

State of California

PROBATE CODE

Section 21135

21135. (a) Property given by a transferor during his or her lifetime to a person is treated as a satisfaction of an at-death transfer to that person in whole or in part only if one of the following conditions is satisfied:

(1) The instrument provides for deduction of the lifetime gift from the at-death transfer.

(2) The transferor declares in a contemporaneous writing that the gift is in satisfaction of the at-death transfer or that its value is to be deducted from the value of the at-death transfer.

(3) The transferee acknowledges in writing that the gift is in satisfaction of the at-death transfer or that its value is to be deducted from the value of the at-death transfer.

(4) The property given is the same property that is the subject of a specific gift to that person.

(b) Subject to subdivision (c), for the purpose of partial satisfaction, property given during lifetime is valued as of the time the transferee came into possession or enjoyment of the property or as of the time of death of the transferor, whichever occurs first.

(c) If the value of the gift is expressed in the contemporaneous writing of the transferor, or in an acknowledgment of the transferee made contemporaneously with the gift, that value is conclusive in the division and distribution of the estate.

(d) If the transferee fails to survive the transferor, the gift is treated as a full or partial satisfaction of the gift, as the case may be, in applying Sections 21110 and 21111 unless the transferor's contemporaneous writing provides otherwise.

(Amended by Stats. 2002, Ch. 138, Sec. 36. Effective January 1, 2003.)