

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.

(m)(1) In the case of an estate of a decedent dying after December 31, 1972, except as otherwise provided in paragraph (m)(2) of this section any debt obligation to the extent that the primary obligor on the debt obligation is a domestic corporation or domestic partnership, 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)(G) (relating to interest received on certain debt obligations with respect to which elections have been made under section 4912(c)) and the regulations thereunder. This paragraph applies whether or not (i) the obligation is in fact interest bearing, (ii) the written evidence of the debt obligation is treated as being the property itself, or (iii) 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.

(2) In the case of an estate of a decedent dying before January 1, 1974, this paragraph does not apply to any debt

obligation of a foreign corporation assumed by a domestic corporation which is treated under section 4912(c)(2) as issued by such domestic corporation during 1973.

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 6684, 28 FR 11410, Oct. 24, 1963; T.D. 7296, 38 FR 34196, Dec. 12, 1973; T.D. 7321, 39 FR 29597, Aug. 16, 1974]

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

(a) The taxable estate of a non-resident 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:

(1) The deductions allowed in the case of estates of decedents who were citizens or residents of the United States under sections 2053 and 2054 (see §§ 20.2053-1 through 20.2053-9 and § 20.2054-1) for expenses, indebtedness and taxes, and for losses, to the extent provided in § 20.2106-2.

(2) A deduction computed in the same manner as the one allowed under section 2055 (see §§ 20.2055-1 through 20.2055-5) for charitable, etc., transfers, except—

(i) That the deduction is allowed only for transfers to corporations and associations created or organized in the United States, and to trustees for use within the United States, and

(ii) That the provisions contained in paragraph (c)(2) of § 20.2055-2 relating to termination of a power to consume are not applicable.

(3) Subject to the special rules set forth at § 20.2056A-1(c), the amount which would be deductible with respect to property situated in the United States at the time of the decedent's death under the principles of section 2056. Thus, if the surviving spouse of the decedent is a citizen of the United States at the time of the decedent's death, a marital deduction is allowed

with respect to the estate of the decedent if all other applicable requirements of section 2056 are satisfied. If the surviving spouse of the decedent is not a citizen of the United States at the time of the decedent's death, the provisions of section 2056, including specifically the provisions of section 2056(d) and (unless section 2056(d)(4) applies) the provisions of section 2056A (QDOTs) must be satisfied.

(b) Section 2106(b) provides that no deduction is allowed under paragraph (a) (1) or (2) of this section unless the executor discloses in the estate tax return the value of that part of the gross estate not situated in the United States. See § 20.2105-1. Such part must be valued as of the date of the decedent's death, or if the alternate valuation method under section 2032 is elected, as of the applicable valuation date.

[T.D. 6296, 23 FR 5429, June 24, 1958, as amended by T.D. 6526, 26 FR 417, Jan. 19, 1961; T.D. 7296, 38 FR 34197, Dec. 12, 1973; T.D. 7318, 39 FR 25457, July 11, 1974; T.D. 8612, 60 FR 43552, Aug. 22, 1995]

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

(a) In computing the taxable estate of a nonresident who was not a citizen of the United States at the time of his death, deductions are allowed under sections 2053 and 2054 for expenses, indebtedness and taxes, and for losses, to the following extent:

(1) A pledge or subscription is deductible if it is an enforceable claim against the estate and if it would constitute an allowable deduction under paragraph (a)(2) of § 20.2106-1, relating to charitable, etc., transfers, if it had been a bequest.

(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.

(b) In order that the Internal Revenue Service may properly pass upon the items claimed as deductions, the executor should submit a certified copy of the schedule of liabilities, claims against the estate, and expenses of administration filed under any applicable foreign death duty act. If no such schedule was filed, the executor should submit a certified copy of the schedule of these liabilities, claims and expenses filed with the foreign court in which administration was had. If the items of deduction allowable under section 2106(a)(1) were not included in either such schedule, or if no such schedules were filed, then there should be submitted a written statement of the foreign executor containing a declaration that it is made under the penalties of perjury setting forth the facts relied upon as entitling the estate to the benefit of the particular deduction or deductions.

[T.D. 6296, 23 FR 4529, June 24, 1958; 25 FR 14021, Dec. 31, 1960, as amended by T.D. 7296, 38 FR 34197, Dec. 12, 1973; T.D. 8612, 60 FR 43552, Aug. 22, 1995]

§ 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