SUBTITLE B. ESTATE AND GIFT TAXES
CHAPTER 11. ESTATE TAX
SUBCHAPTER A. ESTATES OF CITIZENS OR RESIDENTS
PART IV. TAXABLE ESTATE

IRC Sec. 2055

Sec. 2055. Transfers for public, charitable, and religious uses.

(a) In general. For purposes of the tax imposed by section 2001 [26 USCS § 2001], the value of the taxable estate shall be determined by deducting from the value of the gross estate the amount of all bequests, legacies, devises, or transfers--
(1) to or for the use of the United States, any State, any political subdivision thereof, or the District of Columbia, for exclusively public purposes;
(2) to or for the use of any corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private stockholder or individual, which is not disqualified for tax exemption under section 501(c)(3) [26 USCS § 501(c)(3)] by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office;
(3) to a trustee or trustees, or a fraternal society, order, or association operating under the lodge system, but only if such contributions or gifts are to be used by such trustee or trustees, or by such fraternal society, order, or association, exclusively for religious, charitable, scientific, literary, or educational purposes, or for the prevention of cruelty to children or animals, such trust, fraternal society, order, or association would not be disqualified for tax exemption under section 501(c)(3) [26 USCS § 501(c)(3)] by reason of attempting to influence legislation, and such trustee or trustees, or such fraternal society, order, or association, does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office;
(4) to or for the use of any veterans' organization incorporated by Act of Congress, or of its departments or local chapters or posts, no part of the net earnings of which inures to the benefit of any private shareholder or individual; or
(5) to an employee stock ownership plan if such transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning of section 664(g) [26 USCS § 664(g)].

For purposes of this subsection, the complete termination before the date prescribed for the filing of the estate tax return of a power to consume, invade, or appropriate property for the benefit of an individual before such power has been exercised by reason of the death of such individual or for any other reason shall be considered and deemed to be a qualified disclaimer with the same full force and effect as though he had filed such qualified disclaimer. Rules similar to the rules of section 501(j) [26 USCS § 501(j)] shall apply for purposes of paragraph (2).

(b) Powers of appointment. Property includible in the decedent's gross estate under section 2041 [26 USCS § 2041] (relating to powers of appointment) received by a donee described in this section shall, for purposes of this section, be considered a

bequest of such decedent.

(c) Death taxes payable out of bequests. If the tax imposed by section 2001 [26 USCS § 2001], or any estate, succession, legacy, or inheritance taxes, are, either by the terms of the will, by the law of the jurisdiction under which the estate is administered, or by the law of the jurisdiction imposing the particular tax, payable in whole or in part out of the bequests, legacies, or devises otherwise deductible under this section, then the amount deductible under this section shall be the amount of such bequests, legacies, or devises reduced by the amount of such taxes.

(d) Limitation on deduction. The amount of the deduction under this section for any transfer shall not exceed the value of the transferred property required to be included in the gross estate.

(e) Disallowance of deductions in certain cases.

(1) No deduction shall be allowed under this section for a transfer to or for the use of an organization or trust described in section 508(d) or 4948(c)(4) subject to the conditions specified in such sections.

(2) Where an interest in property (other than an interest described in section 170(f)(3)(B) [26 USCS § 170(f)(3)(B)]) passes or has passed from the decedent to a person, or for a use, described in subsection (a), and an interest (other than an interest which is extinguished upon the decedent's death) in the same property passes or has passed (for less than an adequate and full consideration in money or money's worth) from the decedent to a person, or for a use, not described in subsection (a), no deduction shall be allowed under this section for the interest which passes or has passed to the person, or for the use, described in subsection (a) unless--

(A) in the case of a remainder interest, such interest is in a trust which is a charitable remainder annuity trust or a charitable remainder unitrust (described in section 664 [26 USCS § 664]) or a pooled income fund (described in section 642(c)(5) [26 USCS § 642(c)(5)]), or

(B) in the case of any other interest, such interest is in the form of a guaranteed annuity or is a fixed percentage distributed yearly of the fair market value of the property (to be determined yearly).

(3) Reformations to comply with paragraph (2).

(A) In general. A deduction shall be allowed under subsection (a) in respect of any qualified reformation.

(B) Qualified reformation. For purposes of this paragraph, the term "qualified reformation" means a change of a governing instrument by reformation, amendment, construction, or otherwise which changes a reformable interest into a qualified interest but only if--

(i) any difference between--

(I) the actuarial value (determined as of the date of the decedent's death) of the qualified interest, and

(II) the actuarial value (as so determined) of the reformable interest,

does not exceed 5 percent of the actuarial value (as so determined) of the reformable interest,

(ii) in the case of--

(I) a charitable remainder interest, the nonremainder interest (before and after the qualified reformation) terminated at the same time, or

(II) any other interest, the reformable interest and the qualified interest are for the same period, and

(iii) such change is effective as of the date of the decedent's death.

A nonremainder interest (before reformation) for a term of years in excess of 20 years shall be treated as satisfying subclause (I) of clause (ii) if such interest (after reformation) is for a term of 20 years.

(C) Reformable interest. For purposes of this paragraph--

(i) In general. The term "reformable interest" means any interest for which a deduction would be allowable under subsection (a) at the time of the decedent's death but for paragraph (2).

(ii) Beneficiary's interest must be fixed. The term "reformable interest" does not include any interest unless, before the remainder vests in possession, all payments to persons other than an organization described in subsection (a) are expressed either in specified dollar amounts or a fixed percentage of the fair market value of the property. For purposes of determining whether all such payments are expressed as a fixed percentage of the fair market value of the property, section 664(d)(3) [26 USCS § 664(d)(3)] shall be taken into account.

(iii) Special rule where timely commencement of reformation. Clause (ii) shall not apply to any interest if a judicial proceeding is commenced to change such interest into a qualified interest not later than the 90th day after--

(I) if an estate tax return is required to be filed, the last date (including extensions) for filing such return, or

(II) if no estate tax return is required to be filed, the last date (including extensions) for filing the income tax return for the 1st taxable year for which such a return is required to be filed by the trust.

(iv) Special rule for will executed before January 1, 1979, etc. In the case of any interest passing under a will executed before January 1, 1979, or under a trust created before such date, clause (ii) shall not apply.

(D) Qualified interest. For purposes of this paragraph, the term "qualified interest" means an interest for which a deduction is allowable under subsection (a).

(E) Limitation. The deduction referred to in subparagraph (A) shall not exceed the amount of the deduction which would have been allowable for the reformable interest but for paragraph (2).

(F) Special rule where income beneficiary dies. If (by reason of the death of any individual, or by termination or distribution of a trust in accordance with the terms of the trust instrument) by the due date for filing the estate tax return (including any extension thereof) a reformable interest is in a wholly charitable trust or passes directly to a person or for a use described in subsection (a), a deduction shall be allowed for such reformable interest as if it had met the requirements of paragraph (2) on the date of the decedent's death. For purposes of the preceding sentence, the term "wholly charitable trust" means a charitable trust which, upon the allowance of a deduction, would be described in section 4947(a)(1) [26 USCS § 4947(a)(1)].

(G) Statute of limitations. The period for assessing any deficiency of any tax attributable to the application of this paragraph shall not expire before the date 1 year after the date on which the Secretary is notified that such reformation (or other proceeding pursuant to subparagraph (J) has occurred.

(H) Regulations. The Secretary shall prescribe such regulations as may be necessary to carry out the purposes of this paragraph, including regulations providing such adjustments in the application of the provisions of section 508 [26 USCS § 508] (relating to special rules relating to section 501(c)(3) [26 USCS § 501(c)(3)] organizations), subchapter J [26 USCS §§ 641 et seq.] (relating to estates, trusts, beneficiaries, and decedents), and chapter 42 [26 USCS §§ 4940 et seq.] (relating to private foundations) as may be necessary by reason of the qualified reformation.

(I) Reformations permitted in case of remainder interests in residence or farm, pooled income funds, etc. The Secretary shall prescribe regulations (consistent with

the provisions of this paragraph) permitting reformations in the case of any failure--

(i) to meet the requirements of section 170(f)(3)(B) [26 USCS § 170(f)(3)(B)] (relating to remainder interests in personal residence or farm, etc.), or

(ii) to meet the requirements of section 642(c)(5) [26 USCS § 642(c)(5)].

(J) Void or reformed trust in cases of insufficient remainder interests. In the case of a trust that would qualify (or could be reformed to qualify pursuant to subparagraph (B)) but for failure to satisfy the requirement of paragraph (1)(D) or (2)(D) of section 664(d) [26 USCS § 664(d)], such trust may be--

(i) declared null and void ab initio, or

(ii) changed by reformation, amendment, or otherwise to meet such requirement by reducing the payout rate or the duration (or both) of any noncharitable beneficiary's interest to the extent necessary to satisfy such requirement,

pursuant to a proceeding that is commenced within the period required in subparagraph (C)(iii). In a case described in clause (i), no deduction shall be allowed under this title for any transfer to the trust and any transactions entered into by the trust prior to being declared void shall be treated as entered into by the transferor.

(4) Works of art and their copyrights treated as separate properties in certain cases.

(A) In general. In the case of a qualified contribution of a work of art, the work of art and the copyright on such work of art shall be treated as separate properties for purposes of paragraph (2).

(B) Work of art defined. For purposes of this paragraph, the term "work of art" means any tangible personal property with respect to which there is a copyright under Federal law.

(C) Qualified contribution defined. For purposes of this paragraph, the term "qualified contribution" means any transfer of property to a qualified organization if the use of the property by the organization is related to the purpose or function constituting the basis for its exemption under section 501 [26 USCS § 501].

(D) Qualified organization defined. For purposes of this paragraph, the term "qualified organization" means any organization described in section 501(c)(3) [26 USCS § 501(c)(3)] other than a private foundation (as defined in section 509) [26 USCS § 509]. For purposes of the preceding sentence, a private operating foundation (as defined in section 4942(j)(3) [26 USCS § 4942(j)(3)]) shall not be treated as a private foundation.

(f) Special rule for irrevocable transfers of easements in real property. A deduction shall be allowed under subsection (a) in respect of any transfer of a qualified real property interest (as defined in section 170(h)(2)(C) [26 USCS § 170(h)(2)(C)]) which meets the requirements of section 170(h) [26 USCS § 170(h)] (without regard to paragraph (4)(A) thereof).

(g) Cross references.

(1) For option as to time for valuation for purpose of deduction under this section, see section 2032 [26 USCS § 2032].

(2) For treatment of certain organizations providing child care, see section 501(k) [26 USCS § 501(k)].

(3) For exemption of gifts and bequests to or for the benefit of Library of Congress, see section 5 of the Act of March 3, 1925, as amended (2 U.S.C. 161).

(4) For treatment of gifts and bequests for the benefit of the Naval Historical Center as gifts or bequests to or for the use of the United States, see section 7222 of title 10, United States Code.

(5) For treatment of gifts and bequests to or for the benefit of National Park

Foundation as gifts or bequests to or for the use of the United States, see section 8 of the Act of December 18, 1967 (16 U.S.C. 191).

(6) For treatment of gifts, devises, or bequests accepted by the Secretary of State, the Director of the International Communication Agency, or the Director of the United States International Development Cooperation Agency as gifts, devises, or bequests to or for the use of the United States, see section 25 of the State Department Basic Authorities Act of 1956 [22 USCS § 2697].

(7) For treatment of gifts or bequests of money accepted by the Attorney General for credit to "Commissary Funds, Federal Prisons," as gifts or bequests to or for the use of the United States, see section 4043 of title 18, United States Code.

(8) For payment of tax on gifts and bequests of United States obligations to the United States, see section 3113(e) of title 31, United States Code.

(9) For treatment of gifts and bequests for benefit of the Naval Academy as gifts or bequests to or for the use of the United States, see section 6973 of title 10, United States Code.

(10) For treatment of gifts and bequests for benefit of the Naval Academy Museum as gifts or bequests to or for the use of the United States, see section 6974 of title 10, United States Code.

(11) For exemption of gifts and bequests received by National Archives Trust Fund Board, see section 2308 of title 44, United States Code.

(12) For treatment of gifts and bequests to or for the use of Indian tribal governments (or their subdivisions), see section 7871 [26 USCS § 7871].