

test contained in paragraph (2) is met, even though the decedent both is treated as having owned the shares (within the meaning of this subsection without reference to sec. 958(b)) and is considered to have owned the shares by applying the constructive ownership rules of section 958(b); as, for example, in a case where the decedent had given the shares to his wife in contemplation of death.

If the ownership tests of paragraphs (1) and (2) of subsection (b) are both met, the gross estate of the decedent is to include, in addition to items includible therein under section 2103 of the code, that proportion of the fair market value of the stock of the foreign corporation owned by the decedent, at the time of his death, which the fair market value of any assets owned by the foreign corporation and situated in the United States at the time of his death bears to the fair market value of all of the corporation's assets, wherever situated, at such time. The fair market value of assets, wherever situated, of the foreign corporation shall be determined without reduction for any outstanding liabilities of such corporation. The alternate valuation date provided by section 2032 of the code may be used in determining the value of the gross estate under subsection (b) of section 2107, but the ownership tests of paragraphs (1) and (2) of such subsection must be determined solely by reference to the time of death.

The application of the provisions of subsection (b) of section 2107 is illustrated by the following example.

Example.—H, a nonresident decedent to whom section 2107 applies, owned stock worth \$50,000 which constituted 40 percent of the total combined voting power of all classes of stock entitled to vote of foreign corporation M. W, his wife, owned stock constituting 20 percent of the combined voting power. H transferred all of his stock in M corporation to W in contemplation of death within the meaning of section 2035. At the time of H's death, 30 percent of the fair market value of the assets of the corporation were situated within the United States. The test of paragraph (1) is met since H "owned" (within the meaning of that paragraph) 40 percent of the combined voting power at the time of his death, and the test of paragraph (2) is met since, under that paragraph, H is treated as having owned 60 percent of the combined voting power (having constructive ownership of his wife's 20 percent of combined voting power, in addition to his own 40 percent of such power) at the time of his death. Accordingly, an amount equal to 30 percent (the percentage of the fair market value of the corporation's assets which were situated within the United States at H's death) of \$50,000 (the fair market value of the stock "owned" by H), or \$15,000, is included in H's gross estate.

(c) *Credits.*—Subsection (c) of section 2107 provides that in computing the Federal estate tax on the transfer of the taxable estate of a decedent nonresident not a citizen of the United States which is subject to tax under the provisions of subsection (a), credits against the tax are to be allowed in accordance with the provisions of section 2102, as amended by section 8(b) of the bill, for State death taxes, gift tax, and estate tax on prior transfers. In applying section 2102(b) for this purpose the gross estate is to be determined in the manner provided by subsection (b) of section 2107.

(d) *Exception for loss of citizenship for certain causes.*—Subsection (d) of section 2107 provides that the provisions of subsection (a) of