

§ 25.2523(i)-3

tenancy under the principles of section 2515 and the regulations thereunder, the amount treated as a gift to *B* on creation of the tenancy under section 2511 is treated as *B*'s con-

tribution towards the purchase of the property. Accordingly, the termination of the tenancy results in a gift of \$200,000 from *A* to *B* determined as follows:

$$\frac{\$150,000 \text{ (consideration furnished by A)}}{\$300,000 \text{ (total consideration deemed furnished by both spouses)}} \times \$400,000 \text{ (proceeds of termination)} = \$200,000 \text{ (Proceeds of termination attributable to A.)}$$

\$200,000-0 (proceeds received by *A*)=\$200,000 gift by *A* to *B*.

(c) *Tenancies by the entirety in personal property where one spouse is not a United States citizen*—(1) *In general.* In the case of the creation (either by one spouse alone or by both spouses where at least one of the spouses is not a United States citizen) of a joint interest in personal property with right of survivorship, or additions to the value thereof in the form of improvements, reductions in the indebtedness thereof, or otherwise, the retained interest of each spouse, solely for purposes of determining whether there has been a gift by the donor to the spouse who is not a citizen of the United States at the time of the gift, is treated as one-half of the value of the joint interest. See section 2523(i) and §§ 25.2523(i)-1 and 25.2503-2(f) as to certain of the tax consequences that may result upon creation and termination of the tenancy.

(2) *Exception.* The rule provided in paragraph (c)(1) of this section does not apply with respect to any joint interest in property if the fair market value of the interest in property (determined as if each spouse had a right to sever) cannot reasonably be ascertained except by reference to the life expectancy of one or both spouses. In these cases, actuarial principles may need to be resorted to in determining the gift tax consequences of the transaction.

[T.D. 8612, 60 FR 43553, Aug. 22, 1995]

§ 25.2523(i)-3 Effective date.

The provisions of §§ 25.2523(i)-1 and 25.2523(i)-2 are effective in the case of gifts made after August 22, 1995.

[T.D. 8612, 60 FR 43554, Aug. 22, 1995]

§ 25.2524-1 Extent of deductions.

Under the provisions of section 2524, the charitable deduction provided for in section 2522 and the marital deduction provided for in section 2523 are allowable only to the extent that the gifts, with respect to which those deductions are authorized, are included in the "total amount of gifts" made during the "calendar period" (as defined in § 25.2502-1(c)(1)), computed as provided in section 2503 and § 25.2503-1 (i.e., the total gifts less exclusions). The following examples (in both of which it is assumed that the donor has previously utilized his entire \$30,000 specific exemption provided by section 2521, which was in effect at the time) illustrate the application of the provisions of this section:

Example (1). A donor made transfers by gift to his spouse of \$5,000 cash on January 1, 1971, and \$1,000 cash on April 5, 1971. The donor made no other transfers during 1971. The first \$3,000 of such gifts for the calendar year is excluded under the provisions of section 2503(b) in determining the "total amount of gifts" made during the first calendar quarter of 1971. The marital deduction for the first calendar quarter of \$2,500 (one-half of \$5,000) otherwise allowable is limited by section 2524 to \$2,000. The amount of taxable gifts is zero (\$5,000-\$3,000 (annual exclusion) -\$2,000 (marital deduction)). For the second calendar quarter of 1971, the marital deduction is \$500 (one-half of \$1,000); the amount excluded under section 2503(b) is zero because the entire \$3,000 annual exclusion was applied against the gift in the first calendar quarter of 1971; and the amount of taxable gifts is \$500 (\$1,000-\$500 (marital deduction)).

Example (2). The only gifts made by a donor to his spouse during calendar year 1969 were a gift of \$2,400 in May and a gift of \$3,000 in August. The first \$3,000 of such gifts is excluded under the provisions of section 2503(b) in determining the "total amount of gifts"