20x dollars was paid to D's estate to cover medical expenses incurred by D, and not on account of D's loss of life. Consequently, the 20x dollars is not includible in D's gross estate under section 2042(l) of the Code. However, the benefit is includible under section 2033 of the Code. See Rev. Rul. 75-127, 1975-1 C.B. 297.

HOLDING

The value of death benefits receivable under a policy issued pursuant to State Y's no-fault insurance statute by the executors of D, the operator of the insured vehicle, and C, a passenger in the vehicle, is includible in the respective gross estates of D and C under section 2042(l) of the Code.

Part IV.—Taxable Estate

Section 2053.—Expenses, Indebtedness, And Taxes

26 CFR 20.2053-1: Deductions for expenses, indebtedness, and taxes; in general.

Deductions; claim based on collusive suit. No deduction is allowable under section 2053(a)(3) of the Code for a claim that is based upon a judgment resulting from a collusive lawsuit which was instituted by the decedent's child against the decedent before the decedent's death.

Rev. Rul. 83-54

ISSUE

Under the circumstances described below, is a payment by an estate in satisfaction of a judgment resulting from a prearranged lawsuit deductible under section 2053(a)(3) of the Internal Revenue Code?

FACTS

A financial planner devised a plan for D designed to limit federal estates taxes. In 1977, pursuant to the plan, A, D's child, sued D for \$100x. A's claim was not meritorious. D did not contest the suit and a state court judgment was awarded to A for \$100x.

In 1982, D died. A presented a claim to D's estate based on the 1977 judgment. D's estate paid the claim and deducted it from the gross estate under section 2053(a)(3) of the Code.

LAW AND ANALYSIS

Section 2053(a)(3) of the Code provides for an estate tax deduction for the amount of claims against the estate as are allowable by the laws of the state under which the estate is being administered. These deductions, when founded on a promise or agreement, are limited by section 2053(c)(1) to the extent that the obligations are contracted bona fide and for adequate and full consideration in money or money's worth.

Section 20.2053-1(b)(2) of the Estate Tax Regulations provides that a consent decree before a local court will be accepted as a basis for an estate tax deduction under section 2053 of the Code, provided the consent decree was a bona fide recognition of the validity of the claim and was accepted by the court as satisfactory evidence upon the merits. The regulation provides that claims that are mere cloaks for a gift are not deductible.

In *Estate of Bath v. Commissioner,* T.C.M. 1975-102, the decedent's son sued the estate alleging that the decedent had promised him ⅓ of her estate in return for certain personal services. After a local court hearing, the son obtained a state court judgment for the amount of his claim. The estate sought to deduct the claim under section 2053(a)(3) of the Code. The Tax Court determined that the state court trial was not a bona fide contest, since the estate did not actively contest the claim, in part, because it thought it could deduct the amount of the claim for federal estate tax purposes. Therefore, the Tax Court disregarded the state court proceeding, evaluated the facts and applicable state law concerning the purported claim, and determined that the son did not have a valid claim under state law. Accordingly, the Tax Court held that the amount distributed to the son in satisfaction of the state court judgment was a substitute for an inheritance and was not deductible under section 2053.

In the instant case, A's lawsuit was instituted at the suggestion of a financial planner. The suit was without merit. Although the suit here was instituted against the decedent, rather than against the decedent's estate as in *Estate of Bath,* cited above, the parties in the instant case, as in *Estate of Bath,* intended that the result of the suit would be to permit the transfer of property to the decedent's heirs free of federal estate and gift taxes. The suit was merely a cloak for a gift and is not deductible under section 2053 of the Code. See *Estate of Bath,* cited above.

HOLDING

A payment by an estate in satisfaction of a judgment resulting from a prearranged lawsuit is not deductible under section 2053(a)(3) of the Code.

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26 CFR 20.2053-3: Deductions for expenses of administering estate.

Administration expenses; interest; foreign death tax. Interest paid by the decedent's executor to a foreign taxing authority as a result of late payment of foreign death tax is a deductible administration expense under section 2053(a)(2) of the Code to the extent it is allowable under local law.

Rev. Rul. 83-24

ISSUE

Is interest paid to a foreign taxing authority, incurred as a result of the late payment of a foreign death tax, deductible as an expense of administration under section 2053(a)(2) of the Internal Revenue Code?

FACTS

D, a resident of State X, died on April 29, 1981. At the date of death, D owned real property situated in foreign country Y on which Y imposed a death tax. D's executor paid the tax after the due date for payment and paid an additional amount as interest imposed on the executor's late payment of the tax liability. Under the law of State X, interest paid on a tax liability is an allowable administration expense of D's estate.

LAW AND ANALYSIS

Section 2053(a)(2) of the Code provides that the value of the taxable estate is determined by deducting from the value of the gross estate such amounts for administration expenses as are allowable under the laws of the jurisdiction in which the estate is being administered. Section 20.2053-3(a) of the Estate Tax Regulations provides that deductible administration expenses are those expenses that are actually and necessarily incurred in the administration of the decedent's estate.

Interest charged to an estate for the estate's late payment of tax is a charge for the use of money and consequently is deductible as a necessary administration expense under section 2053(a)(2) of the Code to the extent allowable under local law. The interest expense is allowable under section 2053 without regard to the manner in which it was incurred. See *Estate of Bahr. v. Commissioner,* 68 T.C. 74 (1977), *acq.*, 1978-1 C.B. 1 and Rev. Rul. 79-252, 1979-2 C.B. 333.

In this case the amount paid by *D*'s estate in addition to Country *Y*'s death tax was interest, and under the law of State *X*, interest on late payment of tax is an allowable administration expense. Thus, *D*'s estate is entitled to deduct the amount paid as interest on the foreign death tax liability under section 2053(a)(2) of the Code. The fact that the interest charge was imposed by a foreign country does not affect the characterization of the charge as a proper expense of administration. See Rev. Rul. 80-260, 1980-2 C.B. 277, which discusses the deduction of administration expenses incurred by an executor in a foreign country, incident to foreign situs property owned by the decedent.

HOLDING

Interest paid to a foreign taxing authority incurred as a result of a late payment of a foreign death tax is deductible under section 2053(a)(2) of the Code to the extent it is allowable under local law.

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26 CFR 20.2053-3: Deduction for expenses of administering estate.

Whether underwriting fees that are necessarily incurred in marketing a large block of stock are deductible as an administration expense under section 2053(a)(2) of the Code or are considered in determining blockage discount in valuing the stock under section 2031. See Rev. Rul. 83-30, page 224.

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26 CFR 20.2053-4: Deduction for claims against the estate; in general.

For purposes of satisfying the material participation requirements of section 2032A, whether the requirement that all self-employment taxes determined to be due must be paid includes any taxes for which assessment is barred by the statute of limitations. See Rev. Rul. 83-32, page 226.

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26 CFR 20.2053-7: Deduction for unpaid mortgages.
(Also Section 2032A; 20.2032A-3.)

Claims against estate; unpaid mortgage; farm; special use value. A mortgage for which the decedent's estate is liable is fully deductible under section 2053 of the Code if all of the secured property is included in the gross estate, even though the property has been valued in a section 2032A election.

Rev. Rul. 83-81

ISSUE

For purposes of section 2053(a)(4) of the Internal Revenue Code, what amount of an unpaid mortgage, for which the decedent was personally liable and which is enforceable against the property of the estate, is allowable as a deduction when the property subject to the mortgage is valued as qualified real property under section 2032A?

FACTS

D, the decedent, died in 1981 owning a farm that was entirely included in *D*'s gross estate. The value of the property, based on the special use value (farm use), was 600*x* dollars. The fair market value of the farm was 1,000*x* dollars. When *D* died, the farm was subject to a mortgage in the amount of 700*x* dollars, for which *D* was personally liable. The indebtedness is enforceable against other property of the estate not subject to the mortgage.

On the federal estate tax return filed for *D*'s estate, the executor elected under section 2032A of the Code to value the farm based on its special use value of 600*x* dollars. The executor claimed a deduction of 700*x* dollars for the mortgage debt, under section 2503(a)(4).

LAW AND ANALYSIS

Section 2031(a) of the Code provides that the value of the gross estate shall be determined by including the value at the time of the decedent's death of all property, real or personal, tangible or intangible, wherever situated.

Section 20.2031-1(b) of the Estate Tax Regulations provides that the value of every item of property includible in a decedent's gross estate is its fair market value at the time of the decedent's death.

Under section 2032A of the Code, if certain requirements are satisfied, the executor may elect to value real property, used for farming purposes, as qualified real property (based on the property's value as a farm) rather than at its fair market value (based on its highest and best use). Section 2032A(a)(1) provides that for purposes of the Estate Tax Chapter the value of the qualified real property is its special use value.

Under section 2053(a)(4) of the Code, a deduction from the value of the gross estate is allowed for the amount of unpaid mortgage on property where the value of the decedent's interest therein, undiminished by the mortgage, is included in the value of the gross estate.

Section 20.2053-7 of the regulations provides that a deduction is allowed from a decedent's gross estate of the full unpaid amount of a mortgage upon any property of the gross estate provided the value of the property, undiminished by the amount of the mortgage, is included in the value of the gross estate. If the decedent's estate is liable for the amount of the mortgage, the full value of the prop-