

**TITLE 26 - INTERNAL REVENUE CODE****Subtitle B - Estate and Gift Taxes****CHAPTER 15 - GIFTS AND BEQUESTS FROM EXPATRIATES****§ 2801. Imposition of tax****(a) In general**

If, during any calendar year, any United States citizen or resident receives any covered gift or bequest, there is hereby imposed a tax equal to the product of—

- (1) the highest rate of tax specified in the table contained in section 2001 (c) as in effect on the date of such receipt (or, if greater, the highest rate of tax specified in the table applicable under section 2502 (a) as in effect on the date), and
- (2) the value of such covered gift or bequest.

**(b) Tax to be paid by recipient**

The tax imposed by subsection (a) on any covered gift or bequest shall be paid by the person receiving such gift or bequest.

**(c) Exception for certain gifts**

Subsection (a) shall apply only to the extent that the value of covered gifts and bequests received by any person during the calendar year exceeds the dollar amount in effect under section 2503 (b) for such calendar year.

**(d) Tax reduced by foreign gift or estate tax**

The tax imposed by subsection (a) on any covered gift or bequest shall be reduced by the amount of any gift or estate tax paid to a foreign country with respect to such covered gift or bequest.

**(e) Covered gift or bequest****(1) In general**

For purposes of this chapter, the term “covered gift or bequest” means—

- (A) any property acquired by gift directly or indirectly from an individual who, at the time of such acquisition, is a covered expatriate, and
- (B) any property acquired directly or indirectly by reason of the death of an individual who, immediately before such death, was a covered expatriate.

**(2) Exceptions for transfers otherwise subject to estate or gift tax**

Such term shall not include—

- (A) any property shown on a timely filed return of tax imposed by chapter 12 which is a taxable gift by the covered expatriate, and
- (B) any property included in the gross estate of the covered expatriate for purposes of chapter 11 and shown on a timely filed return of tax imposed by chapter 11 of the estate of the covered expatriate.

**(3) Exceptions for transfers to spouse or charity**

Such term shall not include any property with respect to which a deduction would be allowed under section 2055, 2056, 2522, or 2523, whichever is appropriate, if the decedent or donor were a United States person.

**(4) Transfers in trust****(A) Domestic trusts**

In the case of a covered gift or bequest made to a domestic trust—

- (i) subsection (a) shall apply in the same manner as if such trust were a United States citizen, and

(ii) the tax imposed by subsection (a) on such gift or bequest shall be paid by such trust.

**(B) Foreign trusts**

(i) In general

In the case of a covered gift or bequest made to a foreign trust, subsection (a) shall apply to any distribution attributable to such gift or bequest from such trust (whether from income or corpus) to a United States citizen or resident in the same manner as if such distribution were a covered gift or bequest.

(ii) Deduction for tax paid by recipient

There shall be allowed as a deduction under section 164 the amount of tax imposed by this section which is paid or accrued by a United States citizen or resident by reason of a distribution from a foreign trust, but only to the extent such tax is imposed on the portion of such distribution which is included in the gross income of such citizen or resident.

(iii) Election to be treated as domestic trust

Solely for purposes of this section, a foreign trust may elect to be treated as a domestic trust. Such an election may be revoked with the consent of the Secretary.

**(f) Covered expatriate**

For purposes of this section, the term “covered expatriate” has the meaning given to such term by section 877A (g)(1).

(Added Pub. L. 110–245, title III, § 301(b)(1), June 17, 2008, 122 Stat. 1644.)

**Effective Date**

Pub. L. 110–245, title III, § 301(g), June 17, 2008, 122 Stat. 1647, provided that:

“(1) In general.—Except as provided in this subsection, the amendments made by this section [enacting this chapter and section 877A of this title and amending sections 877, 6039G, and 7701 of this title] shall apply to any individual whose expatriation date (as so defined) is on or after the date of the enactment of this Act [June 17, 2008].

“(2) Gifts and bequests.—Chapter 15 of the Internal Revenue Code of 1986 (as added by subsection (b)) shall apply to covered gifts and bequests (as defined in section 2801 of such Code, as so added) received on or after the date of the enactment of this Act from transferors (or from the estates of transferors) whose expatriation date is on or after such date of enactment.”