * * *

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 no death tax convention in existence between the United States and Country Y. The laws of Country Y provide for inheritance taxes computed as follows:

(\$11,200 + \$14,400) (factor B of the ratio stated at § 20.2014-2(a)) = 12,800

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.)

PAR. 10. Section 20.2014-4 is amended by revising subdivision (i) of the example in paragraph (a) (1), subparagraph (1) of the example in paragraph (b), and the example in paragraph (c) to read as follows:

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

(a) In general. (1) * * *

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 had 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.

(b) Taxes imposed by both a foreign country and a political subdivision thereof. * * *

Example. (1) Decedent, a citizen of the United States and a domiciliary of Province Y of foreign Country X at the time of his death on February 1, 1966, left a gross estate of \$250,000 which includes the following: Bonds issued by Country X physically located in Province Y, valued at \$75,000; bonds issued by Province Z of Country X and physically located in the United States, valued at \$50,000; and shares of stock issued by a domestic corporation, valued at \$125,000. Decedent left his entire estate to his son. Expenses, indebtedness, etc., amounted to \$26,000. The Federal estate tax after allowance of the credit for State death taxes is \$38,124. Province Y imposed a death tax of 8 percent on the Country X bonds located therein which amounted to \$6,000. No death tax was imposed by Province Z. Country X imposed a death tax of 15 percent on the Country X bonds and the Province Z bonds which amounted to \$18,750 before allowance of any credit for the death tax of Province Y. Country X allows against its death taxes a credit for death taxes paid to any of its provinces on property which it also taxes, but only to the extent of one-half of the Country X death tax attributable to the property, or the amount of death taxes paid to its province, whichever is less. Country X, therefore, allowed a credit of \$5,625 for the death taxes paid to Province Y. There is in effect a death tax convention between the United States and Country X which provides for allowance of credit by the United States for death taxes imposed by the national government of Country X. The death tax convention provides that in computing the "first limitation" for the credit under the convention, the tax of Country X is not to be reduced by the amount of the credit allowed for provincial taxes. Under the situs rules described in paragraph (a) (3) of § 20.2014-1, only the Country X bonds located in Province Y are deemed situated in Country X. (The bonds issued by Province Z also would be deemed to have their situs in Country X if the decedent had died on or after November 14, 1966.) Under the convention, both the Country X bonds and the Province Z bonds are deemed to be situated in Country X. In this example all figures are rounded to the nearest dollar.

(c) Taxes imposed by two foreign countries with respect to the same property. * * *

Example. The decedent, a citizen of the United States and a domiciliary of Country X at the time of his death on May 1, 1967, left a taxable estate which included bonds issued by Country Z and physically located in Country X. Each of the three countries involved imposed death taxes on the Country Z bonds. Assume that under the provisions

of a treaty between the United States and Country X the estate is entitled to a credit against the Federal estate tax for death taxes imposed by Country X on the bonds in the maximum amount of \$20,000. Assume, also, that since the decedent died after November 13, 1966, so that under the situs rules referred to in paragraph (a) (3) of § 20.2014-1 the bonds are deemed to have their situs in Country Z, the estate is entitled to a credit against the Federal estate tax for death taxes imposed by Country Z on the bonds in the maximum amount of \$10,000. Finally, assume that the Federal estate tax attributable to the bonds is \$25,000. Under these circumstances, the credit allowed the estate with respect to the bonds would be limited to \$25,000.

PAR. 11. Section 20.2015-1 is amended by revising paragraph (a) to read as follows:

§ 20.2015-1 Credit for death taxes on remainders.

(a) If the executor of an estate elects under section 6163(a) to postpone the time for payment of any portion of the Federal estate tax attributable to a reversionary or remainder interest in property, credit is allowed under sections 2011 and 2014 against that portion of the Federal estate tax for State death taxes and foreign death taxes attributable to the reversionary or remainder interest if the State death taxes or foreign death taxes are paid and if credit therefor is claimed either—

(1) Within the time provided for in sections 2011 and 2014, or

(2) Within the time for payment of the tax imposed by section 2001 or 2101 as postponed under section 6163(a) and as extended under section 6163(b) (on account of undue hardship) or, if the precedent interest terminated before July 5, 1958, within 60 days after the termination of the preceding interest or interests in the property.

The allowance of credit, however, is subject to the other limitations contained in sections 2011 and 2014 and, in the case of the estate of a decedent who was a nonresident not a citizen of the United States, in section 2102(b).

PAR. 12. Section 20.2101 is amended by revising section 2101(a) and adding a historical note. These amended and added provisions read as follows:

§ 20.2101 Statutory provisions; tax imposed.

SEC. 2101. *Tax imposed*—(a) *Rate of tax.* Except as provided in section 2107, a tax computed in accordance with the following table is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States:

If the taxable estate is:	The tax shall be
Not over \$100,000—	5 percent of the taxable estate.
Over \$100,000 but not over \$500,000—	\$5,000, plus 10 percent of excess over \$100,000.
Over \$500,000 but not over \$1,000,000—	\$45,000, plus 15 percent of excess over \$500,000.

If the taxable estate is:	The tax shall be
Over \$1,000,000 but not over \$2,000,000—	\$120,000, plus 20 percent of excess over \$1,000,000.
Over \$2,000,000—	\$320,000, plus 25 percent of excess over \$2,000,000.

[Sec. 2101 as amended by sec. 108(a), Foreign Investors Tax Act 1966 (80 Stat. 1571)]

PAR. 13. Section 20.2101-1 is amended to read as follows:

§ 20.2101-1 Estates of nonresidents not citizens; tax imposed.

Section 2101 imposes a tax on the transfer of the taxable estate of a nonresident who was not a citizen of the United States at the time of his death. In the case of an estate of a decedent dying on or after November 14, 1966, the tax is generally computed at the rates specified in section 2101(a). However, see section 2107 (relating to estates of certain decedents who lost their U.S. citizenship after March 8, 1965, with a principal purpose of avoiding U.S. income, estate, or gift tax) and section 2108 (relating to estates of decedents who at the time of death were residents of a foreign country with respect to which the President has proclaimed the application of pre-1967 estate tax provisions). Sections 2107 and 2108 provide for the computation of the tax in certain cases of estates of nonresidents not citizens at the rates specified in section 2001 (which is applicable to estates of citizens or residents of the United States). In the case of an estate of a decedent dying before November 14, 1966, the tax imposed by section 2101 is computed at the same rates as the tax which is imposed by section 2001 on the transfer of the taxable estate of a citizen or resident of the United States. For a general description of the method to be used in determining the net estate tax payable in the case of an estate of a nonresident not a citizen, see paragraph (c) of § 20.0-2. For the meanings of the terms "resident", "nonresident", and "United States", as applied to a decedent for purposes of the estate tax, see paragraph (b) (1) and (2) of § 20.0-1. For the presumption applying to the residence of missionaries, see section 2202 and § 20.2202-1. For the liability of the executor for the payment of the tax, see section 2002 and § 20.2002-1.

PAR. 14. Section 20.2102 is amended to read as follows:

§ 20.2102 Statutory provisions; credits against tax.

SEC. 2102. *Credits against tax*—(a) *In general.* 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).

(b) *Special limitation.* 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).

[Sec. 2102 as amended by sec. 108(b), Foreign Investors Tax Act 1966 (80 Stat. 1572)]

PAR. 15. Section 20.2102-1 is amended to read as follows:

§ 20.2102-1 Estates of nonresidents not citizens; credits against tax.

(a) *In general.* In arriving at the net estate tax payable with respect to the transfer of an estate of a nonresident who was not a citizen of the United States at the time of his death, the following credits are subtracted from the tax imposed by section 2101:

(1) The State death tax credit under section 2011, to the extent permitted by section 2102(b) and paragraph (b) of this section;

(2) The gift tax credit under section 2012; and

(3) The credit under section 2013 for tax on prior transfers.

Except as provided in section 2102(b) and paragraph (b) of this section (relating to a special limitation on the amount of the credit for State death taxes), the amount of each of these credits is determined in the same manner as that prescribed for its determination in the case of estates of citizens or residents of the United States. See §§ 20.2011 through 20.2013-6. Subject to the additional special limitation contained in section 2102 (b) in the case of section 2015, the provisions of sections 2015 and 2016, relating respectively to the credit for death taxes on remainders and the recovery of taxes claimed as a credit, are applicable with respect to the credit for State death taxes in the case of the estates of nonresidents not citizens. However, no credit is allowed under section 2014 for foreign death taxes.

(b) *Special limitation*—(1) *In general.* In the case of estates of decedents dying on or after November 14, 1966, other than estates the estate tax treatment of which is subject to a Presidential proclamation made pursuant to section 2108 (a), the maximum credit allowable under section 2011 for State death taxes against the tax imposed by section 2101 on the transfer of estates of nonresidents not citizens of the United States is an amount which bears the same ratio to the maximum credit computed as provided in section 2011(b) (and without regard to this special limitation) as the value of the property (determined in the same manner as that prescribed in paragraph (b) of § 20.2031-1 for the estates of citizens or residents of the United States) in respect of which a State death tax was actually paid and which is included in the gross estate under section 2103 or, if applicable, section 2107(b) bears to the value (as so determined) of the total gross estate under section 2103 or 2107(b). For purposes of this special

limitation, the term "State death taxes" means the taxes described in section 2011 (a) and paragraph (a) of § 20.2011-1.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). A, a nonresident not a citizen of the United States, died on February 15, 1967, owning real property in State Z valued at \$50,000 and stock in various domestic corporations valued at \$100,000 and not subject to death taxes in any State. State Z's inheritance tax actually paid with respect to the real property in State Z is \$2,000. A's taxable estate for Federal estate tax purposes is \$110,000, in respect of which the maximum credit under section 2011 would be \$720 in the absence of the special limitation contained in section 2102(b). However, under section 2102(b) and this paragraph the amount of the maximum credit allowable in respect to A's estate for State death taxes is limited to the amount which bears the same ratio to \$720 (the maximum credit computed as provided in section 2011(b)) as \$50,000 (the value of the property in respect of which a State death tax was actually paid and which is included in A's gross estate under section 2103) bears to \$150,000 (the value of A's total gross estate under section 2103). Accordingly, the maximum credit allowable under section 2102 and this section for all State death taxes actually paid is \$240 ($\$720 \times \$50,000 / \$150,000$).

Example (2). B, a nonresident not a citizen of the United States, died on January 15, 1967, owning real property in State Y valued at \$200,000, real property in State Z valued at \$100,000, and stock in various domestic corporations valued at \$300,000 and not subject to death taxes in any State. States X and Y both impose inheritance taxes. State X has, in addition to its inheritance tax, an estate tax equal to the amount by which the maximum State death tax credit allowable to an estate against its Federal estate tax exceeds the amount of the inheritance tax imposed by State X plus the amount of death taxes paid to other States. State Y has no estate tax. The amount of the inheritance tax actually paid to State X with respect to the real property situated in State X is \$4,000; the amount of the inheritance tax actually paid to State Y with respect to the real property situated in State Y is \$9,000. B's taxable estate for Federal estate tax purposes is \$550,000, in respect of which the maximum credit under section 2011 would be \$14,400 in the absence of the special limitation contained in section 2102(b). However, under section 2102(b) and this paragraph the amount of the maximum credit allowable in respect of B's estate for State death taxes is limited to the amount which bears the same ratio to \$14,400 (the maximum credit computed as provided in section 2011(b)) as \$300,000 (the value of the property in respect of which a State death tax was actually paid and which is included in B's gross estate under section 2103) bears to \$600,000 (the value of B's total gross estate under section 2103). Accordingly, the maximum credit allowable under section 2102 and this section for all State death taxes actually paid is \$7,200 ($\$14,400 \times \$300,000 / \$600,000$), and the estate tax of State X is not applicable to B's estate.

PAR. 16. Section 20.2103-1 is amended to read as follows:

§ 20.2103-1 Estates of nonresidents not citizens; "entire gross estate".

The "entire gross estate" wherever situated of a nonresident who was not a citizen of the United States at the time

of his death is made up in the same way as the "gross estate" of a citizen or resident of the United States. See §§ 20.2031 through 20.2044-1. See paragraphs (a) and (c) of § 20.2031-1 for the circumstances under which real property situated outside the United States is excluded from the gross estate of a citizen or resident of the United States. However, except as provided in section 2107(b) with respect to the estates of certain expatriates, in the case of a nonresident not a citizen, only that part of the entire gross estate which on the date of the decedent's death is situated in the United States is included in his taxable estate. In fact, property situated outside the United States need not be disclosed on the return unless section 2107 is applicable, certain deductions are claimed, or information is specifically requested. See §§ 20.2106-1, 20.2106-2, and 20.2107-1. For a description of property considered to be situated in the United States, see § 20.2104-1. For a description of property considered to be situated outside the United States, see § 20.2105-1.

PAR. 17. Section 20.2104 is amended by adding a new subsection (c) to section 2104 and a historical note. These added provisions read as follows:

§ 20.2104 Statutory provisions; property within the United States.

Sec. 2104. Property within the United States. * * *

(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 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)(B) as income from sources without the United States.

[Sec. 2104 as amended by sec. 108(c), Foreign Investors Tax Act 1966 (80 Stat. 1572); sec. 435(b), Tax Reform Act 1969 (83 Stat. 625).]

PAR. 18. Section 20.2104-1 is amended by revising subparagraphs (3), (4), (5), and (6) of paragraph (a) and by adding new subparagraphs (7) and (8) at the end of such paragraph. These amended and added provisions read as follows:

§ 20.2104-1 Estates of nonresidents not citizens; property within the United States.

(a) In general. * * *

(3) In the case of an estate of a decedent dying before November 14, 1966, written evidence of intangible personal property which is treated as being the property itself, such as a bond for the

payment of money, if it is physically located in the United States; except that this subparagraph shall not apply to obligations of the United States (but not its instrumentalities) issued before March 1, 1941, if the decedent was not engaged in business in the United States at the time of his death. See section 2106(c).

(4) Except as specifically provided otherwise in this section or in § 20.2105-1 (which specific exceptions, in the case of estates of decedents dying on or after November 14, 1966, cause this subparagraph to have relatively limited applicability), intangible personal property the written evidence of which is not treated as being the property itself, if it is issued by or enforceable against a resident of the United States or a domestic corporation or governmental unit.

(5) Shares of stock issued by a domestic corporation, irrespective of the location of the certificates (see, however, paragraph (i) of § 20.2105-1 for a special rule with respect to certain withdrawable accounts in savings and loan or similar associations).

(6) In the case of an estate of a decedent dying before November 14, 1966, moneys deposited in the United States by or for the decedent with any person carrying on the banking business, if the decedent was engaged in business in the United States at the time of his death.

(7) In the case of an estate of a decedent dying on or after November 14, 1966, except as specifically provided otherwise in paragraph (d), (i), (j), or (l) of § 20.2105-1, any debt obligation, including a bank deposit, the primary obligor of which is—

(i) A United States person (as defined in section 7701(a)(30)), or

(ii) The United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government.

This subparagraph applies irrespective of whether the written evidence of the debt obligation is treated as being the property itself or whether the decedent was engaged in business in the United States at the time of his death. For purposes of this subparagraph and paragraphs (k) and (l) of § 20.2105-1, a debt obligation on which there are two or more primary obligors shall be apportioned among such obligors, taking into account to the extent appropriate under all the facts and circumstances any choate or inchoate rights of contribution existing among such obligors with respect to the indebtedness. The term "agency or instrumentality", as used in subdivision (ii) of this subparagraph, does not include a possession of the United States or an agency or instrumentality of a possession. Currency is not a debt obligation for purposes of this subparagraph.

(8) In the case of an estate of a decedent dying on or after January 1, 1970, except as specifically provided otherwise in paragraph (i) or (l) of § 20.2105-1, deposits with a branch in the United States of a foreign corporation, if the branch is engaged in the com-

mercial banking business, whether or not the decedent was engaged in business in the United States at the time of his death.

PAR. 19. Section 20.2105 is amended by revising section 2105(b) and adding a historical note. These amended and added provisions read as follows:

§ 20.2105 Statutory provisions; property without the United States.

SEC. 2105. *Property without the United States.* * * *

(b) *Certain bank deposits, etc.* For purposes of this subchapter—

(1) Amounts described in section 861(c) if any interest thereon, 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, and

(2) Deposits with a foreign branch of a domestic corporation or domestic partnership, if such branch is engaged in the commercial banking business,

shall not be deemed property within the United States.

[Sec. 2105 as amended by sec. 108(d), Foreign Investors Tax Act 1966 (80 Stat. 1572)]

PAR. 20. Section 20.2105-1 is amended by revising paragraphs (c) and (h) and by adding new paragraphs (i), (j), (k), and (l). These amended and added provisions read as follows:

§ 20.2105-1 Estates of nonresidents not citizens; property without the United States.

(c) In the case of an estate of a decedent dying before November 14, 1966, written evidence of intangible personal property which is treated as being the property itself, such as a bond for the payment of money, if it is not physically located in the United States.

(h) In the case of an estate of a decedent dying before November 14, 1966, moneys deposited in the United States by or for the decedent with any person carrying on the banking business, if the decedent was not engaged in business in the United States at the time of his death.

(i) In the case of an estate of a decedent dying on or after November 14, 1966, and before January 1, 1976, any amount deposited in the United States which is described in section 861(c) (relating to certain bank deposits, withdrawable accounts, and amounts held by an insurance company under an agreement to pay interest), if any interest thereon, were such interest received by the decedent at the time of his death, would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(A) (relating to interest on amounts described in section 861(c) which is not effectively connected with the conduct of a trade or business within the United States) and the regulations thereunder. If such interest would be treated by

reason of those provisions as income from sources without the United States only in part, the amount described in section 861(c) shall be considered situated outside the United States in the same proportion as the part of the interest which would be treated as income from sources without the United States bears to the total amount of the interest. This paragraph applies whether or not the decedent was engaged in business in the United States at the time of his death, and, except with respect to amounts described in section 861(c)(3) (relating to amounts held by an insurance company under an agreement to pay interest), whether or not the deposit or other amount is in fact interest-bearing.

(j) In the case of an estate of a decedent dying on or after November 14, 1966, deposits with a branch outside of the United States of a domestic corporation or domestic partnership, if the branch is engaged in the commercial banking business. This paragraph applies whether or not the decedent was engaged in business in the United States at the time of his death, and whether or not the deposits, upon withdrawal, are payable in currency of the United States.

(k) In the case of an estate of a decedent dying on or after November 14, 1966, except as specifically provided otherwise in paragraph (a)(8) of § 20.2104-1 with respect to estates of decedents dying on or after January 1, 1970, any debt obligation, including a bank deposit, the primary obligor of which is neither—

(1) A United States person (as defined in section 7701(a)(30)), nor

(2) The United States, a State or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government.

This paragraph applies irrespective of whether the written evidence of the debt obligation is treated as being the property itself or whether the decedent was engaged in business in the United States at the time of his death. See paragraph (a)(7) of § 20.2104-1 for the treatment of a debt obligation on which there are two or more primary obligors. The term "agency or instrumentality," as used in subparagraph (2) of this paragraph, does not include a possession of the United States or an agency or instrumentality of a possession. Currency is not a debt obligation for purposes of this paragraph.

(l) In the case of an estate of a decedent dying on or after November 14, 1966, any debt obligation to the extent that the primary obligor on the debt obligation is a domestic corporation, if any interest thereon, were the interest received from such obligor by the decedent at the time of his death, would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(B) (relating to interest received from a domestic corporation less than 20 percent of whose gross income for a 3-year period was derived from sources within the

United States) and the regulations thereunder. For such purposes the 3-year period referred to in section 861(a)(1)(B) is the period of 3 years ending with the close of the domestic corporation's last taxable year terminating before the decedent's death. This paragraph applies whether or not (1) the obligation is in fact interest-bearing, (2) the written evidence of the debt obligation is treated as being the property itself, or (3) the decedent was engaged in business in the United States at the time of his death. See paragraph (a)(7) of § 20.2104-1 for the treatment of a debt obligation on which there are two or more primary obligors.

PAR. 21. Section 20.2106-1 is amended by revising that part of paragraph (a) which precedes subparagraph (1), paragraph (a)(3), and paragraph (c) to read as follows:

§ 20.2106-1 Estates of nonresidents not citizens; taxable estate; deductions in general.

(a) The taxable estate of a nonresident who was not a citizen of the United States at the time of his death is determined by adding the value of that part of his gross estate which, at the time of his death, is situated in the United States and, in the case of an estate to which section 2107 (relating to expatriation to avoid tax) applies, any amounts includible in his gross estate under section 2107(b), and then subtracting from the sum thereof the total amount of the following deductions:

(3) (i) In the case of a decedent who is considered under the provisions of section 2209 to be a "nonresident not a citizen of the United States", an exemption which is the greater of—

(a) (1) \$30,000 if the decedent died on or after November 14, 1966, or (2) \$2,000 if the decedent died after September 14, 1960, and before November 14, 1966; or

(b) That proportion of \$60,000 (the exemption authorized by section 2052) which the value of that part of the decedent's gross estate which is situated in the United States at the time of his death bears to the value of the decedent's entire gross estate wherever situated.

(ii) In the case of every other decedent who was a nonresident not a citizen of the United States at the time of his death, an exemption in the amount of—

(a) \$30,000 if the decedent died on or after November 14, 1966, and the estate tax treatment of his estate is not subject to a Presidential proclamation made pursuant to a section 2108(a) (relating to the application of pre-1967 estate tax provisions in the case of a foreign country which imposes a more burdensome tax than the United States), or

(b) \$2,000 if the decedent died before November 14, 1966, or the estate tax treatment of his estate is subject to such a proclamation,

unless a death tax convention provides for another amount, such as a prorated

exemption similar to that described in subdivision (1) (b) of this subparagraph.

(c) (1) The exemption described in paragraph (a) (3) (i) of this section may be illustrated by the following example:

Example. The decedent, who died on January 15, 1967, is considered by reason of the provisions of section 2209 to be a nonresident not a citizen of the United States. He was a resident of the Virgin Islands, and his entire gross estate wherever situated included real property valued at \$30,000 which was situated in the Virgin Islands and shares of stock issued by domestic corporations, valued at \$45,000. Under §§ 20.2104-1 and 20.2105-1 only the shares of stock are considered to be situated in the United States. The amount described in paragraph (a) (3) (i) (b) of this section is \$36,000, computed as follows:

\$45,000 (value of property in United States)
\$75,000 (value of entire gross estate wherever situated)
× \$60,000 = \$36,000.

Since the amount so computed exceeds \$30,000 (the amount specified in paragraph (a) (3) (i) (a) of this section), the exemption to be allowed the decedent's estate is \$36,000.

(2) In connection with the provisions of section 2106(c), see paragraph (a) (3) and (7) of § 20.2104-1 and paragraph (d) of § 20.2105-1.

PAR. 22. Section 20.2106-2 is amended by revising that part of paragraph (a) which follows subparagraph (1), and paragraph (c), to read as follows:

§ 20.2106-2 Estates of nonresidents not citizens; deductions for expenses, losses, etc.

(a) * * *

(2) That proportion of other deductions under sections 2053 and 2054 is allowed which the value of that part of the decedent's gross estate situated in the United States at the time of his death bears to the value of the decedent's entire gross estate wherever situated. It is immaterial whether the amounts to be deducted were incurred or expended within or without the United States. For purposes of this subparagraph, an amount which is includible in the decedent's gross estate under section 2107(b) with respect to stock in a foreign corporation shall be included in the value of the decedent's gross estate situated in the United States.

No deduction is allowed under this paragraph unless the value of the decedent's entire gross estate is disclosed in the estate tax return. See paragraph (b) of § 20.2106-1.

(c) The application of this section and of § 20.2106-1 may be illustrated by the following examples:

Example (1). The decedent died on June 1, 1967, a nonresident not a citizen of the United States. He was not an expatriate to whom section 2107(a) applies, and the estate tax treatment of his estate is not subject to a presidential proclamation made pursuant to section 2108(a). His gross estate

wherever situated amounts to \$1 million, of which \$300,000 (or 20 percent) represents the value of the property having its situs within the United States. The funeral expenses, administration expenses, and claims against the estate aggregate \$175,000, and there are charitable bequests, for use within the United States, amounting to \$25,000. The decedent's taxable estate is determined as follows:

That part of the entire gross estate situated in the United States.....	\$200,000
Deductions for expenses and claims (20 percent of \$175,000).....	35,000
Charitable deduction.....	25,000
Exemption.....	30,000
Total.....	90,000
Taxable estate.....	110,000

For the manner of computing the tax on the taxable estate, see § 20.2101-1.

Example (2). Assume the same facts as those given in example (1) except that the decedent was an expatriate to whom section 2107(a) applies and that the part of his property not situated in the United States includes shares of stock issued by a foreign corporation with respect to which \$300,000 is included in his gross estate under section 2107(b). Thus, the value of that part of the gross estate situated in the United States equals \$500,000 (or 50 percent of \$1 million). In this case, the decedent's taxable estate is determined as follows:

That part of the entire gross estate situated in the United States.....	\$200,000
Amount included in gross estate under section 2107(b) and deemed situated in the United States.....	300,000
Total.....	500,000
Deductions for expenses and claims (50 percent of \$175,000).....	87,500
Charitable deduction.....	25,000
Exemption.....	30,000
Total.....	142,500
Taxable estate.....	357,500

For the manner of computing the tax on the taxable estate, see § 20.2107-1.

PAR. 23. Immediately after § 20.2106-2 the following new sections are inserted:

§ 20.2107 Statutory provisions; expatriation to avoid tax.

Sec. 2107. *Expatriation to avoid tax—(a) Rate of tax.* A tax computed in accordance with the table contained in section 2001 is hereby imposed on the transfer of the taxable estate, determined as provided in section 2106, of every decedent nonresident not a citizen of the United States dying after the date of enactment of this section, if after March 8, 1965, and within the 10-year period ending with the date of death such decedent lost U.S. citizenship, unless such loss did not have for one of its principal purposes the avoidance of taxes under this subtitle or subtitle A.

(b) *Gross estate.* For purposes of the tax imposed by subsection (a), the value of the gross estate of every decedent to whom subsection (a) applies shall be determined as provided in section 2103, except that—

(1) If such decedent owned (within the meaning of section 958(a)) at the time of his death 10 percent or more of the total combined voting power of all classes of stock

entitled to vote of a foreign corporation, and

(2) If such decedent owned (within the meaning of section 958(a)), or is considered to have owned (by applying the ownership rules of section 958(b)), at the time of his death, more than 50 percent of the total combined voting power of all classes of stock entitled to vote of such foreign corporation,

then that proportion of the fair market value of the stock of such foreign corporation owned (within the meaning of section 958(a)) by such decedent at the time of his death, which the fair market value of any assets owned by such foreign corporation and situated in the United States, at the time of his death, bears to the total fair market value of all assets owned by such foreign corporation at the time of his death, shall be included in the gross estate of such decedent. For purposes of the preceding sentence, a decedent shall be treated as owning stock of a foreign corporation at the time of his death if, at the time of a transfer, by trust or otherwise, within the meaning of sections 2035 to 2038, inclusive, he owned such stock.

(c) *Credits.* The tax imposed by subsection (a) shall be credited with the amounts determined in accordance with section 2102.

(d) *Exception for loss of citizenship for certain causes.* Subsection (a) shall not apply to the transfer of the estate of a decedent whose loss of U.S. citizenship resulted from the application of section 301(b), 350, or 355 of the Immigration and Nationality Act, as amended (8 U.S.C. 1401(b), 1482, or 1487).

(e) *Burden of proof.* If the Secretary or his delegate establishes that it is reasonable to believe that an individual's loss of U.S. citizenship would, but for this section, result in a substantial reduction in the estate, inheritance, legacy, and succession taxes in respect of the transfer of his estate, 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 the executor of such individual's estate.

[Sec. 2107 as added by sec. 108(f), Foreign Investors Tax Act 1966 (80 Stat. 1573)]

§ 20.2107-1 Expatriation to avoid tax.

(a) *Rate of tax.* The tax imposed by section 2107(a) on the transfer of the taxable estates of certain nonresident expatriate decedents who were formerly citizens of the United States is computed in accordance with the table contained in section 2001, relating to the rate of the tax imposed on the transfer of the taxable estates of decedents who were citizens or residents of the United States. Except for any amounts included in the gross estate solely by reason of section 2107(b) and paragraph (b) (1) (ii) and (iii) of this section, the value of the taxable estate to be used in this computation is determined as provided in section 2106 and § 20.2106-1. The decedents to which section 2107(a) and this section apply are described in paragraph (d) of this section.

(b) *Gross estate—(1) Determination of value—(i) General rule.* Except as provided in subdivision (ii) of this subparagraph with respect to stock in certain foreign corporations, for purposes of the tax imposed by section 2107(a) the value of the gross estate of every estate the transfer of which is subject to the

tax imposed by that section is determined as provided in section 2103 and § 20.2103-1.

(ii) *Amount includible with respect to stock in certain foreign corporations.* If at the time of his death a nonresident expatriate decedent the transfer of whose estate is subject to the tax imposed by section 2107(a)—

(a) Owned (within the meaning of section 958(a) and the regulations thereunder) 10 percent or more of the total combined voting power of all classes of stock entitled to vote in a foreign corporation, and

(b) Owned (within the meaning of section 958(a) and the regulations thereunder), or is considered to have owned (by applying the ownership rules of section 958(b) and the regulations thereunder), more than 50 percent of the total combined voting power of all classes of stock entitled to vote in such foreign corporation,

then section 2107(b) requires the inclusion in the decedent's gross estate, in addition to amounts otherwise includible therein under subdivision (i) of this subparagraph, of an amount equal to that proportion of the fair market value (determined at the time of the decedent's death or, if so elected by the executor of the decedent's estate, on the alternate valuation date as provided in section 2032) of the stock in such foreign corporation owned (within the meaning of section 958(a) and the regulations thereunder) by the decedent at the time of his death, which the fair market value of any assets owned by such foreign corporation and situated in the United States, at the time of his death, bears to the total fair market value of all assets owned by such foreign corporation at the time of his death.

(iii) *Rules of application.* (a) In determining the proportion of the fair market value of the stock which is includible in the gross estate under subdivision (ii) of this subparagraph, the fair market value of the foreign corporation's assets situated in the United States and of its total assets shall be determined without reduction for any outstanding liabilities of the corporation.

(b) For purposes of subdivision (ii) of this subparagraph, the foreign corporation's assets which are situated in the United States shall be all its property which, by applying the provisions of sections 2104, 2105, and §§ 20.2104-1 and 20.2105-1, would be considered to be situated in the United States if such property were property of a nonresident who was not a citizen of the United States.

(c) For purposes of subdivision (ii) (a) of this subparagraph, a decedent is treated as owning stock in a foreign corporation at the time of his death to the extent he owned (within the meaning of section 958(a) and the regulations thereunder) the stock at the time he made a transfer of the stock in a transfer described in sections 2035 to 2038, inclusive (relating respectively to trans-

fers made in contemplation of death, transfers with a retained life estate, transfers taking effect at death, and revocable transfers). For purposes of subdivision (ii) (b) of this subparagraph, a decedent is treated as owning stock in a foreign corporation at the time of his death to the extent he owned (within the meaning of section 958(a) and the regulations thereunder), or is considered to have owned (by applying the ownership rules of section 958(b) and the regulations thereunder), the stock at the time he made a transfer of the stock in a transfer described in sections 2035 to 2038, inclusive. In applying the proportion rule of section 2107(b) and subdivision (ii) of this subparagraph where a decedent is treated as owning stock in a foreign corporation at the time of his death by reason of having transferred his interest in such stock in a transfer described in sections 2035 to 2038, inclusive, the proportionate value of the interest includible in his gross estate is based upon the value as of the applicable valuation date described in section 2031 or 2032 of the amount, determined as of the date of transfer, of his interest in the stock. See example (2) in subparagraph (2) of this paragraph.

(d) For purposes of applying subdivision (ii) (b) of this subparagraph, the same shares of stock may not be counted more than once. See example (2) in subparagraph (2) of this paragraph.

(e) The principles applied in paragraph (b) of § 1.957-1 of this chapter (Income Tax Regulations) for determining what constitutes total combined voting power of all classes of stock entitled to vote in a foreign corporation for purposes of section 957(a) shall be applied in determining what constitutes total combined voting power of all classes of stock entitled to vote in a foreign corporation for purposes of section 2107 (b) and subdivision (ii) of this subparagraph. In applying such principles under this paragraph changes in language shall be made, where necessary, in order to treat the nonresident expatriate decedent, rather than U.S. shareholders, as owning such total combined voting power.

(2) *Illustrations.* The application of this paragraph may be illustrated by the following examples:

Example (1). (a) At the time of his death, H, a nonresident expatriate decedent the transfer of whose estate is subject to the tax imposed by section 2107(a), owned a 60-percent interest in M Company, a foreign partnership, which in turn owned stock issued by N Corporation, a foreign corporation. The stock in N Corporation held by M Company, which constituted 50 percent of the total combined voting power of all classes of stock entitled to vote in N Corporation, was valued at \$50,000 at the time of H's death. In addition, W, H's wife, also a nonresident not a citizen of the United States, owned at the time of H's death stock in N Corporation constituting 25 percent of the total combined voting power of all classes of stock entitled to vote in that corporation. The fair market value of the assets of N Corporation which, at the time of H's death, were situated in the United States constituted 40 percent of the

fair market value of all assets of that corporation. It is assumed for purposes of this example that the executor of H's estate has not elected to value the estate on the alternate valuation date provided in section 2032.

(b) The test contained in subparagraph (1) (ii) (a) of this paragraph is met since at the time of his death H indirectly owned (within the meaning of section 958(a) and the regulations thereunder) 30 percent (60 percent of 50 percent) of the total combined voting power of all classes of stock entitled to vote in N Corporation; and the test contained in subparagraph (1) (ii) (b) of this paragraph is met since at such time H owned or is considered to have owned (within the meaning of section 958(a) and (b) and the regulations thereunder) 55 percent of the total combined voting power of all classes of stock entitled to vote in N Corporation (having constructive ownership of his wife's 25 percent, in addition to his own indirect ownership of 30 percent, of the total combined voting power). Accordingly, \$12,000 is included in H's gross estate by reason of section 2107(b) and this paragraph. This \$12,000 is the amount which is equal to 40 percent (the percentage of the fair market value of N Corporation's asset which were situated within the United States at H's death) of \$30,000 (the fair market value of the stock then owned by H within the meaning of section 958(a) and the regulations thereunder, i.e., H's 60-percent interest in the \$50,000 fair market value of stock held by M Company).

Example (2). (a) Assume the same facts as those given in example (1) except that H made a transfer to W in contemplation of his death (within the meaning of section 2035) of his 60-percent interest in M Company, that on the date of the transfer M Company held stock in N Corporation constituting 80 percent of the total combined voting power of all classes of stock entitled to vote in that corporation (rather than the 50 percent of total combined voting power held by M Company on the date of H's death), and that the 80 percent of total combined voting power owned by M Company on the date of the transfer is valued at \$70,000 on that date and at \$85,000 at the time of H's death. It is assumed for purposes of this example that the 60-percent interest in M Company was held by W at the time of H's death.

(b) The test contained in subparagraph (1) (ii) (a) of this paragraph is met since, under subparagraph (1) (iii) (c) of this paragraph, H is treated as owning (within the meaning of section 958(a) and the regulations thereunder), at the time of his death, the 48 percent (60 percent of 80 percent) of the total combined voting power of all classes of stock entitled to vote in N Corporation represented by his transferred interest in M Company; and the test contained in subparagraph (1) (ii) (b) of this paragraph is met since, under that subparagraph and subparagraph (1) (iii) (c) of this paragraph, H is treated as owning (within the meaning of section 958(a) or (b)), at the time of his death, 73 percent (48 percent plus 25 percent) of the total combined voting power of all classes of stock entitled to vote in N Corporation. Accordingly, \$20,400 is included in H's gross estate by reason of section 2107 (b) and this paragraph. This \$20,400 is the amount which is equal to 40 percent (the percentage of the fair market value of N Corporation's assets which were situated within the United States at H's death) of \$51,000 (the fair market value at the time of H's death of the transferred interest which under subparagraph (1) (iii) (c) of this paragraph H is considered to own within the meaning of section 958(a) and the regulations thereunder at that time, i.e., the 60-percent interest in the \$85,000 fair market value at

at time of the 80-percent total combined voting power held by M Company on the date of transfer).

(c) The fact that the stock in N Corporation owned by M Company is considered under subparagraph (1)(ii)(b) of this paragraph to be owned by H for two independent reasons (i.e., under section 958(a) and the regulations thereunder, because H transferred his 60-percent interest in M Company to W in contemplation of death, and under section 958(b) and the regulations thereunder, because H is considered to own the stock in N Corporation indirectly owned by his wife, W, by reason of her ownership of such transferred interest) does not cause the shares of stock represented by the transferred interest in M Company to be counted twice in determining whether the test contained in that subparagraph is met. See subparagraph (1)(iii)(d) of this paragraph.

Example (3). (a) At the time of his death, H, a nonresident expatriate decedent the transfer of whose estate is subject to the tax imposed by section 2107(a), owned a 40-percent beneficial interest in a domestic trust; at that time he also directly owned stock in P Corporation, a foreign corporation, constituting 15 percent of the total combined voting power of all classes of stock entitled to vote in that corporation. The trust owned stock in P Corporation constituting 51 percent of the total combined voting power of all classes of stock entitled to vote in that corporation. The stock in P Corporation owned directly by H was valued at \$20,000 on the alternate valuation date determined pursuant to an election under section 2032. The fair market value of the assets of P Corporation which, at the time of H's death, were situated in the United States constituted 20 percent of the fair market value of all assets of that corporation.

(b) By reason of section 958(b)(2) and the regulations thereunder, the trust is considered to own all the stock entitled to vote in P Corporation since it owns more than 50 percent of the total combined voting power of all classes of stock entitled to vote in that corporation. The test contained in subparagraph (1)(ii)(a) of this paragraph is met since at the time of his death H owned (within the meaning of section 958(a) and the regulations thereunder) 15 percent of the total combined voting power of all classes of stock entitled to vote in P Corporation; the stock in P Corporation owned by the trust is not considered to have been owned by H under section 958(a)(2) since the trust is not a foreign trust. In addition, the test contained in subparagraph (1)(ii)(b) of this paragraph is met since at the time of his death H owned or is considered to have owned (within the meaning of section 958(a) and (b) and the regulations thereunder) 55 percent of the total combined voting power of all classes of stock entitled to vote in that corporation (his 15 percent directly owned plus his 40 percent (40 percent of 100 percent) considered to be owned). Accordingly, \$4,000 is included in H's gross estate by reason of section 2107(b) and this paragraph. This \$4,000 is the amount which is equal to 20 percent (the percentage of the fair market value of P Corporation's assets which were situated within the United States at H's death) of \$20,000 (the fair market value of the stock then owned by H within the meaning of section 958(a) and the regulations thereunder). In addition, the value of H's interest in the domestic trust is included in his gross estate under section 2103 to the extent it constitutes property having a situs in the United States.

(c) Credits. Credits against the tax imposed by section 2107(a) are allowed for any amounts determined in accord-

ance with section 2102 and § 20.2102-1 (relating to credits against the estate tax for State death taxes, gift tax, and tax on prior transfers). In computing the special limitation on the credit for State death taxes contained in section 2102(b) and paragraph (b) of § 20.2102-1, amounts included in the gross estate under section 2107(b) and paragraph (b) (1) of this section are to be taken into account.

(d) *Decedents to whom the tax imposed by section 2107(a) applies*—(1) *General rule.* The tax imposed by section 2107(a) applies to the transfer of the taxable estate of every decedent nonresident not a citizen of the United States dying on or after November 14, 1966, who lost his U.S. citizenship after March 8, 1965, and within the 10-year period ending with the date of his death, except in the case of the estate of a decedent whose loss of U.S. citizenship either—

(i) Resulted from the application of section 301(b), 350, or 355 of the Immigration and Nationality Act, as amended (8 U.S.C. 1401(b), 1482, or 1487); or

(ii) Did not have for one of its principal purposes (but not necessarily its only principal purpose) the avoidance of Federal income, estate, or gift tax.

Section 301(b) of the Immigration and Nationality Act provides generally that a U.S. citizen, who is born outside the United States of parents one of whom is an alien and the other is a U.S. citizen who was physically present in the United States for a specified period, shall lose his U.S. citizenship if, within a specified period preceding the age of 28 years, he fails to be continuously physically present in the United States for at least 5 years. Section 350 of that Act provides that under certain circumstances a person, who at birth acquired the nationality of the United States and of a foreign country and who has voluntarily sought or claimed benefits of the nationality of any foreign country, shall lose his U.S. nationality if, after attaining the age of 22 years, he has a continuous residence for 3 years in the foreign country of which he is a national by birth. Section 355 of that Act provides that a person having U.S. nationality, who is under 21 years of age and whose residence is in a foreign country with or under the legal custody of a parent who loses his U.S. nationality under specified circumstances, shall lose his U.S. nationality if he has or acquires the nationality of that foreign country and attains the age of 25 years without having established his residence in the United States. Section 2107 and this section do not apply to the transfer of any estate the estate tax treatment of which is subject to a Presidential proclamation made pursuant to section 2108(a) (relating to the application of pre-1967 estate tax provisions in the case of a foreign country which imposes a more burdensome tax than the United States).

(2) *Burden of proof*—(i) *General rule.* In determining for purposes of subparagraph (1)(ii) of this paragraph whether

a principal purpose for the loss of U.S. citizenship by a decedent was the avoidance of Federal income, estate, or gift tax, the Commissioner must first establish that it is reasonable to believe that the decedent's loss of U.S. citizenship would, but for section 2107 and this section, result in a substantial reduction in the sum of (a) the Federal estate tax and (b) all estate, inheritance, legacy, and succession taxes imposed by foreign countries and political subdivisions thereof, in respect of the transfer of the decedent's estate. Once the Commissioner has so established, the burden of proving that the loss of citizenship by the decedent did not have for one of its principal purposes the avoidance of Federal income, estate, or gift tax shall be on the executor of the decedent's estate.

(ii) *Tentative determination of substantial reduction in Federal and foreign death taxes.* In the absence of complete factual information, the Commissioner may make a tentative determination, based on the information available, that the decedent's loss of U.S. citizenship would, but for section 2107 and this section, result in a substantial reduction in the sum of the Federal and foreign death taxes described in subdivision (i) (a) and (b) of this subparagraph. This tentative determination may be based upon the fact that the laws of the foreign country of which the decedent became a citizen and the laws of the foreign country of which the decedent was a resident at the time of his death, including the laws of any political subdivisions of those foreign countries, would ordinarily result, in the case of an estate of a non-expatriate decedent having the same citizenship and residence as the decedent, in liability for total death taxes under such laws substantially lower than the amount of the Federal estate tax which would be imposed on the transfer of a comparable estate of a citizen of the United States. In the absence of a preponderance of evidence to the contrary, this tentative determination shall be sufficient to establish that it is reasonable to believe that the decedent's loss of U.S. citizenship would, but for section 2107 and this section, result in a substantial reduction in the sum of the Federal and foreign death taxes described in subdivision (i) (a) and (b) of this subparagraph.

§ 20.2108 Statutory provisions; application of pre-1967 estate tax provisions.

Sec. 2108. Application of pre-1967 estate tax provisions—(a) Imposition of more burdensome tax by foreign country. Whenever the President finds that—

(1) Under the laws of any foreign country, considering the tax system of such foreign country, a more burdensome tax is imposed by such foreign country on the transfer of estates of decedents who were citizens of the United States and not residents of such foreign country than the tax imposed by this subchapter on the transfer of estates of decedents who were residents of such foreign country,

(2) Such foreign country, when requested by the United States to do so, has not acted

to revise or reduce such tax so that it is no more burdensome than the tax imposed by this subchapter on the transfer of estates of decedents who were residents of such foreign country, and

(3) It is in the public interest to apply pre-1967 tax provisions in accordance with this section to the transfer of estates of decedents who were residents of such foreign country.

the President shall proclaim that the tax on the transfer of the estate of every decedent who was a resident of such foreign country at the time of his death shall, in the case of decedents dying after the date of such proclamation, be determined under this subchapter without regard to amendments made to sections 2101 (relating to tax imposed), 2102 (relating to credits against tax), 2106 (relating to taxable estate), and 6018 (relating to estate tax returns) on or after the date of enactment of this section.

(b) *Alleviation of more burdensome tax.* Whenever the President finds that the laws of any foreign country with respect to which the President has made a proclamation under subsection (a) have been modified so that the tax on the transfer of estates of decedents who were citizens of the United States and not residents of such foreign country is no longer more burdensome than the tax imposed by this subchapter on the transfer of estates of decedents who were residents of such foreign country, he shall proclaim that the tax on the transfer of the estate of every decedent who was a resident of such foreign country at the time of his death shall, in the case of decedents dying after the date of such proclamation, be determined under this subchapter without regard to subsection (a).

(c) *Notification of Congress required.* No proclamation shall be issued by the President pursuant to this section unless, at least 30 days prior to such proclamation, he has notified the Senate and the House of Representatives of his intention to issue such proclamation.

(d) *Implementation by regulations.* The Secretary or his delegate shall prescribe such regulations as may be necessary or appropriate to implement this section.

[Sec. 2108 as added by sec. 108(f), Foreign Investors Tax Act 1966 (80 Stat. 1573)]

PAR. 24. Section 20.6018 is amended by revising section 6018(a) (2) and adding a historical note. These amended and added provisions read as follows:

§ 20.6018 Statutory provisions; estate tax returns.

SEC. 6018. *Estate tax returns—(a) Returns by executor.*

(2) *Nonresidents not citizens of the United States.* In the case of the estate of every nonresident not a citizen of the United States if that part of the gross estate which is situated in the United States exceeds \$30,000, the executor shall make a return with respect to the estate tax imposed by subtitle B.

[Sec. 6018 as amended by sec. 108(g), Foreign Investors Tax Act 1966 (80 Stat. 1574)]

PAR. 25. Section 20.6018-1 is amended by revising paragraph (b) to read as follows:

§ 20.6018-1 Returns.

(b) *Estates of nonresidents not citizens—(1) In general.* Except as pro-

vided in subparagraph (2) of this paragraph, a return must be filed on Form 706 or Form 706NA for the estate of every nonresident not a citizen of the United States if the value of that part of the gross estate situated in the United States on the date of his death exceeded \$30,000 in the case of a decedent dying on or after November 14, 1966, or \$2,000 in the case of a decedent dying before November 14, 1966. Under certain conditions the return may be made only on Form 706. See the instructions on Form 706NA for circumstances under which that form may not be used. Duplicate copies of the return are not required to be filed. For the contents of the return, see § 20.6018-3. For the determination of the gross estate situated in the United States, see §§ 20.2103-1 and 20.2104-1.

(2) *Certain estates of decedents dying on or after November 14, 1966.* In the case of an estate of a nonresident not a citizen of the United States dying on or after November 14, 1966—

(i) *Transfers subject to the tax imposed by section 2107(a).* If the transfer of the estate is subject to the tax imposed by section 2107(a) (relating to expatriation to avoid tax), any amounts includible in the decedent's gross estate under section 2107(b) are to be added to the value on the date of his death of that part of his gross estate situated in the United States, for purposes of determining under subparagraph (1) of this paragraph whether his gross estate exceeded \$30,000 on the date of his death.

(ii) *Transfers subject to a Presidential proclamation.* If the transfer of the estate is subject to tax pursuant to a Presidential proclamation made under section 2108(a) (relating to Presidential proclamations of the application of pre-1967 estate tax provisions), the return must be filed on Form 706 or Form 706NA if the value on the date of the decedent's death of that part of his gross estate situated in the United States exceeded \$2,000.

PAR. 26. Section 20.6018-3 is amended by revising paragraph (b) to read as follows:

§ 20.6018-3 Returns; contents of returns.

(b) *Nonresidents not citizens.* The return of an estate of a decedent who was not a citizen or resident of the United States at the time of his death must contain the following information: (1) An itemized list of that part of the gross estate situated in the United States (see §§ 20.2103-1 and 20.2104-1); (2) in the case of an estate the transfer of which is subject to the tax imposed by section 2107(a) (relating to expatriation to avoid tax), a list of any amounts with respect to stock in a foreign corporation which are includible in the gross estate under section 2107(b), together with an explanation of how the amounts were determined; (3) an itemized list of any

deductions claimed (see §§ 20.2106-1 and 20.2106-2); (4) the amount of the taxable estate (see § 20.2106-1); and (5) the gross estate tax, reduced by any credits against the tax (see § 20.2102-1). For the disallowance of certain deductions if the return does not disclose that part of the gross estate not situated in the United States, see §§ 20.2106-1 and 20.2106-2.

PAR. 27. Section 20.6018-4 is amended by revising paragraph (c) to read as follows:

§ 20.6018-4 Returns; documents to accompany the return.

(c) In the case of an estate of a nonresident not a citizen of the United States, the executor must also file with the return, but only if deductions are claimed or the transfer of the estate is subject to the tax imposed by section 2107(a) (relating to expatriation to avoid tax), a copy of the inventory of property filed under the foreign death duty act; or, if no such inventory was filed, a certified copy of the inventory filed with the foreign court of probate jurisdiction.

PAR. 28. Section 20.6036-1 is amended by revising paragraph (a) to read as follows:

§ 20.6036-1 Notice of qualification as executor.

(a) *Preliminary notice for estates of decedents dying before January 1, 1971.*

(1) A preliminary notice must be filed on Form 704 for the estate of every citizen or resident of the United States whose gross estate exceeded \$60,000 in value on the date of his death.

(2) In the case of a nonresident not a citizen of the United States dying on or after November 14, 1966—

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, a preliminary notice must be filed on Form 705 if that part of the decedent's gross estate situated in the United States exceeded \$30,000 in value on the date of his death (see §§ 20.2103-1 and 20.2104-1).

(ii) If the transfer of the estate is subject to the tax imposed by section 2107(a) (relating to expatriation to avoid tax), any amounts includible in the decedent's gross estate under section 2107(b) are to be added to the value on the date of his death of that part of his gross estate situated in the United States, for purposes of determining under subdivision (i) of this subparagraph whether his gross estate exceeded \$30,000 in value on the date of his death.

(iii) If the transfer of the estate is subject to tax pursuant to a Presidential proclamation made under section 2108(a) (relating to Presidential proclamations of the application of pre-1967 estate tax provisions), a preliminary notice must be filed on Form 705 if the value on the date of the decedent's death of that part of his gross estate

situated in the United States exceeded \$2,000.

(3) A preliminary notice must be filed on Form 705 for the estate of every nonresident not a citizen of the United States dying before November 14, 1966, if the value on the date of his death of that part of his gross estate situated in the United States exceeded \$2,000.

(4) The value of the gross estate on the date of death governs with respect to the requirement for filing the preliminary notice irrespective of whether the value of the gross estate is, at the executor's election, finally determined pursuant to the provisions of section 2032 as of a date subsequent to the date of death. If there is doubt as to whether the gross estate exceeds \$60,000, \$30,000, or \$2,000, as the case may be, the notice shall be filed as a matter of precaution in order to avoid the possibility of penalties attaching.

(5) The primary purpose of the preliminary notice is to advise the Internal Revenue Service of the existence of taxable estates, and filing shall not be delayed beyond the period provided for in § 20.6071-1 merely because of uncertainty as to the exact value of the assets. The estimate of the gross estate called for by the notice shall be the best approximation of value which can be made within the time allowed. Duplicate copies of the preliminary notice are not required to be filed.

(6) For criminal penalties for failure to file a notice and filing a false or fraudulent notice, see sections 7203, 7207, and 7269. See § 20.6091-1 for the place for filing the notice. See § 20.6071-1 for the time for filing the notice.

PAR. 29. Section 20.6325-1 is amended by revising paragraph (b) to read as follows:

§ 20.6325-1 Release of lien or partial discharge of property; transfer certificates in nonresident estates.

(b) (1) In the case of a nonresident not a citizen of the United States dying on or after November 14, 1966—

(i) Subject to the provisions of subdivisions (ii) and (iii) of this subparagraph, a transfer certificate is not required with respect to the transfer of any property of the decedent if the value on the date of his death of that part of his gross estate situated in the United States did not exceed \$30,000.

(ii) If the transfer of the estate is subject to the tax imposed by section 2107(a) (relating to expatriation to avoid tax), any amounts which are includible in the decedent's gross estate under section 2107(b) are to be added to the value on the date of his death of that part of his gross estate situated in the United States, for purposes of determining under subdivision (i) of this subparagraph whether his gross estate did or did not exceed \$30,000 in value on the date of his death.

(iii) If the transfer of the estate is subject to tax pursuant to a Presidential

proclamation made under section 2108 (a) (relating to Presidential proclamations of the application of pre-1967 estate tax provisions), a transfer certificate is not required with respect to the transfer of any property of the decedent if the value on the date of his death of that part of his gross estate situated in the United States did not exceed \$2,000.

(2) In the case of a nonresident not a citizen of the United States dying before November 14, 1966, a transfer certificate is not required with respect to the transfer of (i) any property of the decedent, if the value on the date of his death of that part of his gross estate situated in the United States did not exceed \$2,000, or (ii) bonds owned by such a decedent if it is shown that the bonds were not physically situated in the United States at the time of his death.

(3) A corporation, transfer agent, bank, trust company, or other custodian will not incur liability for a transfer of the decedent's property without a transfer certificate if the corporation or other person, having no information to the contrary, first receives from the executor or other responsible person, who may be reasonably regarded as in possession of the pertinent facts, a statement of the facts relating to the estate showing that the sum of the value on the date of the decedent's death of that part of his gross estate situated in the United States, and, if applicable, any amounts includible in his gross estate under section 2107(b), is such an amount that, pursuant to the provisions of subparagraph (1) or subparagraph (2) (i) of this paragraph, a transfer certificate is not required.

(4) For the determination of the gross estate situated in the United States, see §§ 20.2103-1 and 20.2104-1.

B. Part 25 of 26 CFR Chapter I is amended as follows:

PAR. 30. Section 25.2501-1 is amended by revising paragraph (a) to read as follows:

§ 25.2501-1 Imposition of tax.

(a) In general. (1) The tax applies to all transfers by gift of property, wherever situated, by an individual who is a citizen or resident of the United States, to the extent the value of the transfers exceeds the amount of the exclusions authorized by section 2503 and the deductions authorized by sections 2521, 2522, and 2523. For the first calendar quarter of 1971 and each calendar quarter thereafter, the tax described in this subparagraph is imposed on the transfer of property by gift during such calendar quarter. For calendar years after 1954 and before 1971, the tax described in this subparagraph is imposed on the transfer of property by gift during such calendar year.

(2) The tax does not apply to a transfer by gift of intangible property before January 1, 1967, by a nonresident not a citizen of the United States, unless the donor was engaged in business in the United States during the calendar year in which the transfer was made.

(3) (i) The tax does not apply to any transfer by gift of intangible property on or after January 1, 1967, by a nonresident not a citizen of the United States (whether or not he was engaged in business in the United States), unless the donor is an expatriate who lost his U.S. citizenship after March 8, 1965, and within the 10-year period ending with the date of transfer, and the loss of citizenship—

(a) Did not result from the application of section 301(b), 350, or 355 of the Immigration and Nationality Act, as amended (8 U.S.C. 1401(b), 1482, or 1487) (For a summary of these sections, see paragraph (d) (1) of § 20.2107-1 of this chapter (estate tax regulations)), and

(b) Had for one of its principal purposes (but not necessarily its only principal purpose) the avoidance of Federal income, estate, or gift tax.

(ii) In determining for purposes of subdivision (1) (b) of this subparagraph whether a principal purpose for the loss of U.S. citizenship by a donor was the avoidance of Federal income, estate, or gift tax, the Commissioner must first establish that it is reasonable to believe that the donor's loss of U.S. citizenship would, but for section 2501(a) (3) and this subparagraph, result in a substantial reduction for the calendar quarter in the sum of (a) the Federal gift tax and (b) all gift taxes imposed by foreign countries and political subdivisions thereof, in respect of the transfer of property by gift. Once the Commissioner has so established, the burden of proving that the loss of citizenship by the donor did not have for one of its principal purposes the avoidance of Federal income, estate, or gift tax shall be on the donor. In the absence of complete factual information, the Commissioner may make a tentative determination, based on the information available, that the donor's loss of U.S. citizenship would, but for section 2501(a) (3) and this subparagraph, result in a substantial reduction for the calendar quarter in the sum of the Federal and foreign gift taxes described in (a) and (b) of this subdivision on the transfer of property by gift. This tentative determination may be based upon the fact that the laws of the foreign country of which the donor became a citizen and the laws of the foreign country of which the donor was a resident at the time of the transfer, including the laws of any political subdivision of those foreign countries, would ordinarily result, in the case of a nonexpatriate donor having the same citizenship and residence as the donor, in liability for total gift taxes under such laws for the calendar quarter substantially lower than the amount of the Federal gift tax which would be imposed for such quarter on an amount of comparable gifts by a citizen of the United States. In the absence of a preponderance of evidence to the contrary, this tentative determination shall be sufficient to establish that it is reasonable to believe that the donor's loss of U.S. citizenship would, but for section 2501(a) (3) and this subparagraph, result in a substantial reduction

for the calendar quarter in the sum of the Federal and foreign gift taxes described in (a) and (b) of this subdivision on the transfer of property by gift.

(iii) The term "calendar quarter", as used in subdivision (ii) of this subparagraph, shall be construed to mean "calendar year" in the case of gifts made during calendar years before 1971.

(4) For additional rules relating to the application of the tax to transfers by nonresidents not citizens of the United States, see section 2511 and § 25.2511-3.

PAR. 31. Section 25.2511 is amended by revising section 2511(b) and adding a historical note. These amended and added provisions read as follows:

§ 25.2511 Statutory provisions; transfers in general.

Sec. 2511. *Transfers in general.* * * *
(b) *Intangible property.* For purposes of this chapter, in the case of a nonresident not a citizen of the United States who is excepted from the application of section 2501(a)(2)—

- (1) Shares of stock issued by a domestic corporation, and
- (2) Debt obligations of—
(A) A United States person, or
(B) The United States, a State or any political subdivision thereof, or the District of Columbia,

which are owned and held by such nonresident shall be deemed to be property situated within the United States.

[Sec. 2511 as amended by sec. 109(b), Foreign Investors Tax Act 1966 (80 Stat. 1575)]

PAR. 32. Section 25.2511-1 is amended by revising paragraph (b) to read as follows:

§ 25.2511-1 Transfers in general.

(b) In the case of a gift by a nonresident not a citizen of the United States—

(1) If the gift was made on or after January 1, 1967, by a donor who was not an expatriate to whom section 2501(a)(2) was inapplicable on the date of the gift by reason of section 2501(a)(3) and paragraph (a)(3) of § 25.2501-1, or

(2) If the gift was made before January 1, 1967, by a donor who was not engaged in business in the United States during the calendar year in which the gift was made,

the gift tax applies only if the gift consisted of real property or tangible personal property situated within the United States at the time of the transfer. See §§ 25.2501-1 and 25.2511-3.

PAR. 33. Section 25.2511-3 is amended to read as follows:

§ 25.2511-3 Transfers by nonresidents not citizens.

(a) *In general.* Sections 2501 and 2511 contain rules relating to the taxation of transfers of property by gift by a donor who is a nonresident not a citizen of the United States. (See paragraph (b) of

§ 25.2501-1 for the definition of the term "resident" for purposes of the gift tax.) As combined these rules are:

(1) The gift tax applies only to the transfer of real property and tangible personal property situated in the United States at the time of the transfer if either—

(i) The gift was made on or after January 1, 1967, by a nonresident not a citizen of the United States who was not an expatriate to whom section 2501(a)(2) was inapplicable on the date of the gift by reason of section 2501(a)(3) and paragraph (a)(3) of § 25.2501-1, or

(ii) The gift was made before January 1, 1967, by a nonresident not a citizen of the United States who was not engaged in business in the United States during the calendar year in which the gift was made.

(2) The gift tax applies to the transfer of all property (whether real or personal, tangible or intangible) situated in the United States at the time of the transfer if either—

(i) The gift was made on or after January 1, 1967, by a nonresident not a citizen of the United States who was an expatriate to whom section 2501(a)(2) was inapplicable on the date of the gift by reason of section 2501(a)(3) and paragraph (a)(3) of § 25.2501-1, or

(ii) The gift was made before January 1, 1967, by a nonresident not a citizen of the United States who was engaged in business in the United States during the calendar year in which the gift was made.

(b) *Situs of property.* For purposes of applying the gift tax to the transfer of property owned and held by a nonresident not a citizen of the United States at the time of the transfer—

(1) *Real property and tangible personal property.* Real property and tangible personal property constitute property within the United States only if they are physically situated therein.

(2) *Intangible personal property.* Except as provided otherwise in subparagraphs (3) and (4) of this paragraph, intangible personal property constitutes property within the United States if it consists of a property right issued by or enforceable against a resident of the United States or a domestic corporation (public or private), irrespective of where the written evidence of the property is physically located at the time of the transfer.

(3) *Shares of stock.* Irrespective of where the stock certificates are physically located at the time of the transfer—

(i) Shares of stock issued by a domestic corporation constitute property within the United States, and

(ii) Shares of stock issued by a corporation which is not a domestic corporation constitute property situated outside the United States.

(4) *Debt obligations.* (i) In the case of gifts made on or after January 1, 1967, a debt obligation, including a bank deposit, the primary obligor of which is a United States person (as defined in section 7701(a)(30)), the United States, a

State, or any political subdivision thereof, the District of Columbia, or any agency or instrumentality of any such government constitutes property situated within the United States. This subdivision applies—

(a) In the case of a debt obligation of a domestic corporation, whether or not any interest on the obligation would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(B) (relating to interest received from a domestic corporation less than 20 percent of whose gross income for a 3-year period was derived from sources within the United States) and the regulations thereunder;

(b) In the case of an amount described in section 861(c) (relating to certain bank deposits, withdrawable accounts, and amounts held by an insurance company under an agreement to pay interest), whether or not any interest thereon would be treated under section 862(a)(1) as income from sources without the United States by reason of section 861(a)(1)(A) (relating to interest on amounts described in section 861(c) which is not effectively connected with the conduct of a trade or business within the United States) and the regulations thereunder;

(c) In the case of a deposit with a domestic corporation or domestic partnership, whether or not the deposit is with a foreign branch thereof engaged in the commercial banking business; and

(d) Irrespective of where the written evidence of the debt obligation is physically located at the time of the transfer.

For purposes of this subdivision, a debt obligation on which there are two or more primary obligors shall be apportioned among such obligors, taking into account to the extent appropriate under all the facts and circumstances any choate or inchoate rights of contribution existing among such obligors with respect to the indebtedness. The term "agency or instrumentality", as used in this subdivision, does not include a possession of the United States or an agency or instrumentality of a possession.

(ii) In the case of gifts made on or after January 1, 1967, a debt obligation, including a bank deposit, not deemed under subdivision (i) of this subparagraph to be situated within the United States, constitutes property situated outside the United States.

(iii) In the case of gifts made before January 1, 1967, a debt obligation the written evidence of which is treated as being the property itself constitutes property situated within the United States if the written evidence of the obligation is physically located in the United States at the time of the transfer, irrespective of who is the primary obligor on the debt. If the written evidence of the obligation is physically located outside the United States, the debt obligation constitutes property situated outside the United States.

(iv) Currency is not a debt obligation for purposes of this subparagraph.

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