($180,000), less the value of the income interest in the qualified terminable interest property, $45,000 (45 percent of $100,000). S also makes a gift under section 2511 of $40,000; i.e., the fair market value of 40 percent of S's income interest. S's disposition of 40 percent of the income interest is deemed to be a transfer under section 2519 of the entire 45 percent portion of the remainder subject to the section 2056(b)(7) election. Since S retained 60 percent of the income interest, 27 percent (60 percent of 45 percent) of the trust property is includible in S's gross estate under section 2036. See also section 2702 and *Example 4* as to the principles applicable in valuing S's gift under section 2702 and adjusted taxable gifts upon S's subsequent death.

Example 6. Transfer of Spousal Annuity Payable From Trust. D died prior to October 24, 1992. D's will established a trust valued for estate tax purposes at $500,000. The trust instrument required the trustee to pay an annuity to S of $20,000 a year for life. All the trust income other than the amounts paid to S as an annuity are to be accumulated in the trust and may not be distributed during S's lifetime to any person other than S. After S's death, the principal of the trust is to be distributed to D's children. Because D died prior to the effective date of section 1941 of the Energy Policy Act of 1992, S's annuity interest qualifies as a qualifying income interest for life. Under §20.2056(b)–7(e) of this chapter, based on an applicable 10 percent interest rate, 40 percent of the property, or $200,000, is the value of the deductible interest. During 1996, S makes a gift of the annuity interest to D's children at which time the fair market value of the trust is $800,000 and the fair market value of S's annuity interest in the trust is $100,000. Pursuant to section 2519, S is treated as making a gift of $220,000 (the fair market value of the qualified terminable interest property, 40 percent of $800,000 ($320,000), less the $100,000 annuity interest in the qualified terminable interest property). S is also treated pursuant to section 2511 as making a gift of $100,000 (the fair market value of S's annuity interest).

[T.D. 8522, 59 FR 9656, Mar. 1, 1994, as amended by T.D. 9077, 68 FR 42595, July 18, 2003]

§ 25.2519–2 Effective date.

Except as specifically provided in §25.2519–1(g), *Example 6*, the provisions of §25.2519–1 are effective with respect to gifts made after March 1, 1994. With respect to gifts made on or before such date, the donee spouse of a section 2056(b)(7) or section 2523(f) transfer may rely on any reasonable interpretation of the statutory provisions. For these purposes, the provisions of §25.2519–1 (as well as project LR–211–76, 1984–1 C.B., page 598, see §601.601(d)(2)(ii)(*b*) of this chapter), are considered a reasonable interpretation of the statutory provisions.

[T.D. 8522, 59 FR 9658, Mar. 1, 1994]

§ 25.2521–1 Specific exemption.

(a) In determining the amount of taxable gifts for the calendar quarter (calendar year with respect to gifts made before January 1, 1971) there may be deducted, if the donor was a resident or citizen of the United States at the time the gifts were made, a specific exemption of $30,000, less the sum of the amounts claimed and allowed as an exemption in prior calendar quarters or calendar years. The exemption, at the option of the donor, may be taken in the full amount of $30,000 in a single calendar quarter or calendar year, or be spread over a period of time in such amounts as the donor sees fit, but after the limit has been reached no further exemption is allowable. Except as otherwise provided in a tax convention between the United States and another country, a donor who was a nonresident not a citizen of the United States at the time the gift or gifts were made is not entitled to this exemption. For the definition of calendar quarter see §25.2502–1(c)(1).

(b) No part of a donor's lifetime specific exemption of $30,000 may be deducted from the value of a gift attributable to his spouse where a husband and wife consent, under the provisions of section 2513, to have the gifts made during a calendar quarter or calendar year considered as made one-half by each of them. The ''gift-splitting'' provisions of section 2513 do not authorize the filing of a joint gift tax return nor permit a donor to claim any of his spouse's specific exemption. For example, if a husband has no specific exemption remaining available, but his wife does, and the husband makes a gift to which his wife consents under the provisions of section 2513, the specific exemption remaining available may be claimed only on the return of the wife with respect to one-half of the gift. The husband may not claim any specific exemption since he has none available.

(c)(1) With respect to gifts made after December 31, 1970, the amount by