

accordance with the principles stated in paragraph (c) of this section. The “second limitation” is to be computed with respect to the entire gift in accordance with the principles stated in paragraph (d) of this section. To illustrate: A donor, in contemplation of death, transferred property valued at \$106,000 to his son on January 1, 1955, and he and his wife consented that the gift should be considered as made one-half by him and one-half by her. The property was thereafter included in the donor’s gross estate. Under the “first limitation”, the amount of the gift tax of the donor paid with respect to the one-half of the gift considered as made by him is determined to be \$11,250, and the amount of the gift tax of his wife paid with respect to the one-half of the gift considered as made by her is determined to be \$1,200. Under the “second limitation”, the amount of the estate tax attributable to the property is determined to be \$28,914. Therefore, the credit for gift tax allowed is \$12,450 (\$11,250 plus \$1,200).

[T.D. 6296, 23 FR 4529, June 24, 1958, as amended by T.D. 7238, 37 FR 28718, Dec. 29, 1972; T.D. 8522, 59 FR 9646, Mar. 1, 1994]

#### § 20.2013-1 Credit for tax on prior transfers.

(a) *In general.* A credit is allowed under section 2013 against the Federal estate tax imposed on the present decedent’s estate for Federal estate tax paid on the transfer of property to the present decedent from a transferor who died within ten years before, or within two years after, the present decedent’s death. See § 20.2013-5 for definition of the terms “property” and “transfer”. There is no requirement that the transferred property be identified in the estate of the present decedent or that the property be in existence at the time of the decedent’s death. It is sufficient that the transfer of the property was subjected to Federal estate tax in the estate of the transferor and that the transferor died within the prescribed period of time. The executor must submit such proof as may be requested by the district director in order to establish the right of the estate to the credit.

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

(1) The amount of the Federal estate tax attributable to the transferred property in the transferor’s estate, computed as set forth in § 20.2013-2; or

(2) The amount of the Federal estate tax attributable to the transferred property in the decedent’s estate, computed as set forth in § 20.2013-3.

Rules for valuing property for purposes of the credit are contained in § 20.2013-4.

(c) *Percentage reduction.* If the transferor died within the two years before, or within the two years after, the present decedent’s death, the credit is the smaller of the two limitations described in paragraph (b) of this section. If the transferor predeceased the present decedent by more than two years, the credit is a certain percentage of the smaller of the two limitations described in paragraph (b) of this section, determined as follows:

(1) 80 percent, if the transferor died within the third or fourth years preceding the present decedent’s death;

(2) 40 percent, if the transferor died within the fifth or sixth years preceding the present decedent’s death;

(3) 40 percent, if the transferor died within the seventh or eighth years preceding the present decedent’s death; and

(4) 20 percent, if the transferor died within the ninth or tenth years preceding the present decedent’s death.

The word “within” as used in this paragraph means “during”. Therefore, if a death occurs on the second anniversary of another death, the first death is considered to have occurred within the two years before the second death. If the credit for tax on prior transfers relates to property received from two or more transferors, the provisions of this paragraph are to be applied separately with respect to the property received from each transferor. See paragraph (d) of example (2) in § 20.2013-6.

(d) *Examples.* For illustrations of the application of this section, see examples (1) and (2) set forth in § 20.2013-6.

#### § 20.2013-2 “First limitation”.

(a) The amount of the Federal estate tax attributable to the transferred