modification of these definitions if a deduction is allowed under section 2053(d) for State death taxes paid with respect to a charitable gift.

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 6526, 26 FR 414, Jan. 19, 1961]

§ 20.2011–2 Limitation on credit if a deduction for State death taxes is allowed under section 2053(d).

If a deduction is allowed under section 2053(d) for State death taxes paid with respect to a charitable gift, the credit for State death taxes is subject to special limitations. Under these limitations, the credit cannot exceed the least of the following:

(a) The amount of State death taxes paid other than those for which a deduction is allowed under section 2053(d);

(b) The amount indicated in section 2011(b) to be the maximum credit allowable with respect to the decedent's taxable estate; or

(c) An amount, A, which bears the same ratio to B (the amount which would be the maximum credit allowable under section 2011(b) if the deduction under section 2053(d) for State death taxes were not allowed in computing the decedent's taxable estate) as C (the amount of State death taxes paid other than those for which a deduction is allowed under section 2053(d)) bears to D (the total amount of State death taxes paid). For the purpose of this computation, in determining what the decedent's taxable estate would be if the deduction for State death taxes under section 2053(d) were not allowed, adjustment must be made for the decrease in the deduction for charitable gifts under section 2055 or 2106(a)(2) (for estates of nonresidents not citizens) by reason of any increase in Federal estate tax which would be charged against the charitable gifts.

The application of this section may be illustrated by the following example:

Example. The decedent died January 1, 1955, leaving a gross estate of $925,000. Expenses, indebtedness, etc., amounted to $25,000. The decedent bequeathed $400,000 to his son with the direction that the son bear the State death taxes on the bequest. The residuary estate was left to a charitable organization. Except as noted above, all Federal and State death taxes were payable out of the residuary estate. The State imposed death taxes of $60,000 on the son's bequest and death taxes of $75,000 on the bequest to charity. No death taxes were imposed by a foreign country with respect to any property in the gross estate. The decedent's taxable estate (determined without regard to the limitation imposed by section 2011(e)(2)(B) is computed as follows:

Gross estate				$925,000.00
Expenses, indebtedness, etc.			$25,000.00	
Exemption			60,000.00	
Deduction under section 2053(d)			75,000.00	
Charitable deduction:				
Gross estate		$925,000.00		
Expenses, etc	$25,000.00			
Bequest to son	400,000.00			
State death tax paid from residue	75,000.00			
Federal estate tax paid from residue	122,916.67	622,916.67	302,083.33	462,083.33
Taxable estate				462,916.67

If the deduction under section 2053(d) were not allowed, the decedent's taxable estate would be computed as follows:

Gross estate				$925,000.00
Expenses, indebtedness, etc.			$25,000.00	
Exemption			60,000.00	
Charitable deduction:				
Gross estate		$925,000.00		
Expenses, etc	$25,000.00			
Bequest to son	400,000.00			
State death tax paid from residue	75,000.00			
Federal estate tax paid from residue	155,000.00	655,000.00	270,000.00	355,000.00
Taxable estate				570,000.00

On a taxable estate of $570,000, the maximum credit allowable under section 2011(b) would be $15,200. Under these facts, the credit for State death taxes is determined as follows:

(1) Amount of State death taxes paid other than those for which a deduction is allowed under section 2053(d) ($135,000 − $75,000)	$60,000.00
(2) Amount indicated in section 2011(b) to be the maximum credit allowable with respect to the decedent's taxable estate of $462,916.67	10,916.67
(3) Amount determined by use of the ratio described in paragraph (c) above [($60,000÷$135,000)×$15,200]	6,755.56
(4) Credit for State death taxes (least of subparagraphs (1) through (3) above)	6,755.56

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 6600, 27 FR 4983, May 29, 1962]

§ 20.2012–1 Credit for gift tax.

(a) *In general.* With respect to gifts made before 1977, a credit is allowed under section 2012 against the Federal estate tax for gift tax paid under chapter 12 of the Internal Revenue Code, or corresponding provisions of prior law, on a gift by the decedent of property subsequently included in the decedent's gross estate. The credit is allowable even though the gift tax is paid after the decedent's death and the amount of the gift tax is deductible from the gross estate as a debt of the decedent.

(b) *Limitations on credit.* The credit for gift tax is limited to the smaller of the following amounts:

(1) The amount of gift tax paid on the gift computed as set forth in paragraph (c) of this section, or

(2) The amount of the estate tax attributable to the inclusion of the gift in the gross estate, computed as set forth in paragraph (d) of this section.

When more than one gift is included in the gross estate, a separate computation of the two limitations on the credit is to be made for each gift.

(c) *''First limitation''.* The amount of the gift tax paid on the gift is the ''first limitation''. Thus, if only one gift was made during a certain calendar quarter, or calendar year if the gift was made before January 1, 1971, and the gift is wholly included in the decedent's gross estate for the purpose of the estate tax, the credit with respect to the gift is limited to the amount of the gift tax paid for that calendar quarter or calendar year. On the other hand, if more than one gift was made during a certain calendar quarter or calendar year, the credit with respect to any such gift which is included in the decedent's gross estate is limited under section 2012(d) to an amount, A, which bears the same ratio to B (the total gift tax paid for that calendar quarter or calendar year) as C (the ''amount of the gift,'' computed as described below) bears to D (the total taxable gifts for the calendar quarter or the calendar year, computed without deduction of the gift tax specific exemption). Stated algebraically, the ''first limitation'' (A) equals:

''Amount of the gift'' (C) ÷ Total taxable gifts, plus specific exemption allowed (D) × Total gift tax paid (B).

For purposes of the ratio stated above, the ''amount of the gift'' referred to as factor ''C'' is the value of the gift reduced by any portion excluded or deducted under sections 2503(b) (annual exclusion), 2522 (charitable deduction), or 2523 (marital deduction) of the Internal Revenue Code or corresponding provisions of prior law. In making the computations described in this paragraph, the values to be used are those finally determined for the purpose of the gift tax, irrespective of the values determined for the purpose of the estate tax. A similar computation is made in case only a portion of any gift is included in the decedent's gross estate. The application of this paragraph may be illustrated by the following example:

Example. The donor made gifts during the calendar year 1955 on which a gift tax was determined as shown below:

Gift of property to son on February 1		$13,000
Gift of property to wife on May 1		86,000
Gift of property to charitable organization on May 15		10,000
Total gifts		109,000
Less exclusions ($3,000 for each gift)		9,000
Total included amount of gifts		100,000
Marital deduction (for gift to wife)	$43,000	
Charitable deduction	7,000	
Specific exemption ($30,000 less $20,000 used in prior years)	10,000	