

SUBTITLE B. ESTATE AND GIFT TAXES
CHAPTER 11. ESTATE TAX
SUBCHAPTER B. ESTATES OF NONRESIDENTS NOT CITIZENS

IRC Sec. 2106

Sec. 2106. Taxable estate [Caution: See prospective amendment note below.].

(a) Definition of taxable estate. For purposes of the tax imposed by section 2101 [[26 USCS § 2101](#)], the value of the taxable estate of every decedent nonresident not a citizen of the United States shall be determined by deducting from the value of that part of his gross estate which at the time of his death is situated in the United States--

(1) Expenses, losses, indebtedness, and taxes. That proportion of the deductions specified in sections 2053 and 2054 [[26 USCS §§ 2053](#) and [2054](#)] (other than the deductions described in the following sentence) which the value of such part bears to the value of his entire gross estate, wherever situated. Any deduction allowable under section 2053 [[26 USCS § 2053](#)] in the case of a claim against the estate which was founded on a promise or agreement but was not contracted for an adequate and full consideration in money or money's worth shall be allowable under this paragraph to the extent that it would be allowable as a deduction under paragraph (2) if such promise or agreement constituted a bequest.

(2) Transfers for public, charitable, and religious uses.

(A) In general. The amount of all bequests, legacies, devises, or transfers (including the interest which falls into any such bequest, legacy, devise, or transfer as a result of an irrevocable disclaimer of a bequest, legacy, devise, transfer, or power, if the disclaimer is made before the date prescribed for the filing of the estate tax return)--

(i) to or for the use of the United States, any State, any political subdivision thereof, or the District of Columbia, for exclusively public purposes;

(ii) to or for the use of any domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art 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; or

(iii) 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 within the United States 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;

(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 paragraph shall, for purposes of this paragraph, be

considered a bequest of such decedent.

(C) Death taxes payable out of bequests. If the tax imposed by section 2101 [[26 USCS § 2101](#)], 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 paragraph, then the amount deductible under this paragraph 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 paragraph 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. The provisions of section 2055(e) [[26 USCS § 2055\(e\)](#)] shall be applied in the determination of the amount allowable as a deduction under this paragraph.

(F) Cross references.

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

(ii) For exemption of certain bequests for the benefit of the United States and for rules of construction for certain bequests, see section 2055(g) [[26 USCS § 2055\(g\)](#)].

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

(3) Marital deduction. The amount which would be deductible with respect to property situated in the United States at the time of the decedent's death under the principles of section 2056 [[26 USCS § 2056](#)].

(4) State death taxes. The amount which bears the same ratio to the State death taxes as the value of the property, as determined for purposes of this chapter [[26 USCS §§ 2001](#) et seq.], upon which State death taxes were paid and which is included in the gross estate under section 2103 [[26 USCS § 2103](#)] bears to the value of the total gross estate under section 2103 [[26 USCS § 2103](#)]. For purposes of this paragraph, the term "State death taxes" means the taxes described in section 2011(a) [[26 USCS § 2011\(a\)](#)].

(b) Condition of allowance of deductions. No deduction shall be allowed under paragraphs (1) and (2) of subsection (a) in the case of a nonresident not a citizen of the United States unless the executor includes in the return required to be filed under section 6018 [[26 USCS § 6018](#)] the value at the time of his death of that part of the gross estate of such nonresident not situated in the United States.