

Internal Revenue Service, Treasury

§ 25.2503-2

calendar year 1969, A made taxable gifts totaling \$50,000. The full amount of A's specific exemption provided under section 2521, which was in effect at the time, was claimed and allowed in 1968. The computation of the gift tax for the calendar period 1982 (following the steps set forth in paragraph (a) of this section) is shown below.

(1) Amount of taxable gifts for the calendar year 1982, \$240,000.

(2) Total amount of taxable gifts for preceding calendar periods (\$100,000+\$50,000), \$150,000.

(3) Total taxable gifts, \$390,000.

(4) Tax computed on item 3 (in accordance with the rate schedule in effect for the year 1982), \$118,400.

(5) Tax computed on item 2 (using same rate schedule), \$38,800.

(6) Tax for year 1982 (item 4 minus item 5), \$79,600.

[T.D. 6334, 23 FR 8904, Nov. 15, 1958, as amended by T.D. 7238, 37 FR 28725, Dec. 29, 1972; T.D. 7910, 48 FR 40372, Sept. 7, 1983; T.D. 8395, 57 FR 4255, Feb. 4, 1992]

§ 25.2502-2 Donor primarily liable for tax.

Section 2502(d) provides that the donor shall pay the tax. If the donor dies before the tax is paid the amount of the tax is a debt due the United States from the decedent's estate and his executor or administrator is responsible for its payment out of the estate. (See § 25.6151-1 for the time and place for paying the tax.) If there is no duly qualified executor or administrator, the heirs, legatees, devisees, and distributees are liable for and required to pay the tax to the extent of the value of their inheritances, bequests, devises, or distributive shares of the donor's estate. If a husband and wife effectively signify consent, under section 2513, to have gifts made to a third party during any "calendar period" (as defined in § 25.2502-1(c)(1)) considered as made one-half by each, the liability with respect to the gift tax of each spouse for that calendar period is joint and several (see § 25.2513-4). As to the personal liability of the donee, see paragraph (b) of § 301.6324-1 of this chapter (Regulations on Procedure and Administration). As to the personal liability of the executor or administrator, see section 3467 of the Revised Statutes (31 U.S.C. 192), which reads as follows:

Every executor, administrator, or assignee, or other person, who pays, in whole or in part, any debt due by the person or estate for whom or for which he acts before he satisfies and pays the debts due to the United States from such person or estate, shall become answerable in his own person and estate to the extent of such payments for the debts so due to the United States, or for so much thereof as may remain due and unpaid.

As used in such section 3467, the word "debt" includes a beneficiary's distributive share of an estate. Thus if an executor pays a debt due by the estate which is being administered by him or distributes any portion of the estate before there is paid all of the gift tax which he has a duty to pay, the executor is personally liable, to the extent of the payment or distribution, for so much of the gift tax as remains due and unpaid.

[T.D. 7238, 37 FR 28726, Dec. 29, 1972, as amended by T.D. 7910, 48 FR 40373, Sept. 7, 1983]

§ 25.2503-1 General definitions of "taxable gifts" and of "total amount of gifts."

The term *taxable gifts* means the "total amount of gifts" made by the donor during the "calendar period" (as defined in § 25.2502-1(c)(1)) less the deductions provided for in sections 2521 (as in effect before its repeal by the Tax Reform Act of 1976), 2522, and 2523 (specific exemption, charitable, etc., gifts and the marital deduction, respectively). The term "total amount of gifts" means the sum of the values of the gifts made during the calendar period less the amounts excludable under section 2503(b). See § 25.2503-2. The entire value of any gift of a future interest in property must be included in the total amount of gifts for the calendar period in which the gift is made. See § 25.2503-3.

[T.D. 7910, 48 FR 40373, Sept. 7, 1983]

§ 25.2503-2 Exclusions from gifts.

(a) Except as provided in paragraph (f) of this section (involving gifts to a noncitizen spouse), the first \$10,000 of gifts made to any one donee during the calendar year 1982 or any calendar year thereafter, except gifts of future interests in property as defined in §§ 25.2503-