

## §2. Definitions and special rules

### (a) Definition of surviving spouse

#### (1) In general

For purposes of section 1, the term "surviving spouse" means a taxpayer-

(A) whose spouse died during either of his two taxable years immediately preceding the taxable year, and

(B) who maintains as his home a household which constitutes for the taxable year the principal place of abode (as a member of such household) of a dependent (i) who (within the meaning of section 152, determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof) is a son, stepson, daughter, or stepdaughter of the taxpayer, and (ii) with respect to whom the taxpayer is entitled to a deduction for the taxable year under section 151.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual.

#### (2) Limitations

Notwithstanding paragraph (1), for purposes of section 1 a taxpayer shall not be considered to be a surviving spouse-

(A) if the taxpayer has remarried at any time before the close of the taxable year, or

(B) unless, for the taxpayer's taxable year during which his spouse died, a joint return could have been made under the provisions of section 6013 (without regard to subsection (a)(3) thereof).

#### (3) Special rule where deceased spouse was in missing status

If an individual was in a missing status (within the meaning of section 6013(f)(3)) as a result of service in a combat zone (as determined for purposes of section 112) and if such individual remains in such status until the date referred to in subparagraph (A) or (B), then, for purposes of paragraph (1)(A), the date on which such individual died shall be treated as the earlier of the date determined under subparagraph (A) or the date determined under subparagraph (B):

(A) the date on which the determination is made under section 556 of title 37 of the United States Code or under section 5566 of title 5 of such Code (whichever is applicable) that such individual died while in such missing status, or

(B) except in the case of the combat zone designated for purposes of the Vietnam conflict, the date which is 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone.

### (b) Definition of head of household

#### (1) In general

For purposes of this subtitle, an individual shall be considered a head of a household if, and only if, such individual is not married at the close of his taxable year, is not a surviving spouse (as defined in subsection (a)), and either-

(A) maintains as his home a household which constitutes for more than one-half of such taxable year the principal place of abode, as a member of such household, of-

(i) a qualifying child of the individual (as defined in section 152(c), determined without regard to section 152(e)), but not if such child-

(I) is married at the close of the taxpayer's taxable year, and

(II) is not a dependent of such individual by reason of section 152(b)(2) or 152(b)(3), or both, or

(ii) any other person who is a dependent of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such person under section 151, or

(B) maintains a household which constitutes for such taxable year the principal place of abode of the father or mother of the taxpayer, if the taxpayer is entitled to a deduction for the taxable year for such father or mother under section 151.

For purposes of this paragraph, an individual shall be considered as maintaining a household only if over half of the cost of maintaining the household during the taxable year is furnished by such individual.

## (2) Determination of status

For purposes of this subsection-

(A) an individual who is legally separated from his spouse under a decree of divorce or of separate maintenance shall not be considered as married;

(B) a taxpayer shall be considered as not married at the close of his taxable year if at any time during the taxable year his spouse is a nonresident alien; and

(C) a taxpayer shall be considered as married at the close of his taxable year if his spouse (other than a spouse described in subparagraph (B)) died during the taxable year.

## (3) Limitations

Notwithstanding paragraph (1), for purposes of this subtitle a taxpayer shall not be considered to be a head of a household-

(A) if at any time during the taxable year he is a nonresident alien; or

(B) by reason of an individual who would not be a dependent for the taxable year but for-

(i) subparagraph (H) of section 152(d)(2), or

(ii) paragraph (3) of section 152(d).

## (c) Certain married individuals living apart

For purposes of this part, an individual shall be treated as not married at the close of the taxable year if such individual is so treated under the provisions of section 7703(b).

## (d) Nonresident aliens

In the case of a nonresident alien individual, the taxes imposed by sections 1 and 55 shall apply only as provided by section 871 or 877.

## (e) Cross reference

**For definition of taxable income, see section 63.**

(Aug. 16, 1954, ch. 736, 68A Stat. 8; Pub. L. 88-272, title I, §112(b), Feb. 26, 1964, 78 Stat. 24; Pub. L. 91-172, title VIII, §803(b), Dec. 30, 1969, 83 Stat. 682; Pub. L. 93-597, §3(b), Jan. 2, 1975, 88 Stat. 1951; Pub. L. 94-455, title XIX, §1901(a)(1), (b)(9), Oct. 4, 1976, 90 Stat. 1764, 1795; Pub. L. 94-569, §3(a), Oct. 20, 1976, 90 Stat. 2699; Pub. L. 97-448, title III, §307(a), Jan. 12, 1983, 96 Stat. 2407; Pub. L. 98-369, div. A, title IV, §423(c)(2), July 18, 1984, 98 Stat. 801; Pub. L. 99-514, title XIII, §1301(j)(10), title XVII, §1708(a)(1), Oct. 22, 1986, 100 Stat. 2658, 2782; Pub. L. 100-647, title I, §1007(g)(13)(A), Nov. 10, 1988, 102 Stat. 3436; Pub. L. 108-311, title II, §202, 207(1), Oct. 4, 2004, 118 Stat. 1175, 1177; Pub. L. 109-135, title IV, §412(a), Dec. 21, 2005, 119 Stat. 2636.)

### Amendments

**2005-**Subsec. (b)(2)(C). Pub. L. 109-135 substituted "subparagraph (B)" for "subparagraph (C)".

**2004-**Subsec. (a)(1)(B)(i). Pub. L. 108-311, §207(1), inserted ", determined without regard to subsections (b)(1), (b)(2), and (d)(1)(B) thereof" after "section 152".

Subsec. (b)(1)(A)(i). Pub. L. 108-311, §202(a), amended cl. (i) generally. Prior to amendment, cl. (i) read as follows: "a son, stepson, daughter, or stepdaughter of the taxpayer, or a descendant of a son or daughter of the taxpayer, but if such son, stepson, daughter, stepdaughter, or descendant is married at the close of the taxpayer's taxable year, only if the taxpayer is entitled to a deduction for the taxable year for such person under section 151 (or would be so entitled but for paragraph (2) or (4) of section 152(e)), or".

Subsec. (b)(2). Pub. L. 108-311, §202(b)(1), redesignated subpars. (B) to (D) as (A) to (C), respectively, and struck out former subpar. (A) which read as follows: "a legally adopted child of a person shall be considered a child of such person by blood;".

Subsec. (b)(3)(B)(i), (ii). Pub. L. 108-311, §202(b)(2), amended cls. (i) and (ii) generally. Prior to amendment, cls. (i) and (ii) read as follows:

"(i) paragraph (9) of section 152(a), or

"(ii) subsection (c) of section 152."

**1988**-Subsec. (d). Pub. L. 100-647 substituted "the taxes imposed by sections 1 and 55" for "the tax imposed by section 1".

**1986**-Subsec. (a)(3)(B). Pub. L. 99-514, §1708(a)(1), amended subpar. (B) generally. Prior to amendment, subpar. (B) read as follows: "the date which is-

"(i) December 31, 1982, in the case of service in the combat zone designated for purposes of the Vietnam conflict, or

"(ii) 2 years after the date designated under section 112 as the date of termination of combatant activities in that zone, in the case of any combat zone other than that referred to in clause (i)."

Subsec. (c). Pub. L. 99-514, §1301(j)(10), substituted "section 7703(b)" for "section 143(b)".

**1984**-Subsec. (b)(1)(A). Pub. L. 98-369, §423(c)(2)(A), substituted "which constitutes for more than one-half of such taxable year" for "which constitutes for such taxable year".

Subsec. (b)(1)(A)(i). Pub. L. 98-369, §423(c)(2)(B), inserted "(or would be so entitled but for paragraph (2) or (4) of section 152(e))".

**1983**-Subsec. (a)(3)(B)(i). Pub. L. 97-448 substituted "December 31, 1982" for "January 2, 1978".

**1976**-Subsec. (a)(3)(B). Pub. L. 94-569 substituted "the date which is" for "the date which is 2 years after" in provisions preceding cl. (i), substituted "January 2, 1978" for "the date of the enactment of this paragraph" in cl. (i), and substituted "2 years after the date" for "the date" in cl. (ii).

Subsec. (b)(3)(B)(ii). Pub. L. 94-455, §1901(b)(9), redesignated cl. (iii) as (ii) and struck out former cl. (ii) which provided that an individual who was a dependent solely by reason of par. (10) of section 152(a) would not be considered as a head of a household.

Subsec. (c). Pub. L. 94-455, §1901(a)(1), substituted "shall be treated as not married at the close of the taxable year" for "shall not be considered as married".

**1975**-Subsec. (a)(3). Pub. L. 93-597 added par. (3).

**1969**-Subsec. (a). Pub. L. 91-172 redesignated subsec. (b) as (a). See sec. 1(a) of this title.

Subsec. (b). Pub. L. 91-172 redesignated provisions of former section 1(b)(2) to (4) of this title as subsec. (b). Former subsec. (b) redesignated (a), with minor changes.

Subsec. (c). Pub. L. 91-172 added subsec. (c).

Subsec. (d). Pub. L. 91-172 redesignated as subsec. (d) provisions of former section 1(d) with minor changes.

Subsec. (e). Pub. L. 91-172 redesignated as subsec. (e) provisions of former section 1(e).

**1964**-Subsec. (a). Pub. L. 88-272 inserted reference to section 141.

#### **Effective Date of 2004 Amendment**

Pub. L. 108-311, title II, §208, Oct. 4, 2004, 118 Stat. 1178, provided that: "The amendments made by this title [amending this section and sections 21, 24, 25B, 32, 42, 51, 72, 105, 120, 125, 129, 132, 151 to 153, 170, 213, 220, 221, 529, 2032A, 2057, 7701, 7702B, and 7703 of this title] shall apply to taxable years beginning after December 31, 2004."

#### **Effective Date of 1988 Amendment**

Amendment by Pub. L. 100-647 effective, except as otherwise provided, as if included in the provision of the Tax Reform Act of 1986, Pub. L. 99-514, to which such amendment relates, see section 1019(a) of Pub. L. 100-647, set out as a note under section 1 of this title.

#### **Effective Date of 1986 Amendment**

Amendment by section 1301(j)(10) of Pub. L. 99-514 applicable to bonds issued after Aug. 15, 1986, except as otherwise provided, see sections 1311 to 1318 of Pub. L. 99-514, set out as an Effective Date; Transitional Rules note under section 141 of this title.

Pub. L. 99-514, title XVII, §1708(b), Oct. 22, 1986, 100 Stat. 2783, provided that: "The amendments made by this section [amending this section and sections 692, 6013, and 7508 of this title] shall apply to taxable years beginning after December 31, 1982."

#### **Effective Date of 1984 Amendment**

Pub. L. 98-369, div. A, title IV, §423(d), July 18, 1984, 98 Stat. 801, provided that: "The amendments made by this section [amending this section and sections 43, 44A, 105, 143, 152, and 213 of this title] shall apply to taxable years beginning after December 31, 1984."

#### **Effective Date of 1976 Amendment**

Pub. L. 94-455, title XIX, §1901(d), Oct. 4, 1976, 90 Stat. 1803, provided that: "Except as otherwise expressly provided in this section, the amendments made by this section [see Tables for classification] shall apply with respect to taxable years beginning after December 31, 1976. The amendments made by subsections (a)(29) and (b)(10) shall apply with respect to taxable years ending after the date of the enactment of this Act [Oct. 4, 1976]."

#### **Effective Date of 1975 Amendment**

Amendment by Pub. L. 93-597 applicable to taxable years ending on or after Feb. 28, 1961, see section 3(c) of Pub. L. 93-597, set out as a note under section 6013 of this title.

#### **Effective Date of 1969 Amendment**

Amendment by Pub. L. 91-172 applicable to taxable years beginning after Dec. 31, 1970, except that subsec. (c) is applicable to taxable years beginning after Dec. 31, 1969, see section 803(f) of Pub. L. 91-172, set out as a note under section 1 of this title.

#### **Effective Date of 1964 Amendment**

Amendment by Pub. L. 88-272, except for purposes of section 21 of this title, effective with respect to taxable years beginning after Dec. 31, 1963, see section 131 of Pub. L. 88-272, set out as a note under section 1 of this title.