



Recent Developments in Estate & Gift Tax

December 2024



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.



Recent Guidance

- **Basis Consistency Final Regulations (TD 9991)**
 - Published September 16, 2024; applicable September 17, 2024
 - Most provisions remain the same:
 - When Form 8971 is and is not required
 - The initial Form 8971 due date
 - Schedule A provides basis information to certain beneficiaries
 - Provisions that have significantly changed:
 - Due date for when certain Schedules A are required to be furnished to beneficiaries (also filed with IRS)
 - Reporting of subsequent transfers has been narrowed
 - The zero-basis rule has been removed



- **Revenue Procedure 2022-32**
 - Effective July 8, 2022
 - Provides a simplified method to obtain an extension of time to make a portability election
 - Executor must file Form 706 within five years of the decedent's death and indicate "FILED PURSUANT TO REV. PROC. 2022-32 TO ELECT PORTABILITY UNDER § 2010(c)(5)(A)" at the top of the return
 - Available only if there was no requirement to file an estate tax return under Section 6018 of the Internal Revenue Code



- **Proposed Regulations [REG-130975-08] under Section 2053 of the Internal Revenue Code**
 - Published in the Federal Register on June 28, 2022
 - Guidance on the proper use of present-value principles in determining the amount deductible by an estate for funeral expenses, administration expenses, and certain claims against the estate
 - Guidance on the deductibility of certain types of interest expense
 - Clarification of substantiating the value of certain claims
 - Guidance on the deductibility of amounts paid under a decedent's personal guarantee



- **Proposed Regulations [REG-119683-22] under Section 2056A of the Internal Revenue Code - QDOTs**
 - Published in the Internal Revenue Bulletin on September 30, 2024
 - Reg. 20.2056A-2, 20.2056A-4 and 20.2056A-11 required updates to references to a publication, to IRS officials and offices and to procedures and addresses to be used by certain trustees to provide a security instrument for QDOT purposes.
 - Note: Security instruments are to be sent directly to Collection Advisory, not attached to the Form 706. See Publication 4235.



- **Publication 904, Interrelated Computations for Estate and Gift Taxes**
- Explains and illustrates the methods to use when an interrelated computation is necessary for determining estate or gift taxes
- Published on September 28, 2022
- Updated revision posted in February 2023



Use of Electronic or Digital Signatures on Certain Forms

- **The IRS is allowing taxpayers to use electronic or digital signatures on certain paper forms that cannot be filed electronically**
- The policy has been extended indefinitely
- Form 709, all Form 706-series, Form 1127, Form 4768, and Form 8971 are among the included forms
- **See IRS.gov for more information: [IRS extends popular flexibilities set to expire; electronic signatures and encrypted email enhance the taxpayer experience | Internal Revenue Service](#)**



Electronic Correspondence Tools

- **Electronic Correspondence Tools Include:**
 - E-signatures
 - E-fax
 - Third-party websites such as:
 - Hightail
 - ShareFile
 - Dropbox
 - Document Upload Tool
 - Email encrypted documents
 - See www.irs.gov/help/sign-and-send-documents-electronically for more information



Online Submission of Form 2848 and Form 8821

- **On IRS.gov, search “Form 2848” or “Form 8821” and scroll to “Submit Forms 2848 and 8821 Online”**
- **Review the instructions and the FAQs regarding:**
 - Electronic signatures
 - Authentication and secure access
 - Form submission
- **You may still submit these forms via fax or mail if you are unable to submit them online**
- **The box at Line 2, Representatives (Form 2848) must be checked for representative to receive estate notices and correspondence**



Form 706 Authorization

Part 4—General Information

Note: Please attach the necessary supplemental documents. **You must attach the death certificate.** See instructions.

Authorization to receive confidential tax information under Reg. section 601.504(b)(2)(i); to act as the estate's representative before the IRS; and to make written or oral presentations on behalf of the estate:

Name of representative (print or type)	State	Address (number, street, and room or suite no., city, state, and ZIP code)
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I declare that I am the ☐ attorney/ ☐ certified public accountant/ ☐ enrolled agent (check the applicable box) for the executor. I am not under suspension or disbarment from practice before the Internal Revenue Service and am qualified to practice in the state shown above.

Signature	CAF number	Date	Telephone number
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- **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**
- **NOTE: The section 601 authorization is being removed from the form. Form 2848 should be used.**



Transcript Delivery Service

- **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
- **Notice 2017-12 confirms transcripts can substitute for an estate tax closing letter**
- **See www.irs.gov/businesses/small-businesses-self-employed/transcripts-in-lieu-of-estate-tax-closing-letters for more information**



Requesting an Estate Tax Closing Letter (ETCL)

- **New Estate Tax Closing Letter User Fee Regulations were issued effective October 28, 2021**
- Requests are made through Pay.gov; the fee is \$67
- ***FAQs on the Estate Tax Closing Letter* is available on www.irs.gov providing detailed instructions for requesting an estate tax closing letter on Pay.gov**
- Go to: www.irs.gov/etcl
- **Not available for Form 709 (gift tax) or Form 1041 (estate income tax)**
- **The closing letter will be prepared and issued to the executor at the address of record and other authorized representatives**



Estate and Gift Tax Basics

- **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**
- **The most recent basic exclusion amounts are:**
 - 2025: \$13,990,000
 - 2024: \$13,610,000
 - 2023: \$12,920,000



Estate Tax Filing Information

- The current version of Form 706 was released August 2019 for decedents dying after December 31, 2018
- The executor is responsible for filing the estate tax return
- The executor may elect portability of any Deceased Spousal Unused Exclusion (DSUE) by timely filing a complete and properly prepared estate tax return
 - Certain returns filed only to elect portability may report certain assets by using a good-faith estimate of value
- Review www.irs.gov/businesses/small-businesses-self-employed/filing-estate-and-gift-tax-returns for additional filing information



Completing Form 706

Form 706 (Rev. August 2019) Department of the Treasury Internal Revenue Service		United States Estate (and Generation-Skipping Transfer) Tax Return ▶ Estate of a citizen or resident of the United States (see instructions). To be filed for decedents dying after December 31, 2018. ▶ Go to www.irs.gov/Form706 for instructions and the latest information.			OMB No. 1545-0015	
Decedent and Executor	1a Decedent's first name and middle initial (and maiden name, if any)	1b Decedent's last name		2 Decedent's social security no.		
	3a City, town, or post office; county; state or province; country; and ZIP or foreign postal code	3b Year domicile established	4 Date of birth	5 Date of death		
	6a Name of executor (see instructions)	6b Executor's address (number and street including apartment or suite no.; city, town or post office; state or province; country; and ZIP or foreign postal code) and phone no.				

Line 3a is the decedent's information at the date of death.

Line 3b relates to when the address in Line 3a was established.

Line 6a is the executor that receives the estate tax closing letter (ETCL).

Line 6b is the estate's official address of record, where the ETCL will be mailed.



Gift Tax Filing Information

- Form 709 is an annual return with a new version released each year
- The donor is responsible for filing the return and paying any gift tax due
- The return is due April 15th of the year after the gift was made
- Review www.irs.gov/businesses/small-businesses-self-employed/filing-estate-and-gift-tax-returns for additional filing information



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 after death 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**
 - Gift tax is due April 15th of the year after the gift was made



Prior Gift Information

Form 706, Page 2, Part 4, Prior Gift Information

8a Have federal gift tax returns ever been filed?			
If "Yes," attach copies of the returns, if available, and furnish the following information.			
b Period(s) covered	c Internal Revenue office(s) where filed		

- **Gift tax returns filed by the decedent must be disclosed**
- **You may request return information from the IRS using Forms 4506 or 4506-T**
- Detailed instructions for completing these forms are provided at www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-gift-taxes



Gross Estate Tax Computation

Form 706, Page 1, Part 2

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

- **Gross estate tax is computed using Lines 1 through 8 of Part 2 on the first page of the Form 706**
- **There are worksheets available in the Instructions for Form 706 to assist with Line 4 and Line 7**
 - All gifts since 1976 must be included
 - Line 7 includes amounts “paid or payable”



Portability

- **The executor elects portability of the Deceased Spousal Unused Exclusion (DSUE) amount, if any, by completing and timely filing Form 706**
- **The executor opts out of electing portability by checking the box in Section A of Part 6 on page 4 of the Form 706**
- **Section B of Part 6 contains “Yes” and “No” checkboxes for the executor to indicate whether any assets of the estate are being transferred to a Qualified Domestic Trust (QDOT)**
 - Note: A portability election may not be made if the decedent was not a U.S. Citizen or Resident at the time of death
- **The executor will use Section C of Part 6 to compute the DSUE amount portable to the surviving spouse**
- **Section D of Part 6 is used to compute any DSUE amount received from a predeceased spouse**



Gift Tax Reminders

- **Basic Exclusion is the same as for Estate Tax**
 - \$13,610,000 in 2024 and \$13,990,000 in 2025.
- **Annual Exclusion for certain present interest transfers**
 - \$15,000 in 2018-2021, \$16,000 in 2022, \$17,000 in 2023, \$18,000 in 2024, and \$19,000 in 2025
 - \$175,000 for gifts to a nonresident, non-U.S. citizen spouse in 2023, \$185,000 in 2024 and \$190,000 in 2025
- **If the donor has DSUE that was received from their last predeceased spouse, it must be used before the donor's own exclusion is applied**



Basis Consistency and 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**



Form 8971 Due Dates

- When required, the initial Form 8971 and each Required Schedule A must be filed and furnished 30 days after Form 706 is filed or due, whichever is earliest.
- **File supplemental Forms 8971 and Schedules A when:**
 - A beneficiary acquires property (not Excepted Property) not previously reported, or
 - There is a change to the form or schedule info that was previously reported, or that caused it to be incorrect or incomplete.
 - The due date for supp. filings is generally Jan. 31 the year following the beneficiary's acquisition of the property.
- **Acquired means title has vested in the beneficiary and the beneficiary has sufficient control over the property (related to Federal income tax purposes).**



Basic Tips for Return Assembly

- **DO NOT USE** Spiral binding, two and three-hole punch document fasteners and/or covers on the return.
- **DO NOT USE** tabbed separators.
- **Exhibits** should be indexed and placed at the back of the tax return - not behind each individual schedule
 - Copies of tax returns filed with Form 706 must be identified as exhibits to the Form 706
- **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**



- 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?

