Recent Developments in Estate & Gift Tax

Fiscal Year 2021
Fall Update
Disclaimer

The information presented in this handout from the Internal Revenue Service is for educational purposes only and shall not be cited or relied upon as authority.
Transfer Taxes

• The federal estate tax is a tax on the transfer of property at death.

• The federal gift tax is a tax on the transfer of property by gift during life.

• Federal gift and estate tax liability is imposed only when the cumulative value of lifetime transfers and transfers at death (less any applicable deductions) exceeds a taxpayer’s exclusion amount.
Estate Tax Return Filing Thresholds:

Basic Exclusion Amount

- 2017 Exclusion Amount = $5,490,000
- 2018 Exclusion Amount = $11,180,000
- 2019 Exclusion Amount = $11,400,000
- 2020 Exclusion Amount = $11,580,000
- 2021 Exclusion Amount = $11,700,000

- Basic Exclusion Amount is indexed for inflation*
- Maximum Tax Rate is 40%
New Address for Return Filing

- Estate Tax Returns (Forms 706) and Gift Tax Returns (Form 709) are now filed in Kansas City, MO. The Form 706 Instructions and the Form 709 Instructions reflect the change and include the new address.

- On IRS.gov, the Filing Estate and Gift Tax Returns page provides all the filing addresses for all Estate and Gift-related returns, including supplemental and other miscellaneous forms.

- In response to the COVID-19 situation, Forms 706, 706-NA, and 709 may be digitally signed. See the next slide.
Temporary Usage of Electronic or Digital Signatures on Certain Filed Forms

• See IRS.gov/newsroom/irs-adds-six-more-forms-to-list-that-can-be-signed-digitally-16-now-available

• Alternatively, in the IRS.gov search box type “digital signature”
Extensions to File

• Use Form 4768, Extension of Time To File a Return and/or Pay U.S. Estate (and Generation Skipping Transfer) Taxes, to apply for an extension to file a Form 706 and/or pay estate and GST taxes.
  - Automatic 6-month extension to file if Form 4768 is timely filed by the due date of the Form 706
  - Estate tax is due 9 months from DOD unless an extension to pay is granted.

• Use Form 8892, Payment of Gift/GST Tax and/or Application for Extension of Time To File Form 709, if extending only gift tax

• Use Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return, if extending the filing date of both income tax and gift tax
  - Neither form extends time to pay the gift tax, which is due April 15th of the year after the gift was made
New e-Services Product - TDS

- Transcript Delivery Service is available for Form 706 Estate Tax return accounts.
- Authenticated and Registered users receive instant account transcripts.
  - Two step process
  - Users may need to re-authenticate their accounts
  - Do not hesitate to call 1-888-841-4648 for help
- Notice 2017-12 confirms transcripts can substitute for an estate tax closing letter.
- FAQs on Estate Taxes page of IRS.gov provides detailed instructions for requesting a transcript.
Requesting an Estate Tax Closing Letter

- FAQs on Estate Taxes page of www.IRS.gov provides detailed instructions for requesting a closing letter.
- Not available for Gift Tax Return, Form 709.
- The closing letter will be prepared and issued to the executor at the address of record.
Form 706 – Estate Tax Return

### Part 1 - Decedent and Executor

- **Name of executor (see instructions).**
- **Executor's social security number (see instructions).**
- **Name and address of the decedent.**
- **Executors' social security numbers (see instructions).**
- **Name and address of each executor.**
- **Personal representative or other executor.**
- **Alternate representative.**
- **Name and address of the alternate representative.**
- **Date of death.**
- **Date of birth.**
- **Year domicile established.**
- **City, town, or postal office; county; state or province; country; and ZIP or foreign postal code.**

### Part 2 - Computation

- **Total gross estate less exclusion (from Part 5 - Recapitulation, Item 15).**
- **Tentative total allowable deductions (from Part 5 - Recapitulation, Item 24).**
- **Tentative taxable estate (subpart B – from line 1).**
- **State death tax deduction.**
- **Taxable estate (subtract line 5b from line 3a).**
- **Adjusted taxable gifts (see instructions).**
- **State death tax deduction.**
- **Tentative tax on the amount on line 5 from Table A in the instructions.**
- **Total gift tax (paid or payable (see instructions).**
- **Cross estate tax (subtract line 7 from line 6).**
- **Basic exclusion amount.**
- **Deduced spousal unused exclusion (DSUE) amount from decedent spouse.**
- **If any (from Section D, Part 6 - Portability of Decedent Spousal Unused Exclusion).**
- **Restored exclusion amount (see instructions).**
- **Applicable exclusion amount (add lines 5a, 5b, and 5c).**
- **Applicable credit amount (tentative tax on the amount in line 9d from Table A in the instructions).**
- **Adjustment to applicable credit amount (May not exceed $1,000) (see instructions).**
- **Allowable applicable credit amount (subtract line 10 from line 9e).**
- **Subtract line 11 from line 9 (but do not enter less than zero).**
- **Credit for foreign death taxes (from Schedule F, (Attach Form(s) 706-CE)).**
- **Credit for tax on prior transfers (from Schedule G).**
- **Total transfer taxes (add lines 16 and 17).**
- **Prior payments (explain in an attached statement).**
- **Balance due or overpayment (subtract line 18 from line 19).**

### Signatures

- **Signature of executor.**
- **Date.**
Recent Developments in Estate and Gift Tax

- There are worksheets available in the Instructions for Form 706 to assist with Lines 4 and 7
- Be sure to include all gifts since 1976
- Gift tax includes amounts “paid or payable”

<table>
<thead>
<tr>
<th>Line</th>
<th>Description</th>
<th>Formula</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total gross estate less exclusion (from Part 5—Recapitulation, item 13)</td>
<td>$</td>
</tr>
<tr>
<td>2</td>
<td>Tentative total allowable deductions (from Part 5—Recapitulation, item 24)</td>
<td>$</td>
</tr>
<tr>
<td>3a</td>
<td>Tentative taxable estate (subtract line 2 from line 1)</td>
<td>$</td>
</tr>
<tr>
<td>3b</td>
<td>State death tax deduction</td>
<td>$</td>
</tr>
<tr>
<td>3c</td>
<td>Taxable estate (subtract line 3b from line 3a)</td>
<td>$</td>
</tr>
<tr>
<td>4</td>
<td>Adjusted taxable gifts (see instructions)</td>
<td>$</td>
</tr>
<tr>
<td>5</td>
<td>Add lines 3c and 4</td>
<td>$</td>
</tr>
<tr>
<td>6</td>
<td>Tentative tax on the amount on line 5 from Table A in the instructions</td>
<td>$</td>
</tr>
<tr>
<td>7</td>
<td>Total gift tax paid or payable (see instructions)</td>
<td>$</td>
</tr>
<tr>
<td>8</td>
<td>Gross estate tax (subtract line 7 from line 6)</td>
<td>$</td>
</tr>
</tbody>
</table>

- There are worksheets available in the Instructions for Form 706 to assist with Lines 4 and 7
- Be sure to include all gifts since 1976
- Gift tax includes amounts “paid or payable”
### Updated - Line 7 Worksheet

**Line 7 Worksheet – Submit a copy with Form 706**

<table>
<thead>
<tr>
<th>Line 7 Worksheet Part A. Used to determine Applicable Credit Allowable for Prior Periods after 1976</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(a)</strong> Tax Period ¹</td>
</tr>
<tr>
<td><strong>(b)</strong> Taxable Gifts for Applicable Period</td>
</tr>
<tr>
<td><strong>(c)</strong> Taxable Gifts for Prior Periods ²</td>
</tr>
<tr>
<td><strong>(d)</strong> Cumulative Taxable Gifts Including Applicable Period (add Row (b) and Row (e))</td>
</tr>
<tr>
<td><strong>(e)</strong> Tax at Date of Death Rates for Prior Gifts ((from Row (c))³</td>
</tr>
<tr>
<td><strong>(f)</strong> Tax at Date of Death Rates for Cumulative Taxable Gifts Including Applicable Period (from Row (d))</td>
</tr>
<tr>
<td><strong>(g)</strong> Tax at Date of Death Rates for Gifts in Applicable Period (subtract Row (e) from Row (f))</td>
</tr>
<tr>
<td><strong>(h)</strong> Total DSUE applied and Restorable Exclusion Amount from Prior Periods and Applicable Period (see instructions later)</td>
</tr>
<tr>
<td><strong>(i)</strong> Basic Exclusion for Applicable Period (Enter the amount from the Table of Basic Exclusion Amounts)</td>
</tr>
<tr>
<td><strong>(j)</strong> Applicable Exclusion Amount (add Row (h) and Row (i))</td>
</tr>
<tr>
<td><strong>(k)</strong> Maximum Applicable Credit amount based on Row (j) (Using Table A—Unified Rate Schedule)⁴</td>
</tr>
<tr>
<td><strong>(l)</strong> Applicable Credit amount used in Prior Periods (add Row (l) and Row (n) from prior period)</td>
</tr>
<tr>
<td><strong>(m)</strong> Available Credit in Applicable Period (subtract Row (l) from Row (k))</td>
</tr>
<tr>
<td><strong>(n)</strong> Credit Allowable (lesser of Row (g) or Row (m))</td>
</tr>
<tr>
<td><strong>(o)</strong> Tax paid or payable at Date of Death rates for Applicable Period (subtract Row (n) from Row (g))</td>
</tr>
<tr>
<td><strong>(p)</strong> Tax on Cumulative Gifts less tax paid or payable for Applicable Period (subtract Row (o) from Row (f))</td>
</tr>
<tr>
<td><strong>(q)</strong> Cumulative Taxable Gifts less Gifts in the Applicable Period on which tax was paid or payable based on Row (g)  (Using the Taxable Gift Amount Table)</td>
</tr>
<tr>
<td><strong>(r)</strong> Gifts in the Applicable Period on which tax was payable (subtract Row (q) from Row (f))</td>
</tr>
</tbody>
</table>
**Part 3 - Elections by the Executor**

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1  Do you elect alternate valuation?</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2  Do you elect special-use valuation? If “Yes,” you must complete and attach Schedule A-1</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>3  Do you elect to pay the taxes in installments as described in section 6166?</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>If “Yes,” you must attach the additional information described in the instructions.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Note. By electing section 6166 installment payments, you may be required to provide security for estate tax deferred under section 6166 and interest in the form of a surety bond or a section 6324A lien.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4  Do you elect to postpone the part of the taxes due to a reversionary or remainder interest as described in section 6163?</td>
<td>4</td>
<td></td>
</tr>
</tbody>
</table>

- **The Portability Election is in Part 6 on page 4.**
- **If the executor elects to make §6166 installment payments, they must provide security**
The authorization on page 2 of the Form 706 is not as expansive as the Form 2848.

Form 2848 (Power of Attorney) is a more flexible document.
### Page 2, Part 4-Prior Gifts

If you answer “Yes” to any of the following questions, you must attach additional information as described. | Yes | No |
---|---|---|
6. Is the estate filing a protective claim for refund? If “Yes,” complete and attach two copies of Schedule PC for each claim.
7. Does the gross estate contain any section 2044 property (qualified terminable interest property (QTIP) from a prior gift or estate)? (see instructions)
8a. Have federal gift tax returns ever been filed? If “Yes,” attach copies of the returns, if available, and furnish the following information:
   - Period(s) covered
   - Internal Revenue office(s) where filed
9a. Was there any insurance on the decedent’s life that is not included on the return as part of the gross estate?
   - Did the decedent own any insurance on the life of another that is not included in the gross estate?

- **Prior year gift returns – must be disclosed**
- You can request return information from the IRS using Forms 4506 or 4506-T. Detailed instructions for completing the forms are provided at IRS.gov.
Gift Tax Transcripts

- Use Form 4506-T when tax years are known
- Use letter when tax years are unknown
- Submit all requests with substantiation
- Complete “Title” section of signature if not the Donor and substantiate
- Altered forms will be rejected – type-over, white-out, pen and ink changes
- No fees apply
Obtaining Copies of Gift Tax Returns

- Use Form 4506
- Submit all requests with proper substantiation listed on IRS.gov
- Complete “Title” section of signature if not the Donor and substantiate
- Altered forms will be rejected – type-over, white-out, pen and ink changes
- $50 fee per tax return
- Follow step by step instructions on FAQs for Gift Taxes page of IRS.gov
Applicable Exclusion: The applicable exclusion amount is the sum of the basic exclusion amount, any DSUE amount, and any restored exclusion.

Compute Applicable Credit Amount and enter on Line 9e on Page 1, Part 2.
Portability of Deceased Spousal Unused Exclusion (DSUE)

Part 6—Portability of Deceased Spousal Unused Exclusion (DSUE)

Portability Election
A decedent with a surviving spouse elects portability of the deceased spousal unused exclusion (DSUE) amount, if any, by completing and timely-filing this return. No further action is required to elect portability of the DSUE amount to allow the surviving spouse to use the decedent’s DSUE amount.

Section A. Opting Out of Portability
The estate of a decedent with a surviving spouse may opt out of electing portability of the DSUE amount. Check here and do not complete Sections B and C of Part 6 only if the estate opts NOT to elect portability of the DSUE amount.

Section B. QDOT
Are any assets of the estate being transferred to a qualified domestic trust (QDOT)?

Yes ☐ No ☐

If “Yes,” the DSUE amount portable to a surviving spouse (calculated in Section C, below) is preliminary and shall be redetermined at the time of the final distribution or other taxable event imposing estate tax under section 2056A. See instructions for more details.

Section C. DSUE Amount Portable to the Surviving Spouse
(To be completed by the estate of a decedent making a portability election)

Complete the following calculation to determine the DSUE amount that can be transferred to the surviving spouse.

1. Enter the amount from line 9c, Part 2—Tax Computation
2. Reserved
3. Enter the value of the cumulative lifetime gifts on which tax was paid or payable (see instructions)
4. Add lines 1 and 3
5. Enter amount from line 10, Part 2—Tax Computation
6. Divide amount on line 5 by 40% (0.40) (do not enter less than zero)
7. Subtract line 6 from line 4
8. Enter the amount from line 5, Part 2—Tax Computation
9. Subtract line 8 from line 7 (do not enter less than zero)
10. DSUE amount portable to surviving spouse (Enter lesser of line 9 or line 9a, Part 2—Tax Computation)
**Section D. DSUE Amount Received from Predeceased Spouse(s)**

(To be completed by the estate of a deceased surviving spouse with DSUE amount from predeceased spouse(s))

Provide the following information to determine the DSUE amount received from deceased spouses.

<table>
<thead>
<tr>
<th>A</th>
<th>Name of Deceased Spouse (dates of death after December 31, 2010, only)</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>Date of Death (enter as mm/dd/yyyy)</td>
</tr>
<tr>
<td>C</td>
<td>Portability Election Made?</td>
</tr>
<tr>
<td>D</td>
<td>If “Yes,” DSUE Amount Received from Spouse</td>
</tr>
<tr>
<td>E</td>
<td>DSUE Amount Applied by Decedent to Lifetime Gifts</td>
</tr>
<tr>
<td>F</td>
<td>Year of Form 709 Reporting Use of DSUE Amount Listed in col E</td>
</tr>
<tr>
<td>G</td>
<td>Remaining DSUE Amount, if any (subtract col. E from col. D)</td>
</tr>
</tbody>
</table>

**Part 1 — DSUE RECIPIENT FROM LAST DECEASED SPOUSE**

**Part 2 — DSUE RECIPIENT FROM OTHER PREDECEASED SPOUSE(S) AND USED BY DECEDENT**

**Total (for all DSUE amounts from predeceased spouse(s) applied)**

Add the amount from Part 1, column D and the total from Part 2, column E. Enter the result on line 9b, Part 2—Tax Computation.
**Gift Tax annual exclusion:**

- 2014 through 2017 is $14,000 per donee
- 2018 through 2020 the annual exclusion is $15,000 per donee

**Must apply DSUE amount to taxable gifts, if available**
Basis Consistency & Reporting

- Section 1014(f) requires a recipient’s basis in certain property acquired from a decedent to be consistent with the value of the property as finally determined for Federal estate tax purposes.
- Section 6035 requires estates to provide basis information to the IRS and the recipients of certain property acquired from a decedent.
- Form 8971 and Schedule A are used to satisfy the reporting requirements under section 6035.
- Awaiting the release of final regulations.
Basic Tips for Return Assembly

• Spiral binding, two and three hole punch document fasteners and/or covers on the return are not necessary and are likely to be removed and destroyed at the Service Center.

• Exhibits should be indexed and placed at the back of the tax return - not behind each individual schedule.

• Include copies of all wills, trusts, disclaimers, agreements, appraisals, and other explanatory documents, referred to in the return or in the supporting documents.
Corresponding with the IRS

- Keep Official IRS Record Current
- Substantiate person authorized to receive information
- File one original Form 2848
- Keep CAF Current
- Refer to Estate and/or Gift Tax pages IRS.gov for specific instructions to complete data request forms
IRS Tax Help

- Visit www.irs.gov and type keywords “estate and gift taxes” to find:
  - What’s New
  - FAQs
  - Pub 559, Survivors, Executors and Administrators
  - Filing Information

- Consult the Estate and Gift Tax pages on IRS.gov for questions about return accounts, lien discharges, extensions and closing letters. If further assistance is needed, call (866) 699-4083.
Questions?