

2519 (as well as 40 percent of the income interest under section 2511), no part of the trust is includible in S's gross estate under section 2044. However, if S retains until death an income interest in 60 percent of the trust corpus (which corpus is treated pursuant to section 2519 as having been transferred by S for both gift and estate tax purposes), 60 percent of the property will be includible in S's gross estate under section 2036(a) and a corresponding adjustment is made in S's adjusted taxable gifts.

Example 6. Inter vivos trust subject to election under section 2523(f). D transferred \$800,000 to a trust providing that trust income is to be paid annually to S, for S's life. The trust provides that upon S's death, \$100,000 of principal is to be paid to X charity and the remaining principal distributed to D's children. D elected to treat all of the property transferred to the trust as qualified terminable interest property under section 2523(f). At the time of S's death, the fair market value of the trust is \$1,000,000. S's executor does not elect the alternate valuation date. The amount included in S's gross estate is \$1,000,000; i.e., the fair market value at S's death of the entire trust property. The \$100,000 that passes to X charity on S's death is treated as a transfer by S to X charity for purposes of section 2055. Therefore, S's estate is allowed a charitable deduction for the \$100,000 transferred from the trust to the charity to the same extent that a deduction would be allowed by section 2055 for a bequest by S to X charity.

Example 7. Spousal interest in the form of an annuity. D died prior to October 24, 1992, the effective date of the Energy Policy Act of 1992 (Pub. L. 102-486). See § 20.2056(b)-7(e). Under D's will, assets valued at \$500,000 in D's gross estate (net of debts, expenses and other charges, including death taxes, payable from the property) passed in trust pursuant to which an annuity of \$20,000 a year was payable to S for S's life. Trust income not paid to S as an annuity is to be accumulated in the trust and may not be distributed during S's lifetime. D's estate deducted \$200,000 under section 2056(b)(7) and § 20.2056(b)-7(e)(2). S did not assign any portion of S's interest during S's life. At the time of S's death, the value of the trust property is \$800,000. S's executor does not elect the alternate valuation date. The amount included in S's gross estate pursuant to section 2044 is \$320,000 $(\$200,000/\$500,000) \times \$800,000$.

Example 8. Inclusion of trust property when surviving spouse dies before first decedent's estate tax return is filed. D dies on July 1, 1997. Under the terms of D's will, a trust is established for the benefit of D's spouse, S. The will provides that S is entitled to receive the income from that portion of the trust that the executor elects to treat as qualified terminable interest property. The remaining portion of the trust passes as of D's date of

death to a trust for the benefit of C, D's child. The trust terms otherwise provide S with a qualifying income interest for life under section 2056(b)(7)(B)(ii). S dies on February 10, 1998. On April 1, 1998, D's executor files D's estate tax return on which an election is made to treat a portion of the trust as qualified terminable interest property under section 2056(b)(7). S's estate tax return is filed on November 10, 1998. The value on the date of S's death of the portion of the trust for which D's executor made a QTIP election is includible in S's gross estate under section 2044.

[T.D. 8522, 59 FR 9646, Mar. 1, 1994, as amended by T.D. 8779, 63 FR 44393, Aug. 19, 1998]

§ 20.2044-2 Effective dates.

Except as specifically provided in *Example 7* of § 20.2044-1(e), the provisions of § 20.2044-1 are effective with respect to estates of a decedent-spouse dying after March 1, 1994. With respect to estates of decedent-spouses dying on or before such date, taxpayers may rely on any reasonable interpretation of the statutory provisions. For these purposes, the provisions of § 20.2044-1 (as well as project LR-211-76, 1984-1 C.B., page 598, see § 601.601(d)(2)(ii)(b) of this chapter), are considered a reasonable interpretation of the statutory provisions.

[T.D. 8522, 59 FR 9647, Mar. 1, 1994]

§ 20.2045-1 Applicability to pre-existing transfers or interests.

Sections 2034 through 2042 are applicable regardless of when the interests and events referred to in those sections were created or took place, except as otherwise provided in those sections and the regulations thereunder.

[T.D. 6334, 23 FR 8904, Nov. 15, 1958; 25 FR 14021, Dec. 31, 1960. Redesignated by T.D. 8522, 59 FR 9646, Mar. 1, 1994]

§ 20.2046-1 Disclaimed property.

(a) This section shall apply to the disclaimer or renunciation of an interest in the person disclaiming by a transfer made after December 31, 1976. For rules relating to when the transfer creating the interest occurs, see § 25.2518-2(c)(3) and (c)(4) of this chapter. If a qualified disclaimer is made with respect to such a transfer, the Federal estate tax provisions are to apply with respect to the property interest disclaimed as if the interest had

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never been transferred to the person making the disclaimer. See section 2518 and the corresponding regulations for rules relating to a qualified disclaimer.

(b) The first and second sentences of this section are applicable for transfers creating the interest to be disclaimed made on or after December 31, 1997.

[T.D. 8744, 62 FR 68184, Dec. 31, 1997]

**ACTUARIAL TABLES APPLICABLE BEFORE
MAY 1, 1999**

§ 20.2031-7A Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before May 1, 1999.

(a) *Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is before January 1, 1952.* Except as otherwise provided in § 20.2031-7(b), if the valuation date of the decedent's gross estate is before January 1, 1952, the present value of annuities, life estates, terms for years, remainders, and reversions is their present value determined under this section. If the valuation of the interest involved is dependent upon the continuation or termination of one or more lives or upon a term certain concurrent with one or more lives, the factor for the present value is computed on the basis of interest at the rate of 4 percent a year, compounded annually, and life contingencies as to each life involved from values that are based on the Actuaries' or Combined Experience Table of Mortality, as extended. This table and related factors are described in former § 81.10 (as contained in the 26 CFR part 81 edition revised as of April 1, 1958). The present value of an interest measured by a term of years is computed on the basis of interest at the rate of 4 percent a year.

(b) *Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is after December 31, 1951, and before January 1, 1971.* Except as otherwise provided in § 20.2031-7(b), if the valuation date for the decedent's gross estate is after December 31, 1951,

and before January 1, 1971, the present value of annuities, life estates, terms of years, remainders, and reversions is their present value determined under this section. If the valuation of the interest involved is dependent upon the continuation or termination of one or more lives, or upon a term certain concurrent with one or more lives, the factor for the present value is computed on the basis of interest at the rate of 3½ percent a year, compounded annually, and life contingencies as to each life involved are taken from U.S. Life Table 38. This table and related factors are set forth in former § 20.2031-7 (as contained in the 26 CFR part 20 edition revised as of April 1, 1984). Special factors involving one and two lives may be found in or computed with the use of tables contained in the publication entitled "Actuarial Values for Estate and Gift Tax," Internal Revenue Service Publication Number 11 (Rev. 5-59). This publication is no longer available for purchase from the Superintendent of Documents. However, it may be obtained by requesting a copy from: CC:DOM:CORP:T:R (IRS Publication 11), room 5228, Internal Revenue Service, POB 7604, Ben Franklin Station, Washington, DC 20044. The present value of an interest measured by a term of years is computed on the basis of interest at the rate of 3½ percent a year.

(c) *Valuation of annuities, interests for life or term of years, and remainder or reversionary interests for estates of decedents for which the valuation date of the gross estate is after December 31, 1970, and before December 1, 1983.* Except as otherwise provided in § 20.2031-7(b), if the valuation date of the decedent's gross estate is after December 31, 1970, and before December 1, 1983, the present value of annuities, life estates, terms of years, remainders, and reversions is their present value determined under this section. If the valuation of the interest involved is dependent upon the continuation of or termination of one or more lives or upon a term certain concurrent with one or more lives, the factor for the present value is computed on the basis of interest at the rate of 6 percent a year, compounded annually, and life contingencies are determined as to each male and female