

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

IRC Sec. 2053

Sec. 2053. Expenses, indebtedness, and taxes [Caution: See prospective amendment note below.].

(a) General rule. 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 such amounts--

(1) for funeral expenses,
(2) for administration expenses,
(3) for claims against the estate, and
(4) for unpaid mortgages on, or any indebtedness in respect of, property where the value of the decedent's interest therein, undiminished by such mortgage or indebtedness, is included in the value of the gross estate, as are allowable by the laws of the jurisdiction, whether within or without the United States under which the estate is being administered.

(b) Other administration expenses. Subject to the limitations in paragraph (1) of subsection (c), there shall be deducted in determining the taxable estate amounts representing expenses incurred in administering property not subject to claims which is included in the gross estate to the same extent such amounts would be allowable as a deduction under subsection (a) if such property were subject to claims, and such amounts are paid before the expiration of the period of limitation for assessment provided in section 6501 [[26 USCS § 6501](#)].

(c) Limitations.

(1) Limitations applicable to subsections (a) and (b).

(A) Consideration for claims. The deduction allowed by this section in the case of claims against the estate, unpaid mortgages, or any indebtedness shall, when founded on a promise or agreement, be limited to the extent that they were contracted bona fide and for an adequate and full consideration in money or money's worth; except that in any case in which any such claim is founded on a promise or agreement of the decedent to make a contribution or gift to or for the use of any donee described in section 2055 [[26 USCS § 2055](#)] for the purposes specified therein, the deduction for such claims shall not be so limited, but shall be limited to the extent that it would be allowable as a deduction under section 2055 [[26 USCS § 2055](#)] if such promise or agreement constituted a bequest.

(B) Certain taxes. Any income taxes on income received after the death of the decedent, or property taxes not accrued before his death, or any estate, succession, legacy, or inheritance taxes, shall not be deductible under this section.

(C) Certain claims by remaindermen. No deduction shall be allowed under this section for a claim against the estate by a remainderman relating to any property described in section 2044 [[26 USCS § 2044](#)].

(D) Section 6166 interest. No deduction shall be allowed under this section for any interest payable under section 6601 [[26 USCS § 6601](#)] on any unpaid portion of the tax imposed by section 2001 [[26 USCS § 2001](#)] for the period during which an extension of time for payment of such tax is in effect under section 6166 [[26 USCS § 6166](#)].

(2) Limitations applicable only to subsection (a). In the case of the amounts described in subsection (a), there shall be disallowed the amount by which the deductions specified therein exceed the value, at the time of the decedent's death, of property subject to claims, except to the extent that such deductions represent amounts paid before the date prescribed for the filing of the estate tax return. For purposes of this section, the term "property subject to claims" means property includible in the gross estate of the decedent which, or the avails of which, would under the applicable law, bear the burden of the payment of such deductions in the final adjustment and settlement of the estate, except that the value of the property shall be reduced by the amount of the deduction under section 2054 [[26 USCS § 2054](#)] attributable to such property.

(d) Certain foreign death taxes.

(1) In general. Notwithstanding the provisions of subsection (c)(1)(B), for purposes of the tax imposed by section 2001 [[26 USCS § 2001](#)], the value of the taxable estate may be determined, if the executor so elects before the expiration of the period of limitation for assessment provided in section 6501 [[26 USCS § 6501](#)], by deducting from the value of the gross estate the amount (as determined in accordance with regulations prescribed by the Secretary) of any estate, succession, legacy, or inheritance tax imposed by and actually paid to any foreign country, in respect of any property situated within such foreign country and included in the gross estate of a citizen or resident of the United States, upon a transfer by the decedent for public, charitable, or religious uses described in section 2055 [[26 USCS § 2055](#)]. The determination under this paragraph of the country within which property is situated shall be made in accordance with the rules applicable under subchapter B (sec. 2101 and following) in determining whether property is situated within or without the United States. Any election under this paragraph shall be exercised in accordance with regulations prescribed by the Secretary.

(2) Condition for allowance of deduction. No deduction shall be allowed under paragraph (1) for a foreign death tax specified therein unless the decrease in the tax imposed by section 2001 [[26 USCS § 2001](#)] which results from the deduction provided in paragraph (1) will inure solely for the benefit of the public, charitable, or religious transferees described in section 2055 or section 2106(a)(2) [[26 USCS § 2055](#) or [2106\(a\)\(2\)](#)]. In any case where the tax imposed by section 2001 [[26 USCS § 2001](#)] is equitably apportioned among all the transferees of property included in the gross estate, including those described in sections 2055 and 2106(a)(2) [[26 USCS §§ 2055](#) and [2106\(a\)\(2\)](#)] (taking into account any exemptions, credits, or deductions allowed by this chapter [[26 USCS §§ 2001](#) et seq.]), in determining such decrease, there shall be disregarded any decrease in the Federal estate tax which any transferees other than those described in sections 2055 and 2106(a)(2) [[26 USCS §§ 2055](#) and [2106\(a\)\(2\)](#)] are required to pay.

(3) Effect on credit for foreign death taxes of deduction under this subsection.

(A) Election. An election under this subsection shall be deemed a waiver of the right to claim a credit, against the Federal estate tax, under a death tax convention with any foreign country for any tax or portion thereof in respect of which a deduction is taken under this subsection.

(B) Cross reference. See section 2014(f) [[26 USCS § 2014\(f\)](#)] for the effect of a deduction taken under this paragraph on the credit for foreign death taxes.

(e) Marital rights. For provisions treating certain relinquishments of marital rights as consideration in money or money's worth, see section 2043(b)(2) [[26 USCS § 2043\(b\)\(2\)](#)].