

# Publication 559

## Survivors, Executors, and Administrators

For use in preparing  
**2023** Returns

Volume 3 of 4



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The basis of certain appreciated property the estate receives from the decedent will be the decedent's adjusted basis in the property immediately before death. This applies if the property was acquired by the decedent as a gift during the 1-year period before death, the property's FMV on the date of the gift was greater than the donor's adjusted basis, and the proceeds of the sale of the property are distributed to the donor (or the donor's spouse).

***Schedule D (Form 1041) and Form 8949.***

Use Form 8949, Sales and Other Dispositions of Capital Assets, to report most sales and exchanges of capital assets. Use Schedule D (Form 1041), Capital Gains and Losses, to report the overall capital gains and losses from transactions reported on Form 8949, certain transactions that don't have to be reported on Form 8949, and certain other capital gains and losses. For additional information, see the Instructions for Form

8949 and the Instructions for Schedule D (Form 1041).

**Installment obligations.** If an installment obligation owned by the decedent is transferred by the estate to the obligor (buyer or person obligated to pay) or is canceled at death, include the income from that event in the gross income of the estate. See *Installment obligations* under *Income in Respect of a Decedent*, earlier. See Pub. 537 for information about installment sales.

**Gain from sale of special-use valuation property.** If the personal representative elected special-use valuation for farm or other closely held business real property and that property is sold to a qualified heir, the estate will recognize gain on the sale if the FMV on the date of the sale exceeds the FMV on the date of the decedent's death (or on the alternate valuation date if it was elected).

***Qualified heirs.*** Qualified heirs include the decedent's ancestors (parents, grandparents, etc.) and spouse, the decedent's lineal descendants (children, grandchildren, etc.) and their spouses, and lineal descendants (and their spouses) of the decedent's parents or spouse. For more information about special-use valuation, see Form 706 and its instructions.

**Gain from transfer of property to a political organization.** Appreciated property transferred to a political organization is treated as sold by the estate. Appreciated property is property that has an FMV (on the date of the transfer) greater than the estate's basis. The gain recognized is the difference between the estate's basis and the FMV on the date transferred.

A political organization is any party, committee, association, fund, or other organization formed and operated to accept contributions or make expenditures for

influencing the nomination, election, or appointment of an individual to any federal, state, or local public office.

**Gain or loss on distributions in kind.** An estate recognizes gain or loss on a distribution of property in kind to a beneficiary only in the following situations.

1. The distribution satisfies the beneficiary's right to receive either of the following.
  - a. A specific dollar amount (whether payable in cash, in unspecified property, or in both).
  - b. A specific property other than the property distributed.
2. An election is made to recognize the gain or loss on the estate's income tax return (section 643(e)(3) election).

The gain or loss is usually the difference between the FMV of the property when distributed and the estate's basis in the property. However, see *Gain from sale of special-use valuation property*, earlier, for a limit on the gain recognized on a transfer of such property to a qualified heir.

If you elect to recognize gain or loss, the election applies to all noncash distributions during the tax year except charitable distributions and specific bequests. To make the election, report the transaction on Form 8949 and/or Schedule D (Form 1041), as applicable, and check the box on Form 1041, Other Information, line 7. The election must be made by the due date (including extensions) of the estate's income tax return for the year of distribution. However, if the return is timely filed without making the election, the election can be made by filing an amended return within 6 months of the due date of the return (excluding extensions).

Attach Form 8949 and/or Schedule D (Form 1041), as applicable, to the amended return and enter "Filed pursuant to section 301.9100-2" on the form. File the amended return at the same address you filed the original return. IRS consent is required to revoke the election.

For more information, see Property distributed in kind under *Income Distribution Deduction*, later.



*Under the related persons rules, a loss can't be claimed for property distributed to a beneficiary unless the distribution is in discharge of a pecuniary bequest. Also, any gain on the distribution of depreciable property is ordinary income.*

## **Exemption and Deductions**

In figuring taxable income, an estate is generally allowed the same deductions as an individual. Special rules, however, apply to some deductions for an estate. This section



includes discussions of those deductions affected by the special rules.

## **Exemption Deduction**

An estate is allowed an exemption deduction of \$600 in figuring its taxable income. No exemption for dependents is allowed to an estate. Even though the first return of an estate may be for a period of less than 12 months, the exemption is \$600. If, however, the estate was given permission to change its accounting period, the exemption is \$50 for each month of the short year.

## **Charitable Contributions**

An estate qualifies for a deduction for gross income paid or permanently set aside for qualified charitable organizations. The AGI limits for individuals don't apply. However, to be deductible by an estate, the contribution must be specifically provided for in the decedent's will. If there is no will, or if the will makes no provision for the payment to a

charitable organization, then a deduction won't be allowed even though all beneficiaries may agree to the gift.

You can't deduct any contribution unless it is attributable to the estate's gross income.

Therefore, amounts distributed to a qualified charity from the estate's tax-exempt income or corpus (principal) do not qualify for the charitable contribution deduction. If the will specifically provides that the contributions are to be paid out of the estate's gross income, the contributions are fully deductible to the extent this provision in the will has economic effect independent of income tax consequences. However, if the provision lacks economic effect or the will provides that such contributions are paid out of the estate's income, but contains no specific provisions regarding character (for example, gross income or tax-exempt income), then the contributions are considered to consist of the same proportion of each class of the items of

income of the estate as the total of each class bears to the total of all classes.

You can't deduct a qualified conservation easement granted after the date of death and before the due date of the estate tax return. A contribution deduction is allowed to the estate for estate tax purposes.

For more information about contributions, see Pub. 526, Charitable Contributions, and Pub. 561, Determining the Value of Donated Property.

## **Losses**

Generally, an estate can claim a deduction for a loss it sustains on the sale of property. This includes a loss from the sale of property (other than stock) to a personal representative of the estate, unless that person is a beneficiary of the estate.

For a discussion of an estate's recognized loss on a distribution of property in kind to a beneficiary, see *Income To Include*, earlier.



*An estate and a beneficiary of that estate are generally treated as related persons for purposes of the disallowance of a loss on the sale of an asset between related persons. The disallowance doesn't apply to a sale or exchange made to satisfy a pecuniary bequest.*

**Net operating loss deduction.** An estate can claim a net operating loss (NOL) deduction, figured in the same way as an individual's, except that it can't take the income distribution deduction (discussed later) or the deduction for charitable contributions in figuring the loss or the loss carryover. For a discussion of the carryover of an unused NOL to a beneficiary upon termination of the estate, see Termination of Estate, later.

For information on NOLs, see Pub. 536.

**Casualty and theft losses.** Losses incurred from casualties and thefts during the administration of the estate can be deducted

only if they haven't been claimed on the federal estate tax return (Form 706). The personal representative must file a statement with the estate's income tax return waiving the deduction for estate tax purposes.

See Administration Expenses, later.

The same rules that apply to individuals apply to the estate, except that in figuring the AGI of the estate used to figure the deductible loss, you deduct any administration expenses claimed. Use Form 4684, Casualties and

Thefts, and its instructions to figure any loss deduction.

**Carryover losses.** Carryover losses resulting from NOLs or capital losses sustained by the decedent before death can't be deducted on the estate's income tax return.

## **Administration Expenses**

Expenses of administering an estate can be deducted either from the gross estate in

figuring the federal estate tax on Form 706 or from the estate's gross income in figuring the estate's income tax on Form 1041. However, these expenses can't be claimed for both estate tax and income tax purposes. In most cases, this rule also applies to expenses incurred in the sale of property by an estate (not as a dealer).

To prevent a double deduction, amounts otherwise allowable in figuring the decedent's taxable estate for federal estate tax on Form 706 won't be allowed as a deduction in figuring the income tax of the estate or of any other person unless the personal representative files a statement, in duplicate, that the items of expense, as listed in the statement, haven't been claimed as deductions for federal estate tax purposes and that all rights to claim such deductions are waived. One deduction or part of a deduction can be claimed for income tax purposes if the appropriate statement is filed,

while another deduction or part is claimed for estate tax purposes. Claiming a deduction in figuring the estate income tax isn't prevented when the same deduction is claimed on the estate tax return so long as the estate tax deduction isn't finally allowed and the preceding statement is filed. The statement can be filed with the income tax return or at any time before the expiration of the statute of limitations that applies to the tax year for which the deduction is sought. This waiver procedure also applies to casualty losses incurred during administration of the estate.

**Accrued expenses.** The rules preventing double deductions don't apply to deductions for taxes, interest, business expenses, and other items accrued at the date of death. These expenses are allowable as a deduction for estate tax purposes as claims against the estate and are also allowable as deductions in respect of a decedent for income tax purposes. Deductions for interest, business

expenses, and other items not accrued at the date of the decedent's death are allowable only as a deduction for administration expenses for both estate and income tax purposes and don't qualify for a double deduction.

**Expenses allocable to tax-exempt income.** When figuring the estate's taxable income on Form 1041, you can't deduct administration expenses allocable to any of the estate's tax-exempt income. However, you can deduct these administration expenses when figuring the taxable estate for federal estate tax purposes on Form 706.

**Interest on estate tax.** Interest paid on installment payments of estate tax isn't deductible for income or estate tax purposes.

## **Depreciation and Depletion**

The allowable deductions for depreciation and depletion that accrue after the decedent's death must be apportioned between the



estate and the beneficiaries, depending on the income of the estate allocable to each.



*An estate can't elect to treat the cost of certain depreciable business assets as an expense under section 179.*

**Example.** In 2023, the decedent's estate realized \$3,000 of business income during the administration of the estate. The personal representative distributed \$1,000 of the income to the decedent's child, Alex, and \$2,000 to the second child, Jo. The allowable depreciation on the business property is \$300. Alex can take a deduction of \$100  $[(\$1,000 \div \$3,000) \times \$300]$ , and Jo can take a deduction of \$200  $[(\$2,000 \div \$3,000) \times \$300]$ .

## **Income Distribution Deduction**

An estate is allowed a deduction for the tax year for any income that must be distributed currently and for other amounts that are properly paid, credited, or required to be

distributed to beneficiaries. This deduction is limited to the distributable net income of the estate.

For special rules about distributions that apply in figuring the estate's income distribution deduction, see Bequest under *Distributions to Beneficiaries*, later.

**Distributable net income.** Distributable net income (figured on Form 1041, Schedule B) is the estate's taxable income, excluding the income distribution deduction, with the following additional modifications.

***Tax-exempt interest.*** Tax-exempt interest, including exempt-interest dividends, is included in the distributable net income but is reduced by the following items.

- Expenses not allowed in computing the estate's taxable income because they were attributable to tax-exempt interest (see *Expenses allocable to tax-exempt*

income under *Administration Expenses*, earlier).

- The portion of tax-exempt interest deemed to have been used to make a charitable contribution. See *Charitable Contributions*, earlier.

The total tax-exempt interest earned by an estate must be shown on Form 1041, Other Information, line 1. The beneficiary's portion of the tax-exempt interest is shown on Schedule K-1 (Form 1041).

***Exemption deduction.*** The exemption deduction isn't allowed.

***Capital gains.*** Capital gains aren't automatically included in distributable net income. However, they can be included in distributable net income if any of the following apply.

- The gain is allocated to income in the accounts of the estate or by notice to the

beneficiaries under the terms of the will or by local law.

- The gain is allocated to the corpus or principal of the estate and is actually distributed to the beneficiaries during the tax year.
- The gain is used, under either the terms of the will or the practice of the personal representative, to determine the amount that is distributed or must be distributed.
- Charitable contributions are made out of capital gains.

Generally, when you determine capital gains to be included in distributable net income, the exclusion for gain from the sale or exchange of qualified small business stock isn't taken into account.

***Capital losses.*** Capital losses are excluded in figuring distributable net income unless they enter into the computation of any capital gain

that is distributed or must be distributed during the year.

**Separate shares rule.** The separate shares rule must be used if both of the following are true.

- The estate has more than one beneficiary.
- The economic interest of a beneficiary doesn't affect and isn't affected by the economic interest of another beneficiary.

A bequest of a specific sum of money or of property isn't a separate share (see Bequest, later).

If the separate shares rule applies, the separate shares are treated as separate estates for the sole purpose of determining the distributable net income allocable to a share. Each share's distributable net income is based on that share's portion of gross income and any applicable deductions or losses. The personal representative must use

a reasonable and equitable method to make the allocations.

Generally, gross income is allocated among the separate shares based on the income each share is entitled to under the will or applicable local law. This includes gross income not received in cash, such as a distributive share of partnership tax items.

If a beneficiary isn't entitled to any of the estate's income, the distributable net income for that beneficiary is zero. The estate can't deduct any distribution made to that beneficiary and the beneficiary doesn't have to include the distribution in its gross income. However, see Income in Respect of a Decedent, later in this discussion.

**Example.** Pat's will directs you, the executor, to distribute ABC Corporation stock and all dividends from that stock to Pat's child, Eli, and the residue of the estate to Pat's second child, Morgan. The estate has two separate shares consisting of the dividends on the

stock left to Eli and the residue of the estate left to Morgan. The distribution of the ABC Corporation stock qualifies as a bequest, so it isn't a separate share.

If any distributions, other than the ABC Corporation stock, are made during the year to either Eli or Morgan, you must determine the distributable net income for each separate share. The distributable net income for Eli's separate share includes only the dividends attributable to the ABC Corporation stock. The distributable net income for Morgan's separate share includes all other income.

***Income in respect of a decedent.*** This income is allocated among the separate shares that could potentially be funded with these amounts, even if the share isn't entitled to receive any income under the will or applicable local law. This allocation is based on the relative value of each share that could potentially be funded with these amounts.

**Example 1.** Frankie's will directs you, the executor, to divide the residue of the estate (valued at \$900,000) equally between Frankie's two children, Jamie and Ash. Under the will, you must fund Jamie's share first with the proceeds of Frankie's traditional IRA. The \$90,000 balance in the IRA was distributed to the estate during the year. This amount is included in the estate's gross income as income in respect of a decedent and is allocated to the corpus of the estate. The estate has two separate shares, one for the benefit of Jamie and one for the benefit of Ash. If any distributions are made to either Jamie or Ash during the year, then, for purposes of determining the distributable net income for each separate share, the \$90,000 of income in respect of a decedent must be allocated only to Jamie's share.

**Example 2.** Assume the same facts as in *Example 1*, except that you must fund Jamie's share first with DEF Corporation stock valued



at \$300,000, instead of the IRA proceeds. To determine the distributable net income for each separate share, the \$90,000 of income in respect of a decedent must be allocated between the two shares to the extent they could potentially be funded with that income. The maximum amount of Jamie's share that could be funded with that income is \$150,000 (\$450,000 value of share less \$300,000 funded with stock). The maximum amount of Ash's share that could be funded is \$450,000. Based on the relative values, Jamie's distributable net income includes \$22,500 ( $\$150,000 / \$600,000 \times \$90,000$ ) of the income in respect of a decedent and Ash's distributable net income includes \$67,500 ( $\$450,000 / \$600,000 \times \$90,000$ ).

**Income required to be distributed currently.** The income distribution deduction includes any income that, under the terms of the decedent's will or by reason of local law, must be distributed currently. This includes

an amount that may be paid out of income or corpus (such as an annuity) to the extent it is paid out of income for the tax year. The deduction is allowed to the estate even if the personal representative doesn't make the distribution until a later year or makes no distribution until the final settlement and termination of the estate.

**Any other amount paid, credited, or required to be distributed.** Any other amount paid, credited, or required to be distributed is included in the income distribution deduction of the estate only in the year actually paid, credited, or distributed. If there is no specific requirement by local law or by the terms of the will that income earned by the estate during administration be distributed currently, a deduction for distributions to the beneficiaries will be allowed to the estate, but only for the actual distributions during the tax year.

If the personal representative has discretion as to when the income is distributed, the deduction is allowed only in the year of distribution.

The personal representative can elect to treat distributions paid or credited within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year. The election is made by completing Form 1041, Other Information, line 6. If a tax return isn't required, the election is made on a statement filed with the IRS office where the return would have been filed. The election is irrevocable for the tax year and is only effective for the year of the election.

**Interest in real estate.** The value of an interest in real estate owned by a decedent, title to which passes directly to the beneficiaries under local law, isn't included as any other amount paid, credited, or required to be distributed.

***Property distributed in kind.*** If an estate distributes property in kind, the estate's deduction is ordinarily the lesser of its basis in the property or the property's FMV when distributed. However, the deduction is the property's FMV if the estate recognizes gain on the distribution. See *Gain or loss on distributions in kind* under *Income To Include*, earlier.

Property is distributed in kind if it satisfies the beneficiary's right to receive another property or amount, such as the income of the estate or a specific dollar amount. It generally includes any noncash distribution other than the following.

- A specific bequest (unless it must be distributed in more than three installments).
- Real property, the title to which passes directly to the beneficiary under local law.

**Tax-exempt income not deductible.** The estate can't take an income distribution deduction for any item of distributable net income not included in the estate's gross income.

**Example.** An estate has distributable net income of \$2,000, consisting of \$1,000 of dividends and \$1,000 of tax-exempt interest. Distributions to the beneficiary total \$1,500. Except for this rule, the income distribution deduction would be \$1,500 (\$750 of dividends and \$750 of tax-exempt interest). However, as the result of this rule, the income distribution deduction is limited to \$750, because no deduction is allowed for the tax-exempt interest distributed.

**Denial of double deduction.** A deduction can't be claimed twice. If an amount is considered to have been distributed to a beneficiary of an estate in a preceding tax year, it can't again be included in figuring the

deduction for the year of the actual distribution.

***Example.*** The decedent's will provides that the estate must distribute currently all of its income to a beneficiary. For administrative convenience, the personal representative didn't make a distribution of part of the income for the tax year until the first month of the next tax year. The amount must be deducted by the estate in the first tax year, and must be included in the income of the beneficiary in that year. This amount can't be deducted again by the estate in the following year when it is paid to the beneficiary, nor must the beneficiary again include the amount in income in that year.

**Charitable contribution.** Any amount allowed as a charitable deduction by the estate in figuring the estate's taxable income can't be claimed again as a deduction for a distribution to a beneficiary.

## **Funeral and Medical Expenses**

No deduction can be taken for funeral expenses or medical and dental expenses on the estate's Form 1041.

**Funeral expenses.** Funeral expenses paid by the estate aren't deductible in figuring the estate's taxable income on Form 1041. They are deductible only for determining the taxable estate for federal estate tax purposes on Form 706.

**Medical and dental expenses of a decedent.** The medical and dental expenses of a decedent paid by the estate aren't deductible in figuring the estate's taxable income on Form 1041. You can deduct them in figuring the taxable estate for federal estate tax purposes on Form 706. If these expenses are paid within the 1-year period beginning with the day after the decedent's death, you can elect to deduct them on the decedent's income tax return (Form 1040 or 1040-SR) for the year in which they were

incurred. See Medical Expenses under *Final Income Tax Return for Decedent—Form 1040 or 1040-SR*, earlier.

## **Credits, Tax, and Payments**

This section includes brief discussions of some of the tax credits, types of taxes that may be owed, and estimated tax payments reported on the estate's Form 1041.

### **Credits**

Estates are generally allowed some of the same tax credits that are allowed to individuals. The credits are generally allocated between the estate and the beneficiaries. However, estates aren't allowed the credit for the elderly or the disabled, the child tax credit, or the earned income credit discussed earlier under Final Income Tax Return for Decedent—Form 1040 or 1040-SR.



**Foreign tax credit.** The foreign tax credit is discussed in Pub. 514, Foreign Tax Credit for Individuals.

**General business credit.** The general business credit is available to an estate involved in a business. For more information, see Pub. 334.

## **Tax**

You can't use the Tax Table for individuals to figure the estate tax. You must use the tax rate schedule in the Instructions for Form 1041 to figure the estate tax.

**Alternative minimum tax (AMT).** An estate may be liable for the AMT. To figure the AMT, use Schedule I (Form 1041), Alternative Minimum Tax—Estates and Trusts. Certain credits may be limited by any tentative minimum tax figured on Schedule I (Form 1041), Part III, line 52, even if there is no AMT liability.

If the estate takes a deduction for distributions to beneficiaries, complete Parts I and II of Schedule I (Form 1041) even if the estate doesn't owe AMT. Allocate the income distribution deduction figured on a minimum tax basis among the beneficiaries and report each beneficiary's share on Schedule K-1 (Form 1041). Also, show each beneficiary's share of any adjustments or tax preference items for depreciation, depletion, and amortization.

For more information, see the Instructions for Schedule I (Form 1041).

## **Payments**

The estate's income tax liability must be paid in full when the return is filed. You may have to pay estimated tax, however, as explained below.

**Estimated tax.** Estates with tax years ending 2 or more years after the date of the decedent's death must pay estimated tax in the same manner as individuals.

If you must make estimated tax payments for 2024, use Form 1041-ES, Estimated Income Tax for Estates and Trusts, to determine the estimated tax to be paid.

Generally, you must pay estimated tax if the estate is expected to owe, after subtracting any withholding and credits, at least \$1,000 in tax for 2024. You won't, however, have to pay estimated tax if you expect the withholding and credits to be at least:

1. 90% of the tax to be shown on the 2024 return, or
2. 100% of the tax shown on the 2023 return (assuming the return covered all 12 months).

The percentage in (2) above is 110% if the estate's 2023 AGI was more than \$150,000 (and less than  $\frac{2}{3}$  of gross income for 2023 and 2024 is from farming or fishing). To figure the estate's AGI, see the Instructions for Form 1041.

The general rule is that the first estimated tax payment must be made by the 15th day of the 4th month of the tax year (whether calendar or fiscal). The estimated tax may be paid in full at that time or paid in four equal installments on the 15th day of the 4th, 6th, and 9th months of the tax year, and the 1st month of the following tax year. If any of these dates fall on a Saturday, Sunday, or legal holiday, the payment must be made by the next business day. For 2024, a calendar year taxpayer's estimated tax payments are due on April 15, 2024; June 15, 2024; September 15, 2024; and January 15, 2025.

For exceptions to the general rule, see the Instructions for Form 1041-ES and Pub. 505, Tax Withholding and Estimated Tax.

A penalty may be charged for not paying enough estimated tax or for not making the payment on time in the required amount (even if there is an overpayment on the tax return). Use Form 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, to figure any penalty, or let the IRS figure the penalty.

For more information, see the Instructions for Form 1041-ES and Pub. 505. Also, see Transfer of Credit for Estimated Tax Payments, later, for information regarding the transfer of the estate's estimated tax payments to the beneficiary(ies).

## **Name, Address, and Signature**

In the top space of the name and address area of Form 1041, enter the exact name of the estate used to apply for the estate's EIN.

In the remaining spaces, enter the name and address of the personal representative of the estate.

**Signature.** The personal representative (or its authorized officer if the personal representative isn't an individual) must sign the return. An individual who prepares the return for pay must sign the return as preparer. You can check a box in the signature area that authorizes the IRS to contact that paid preparer for certain information. See the Instructions for Form 1041 for more information.

## **When and Where To File**

When Form 1041 (or Form 1040-NR if it applies) is filed depends on whether the personal representative chooses a calendar year or a fiscal year as the estate's accounting period. Where Form 1041 is filed depends on where the personal

representative lives or has their principal business office.

**When to file.** If the calendar year is the estate's accounting period, the 2023 Form 1041 is due by April 15, 2024 (June 15, 2024, in the case of Form 1040-NR for a nonresident alien estate that doesn't have an office in the United States). If the personal representative chooses a fiscal year, Form 1041 is due by the 15th day of the 4th month (6th month for a Form 1040-NR) after the end of the tax year. If the due date is a Saturday, Sunday, or legal holiday, the form must be filed by the next business day.

***Extension of time to file.*** An automatic 5<sup>1/2</sup>-month extension of time to file Form 1041 can be requested by filing Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns. The extension is automatic, so no signature or reason for the request is required. File Form

7004 on or before the regular due date of Form 1041. Form 7004 can be electronically filed. For additional information, see the Instructions for Form 7004.

An extension of time to file a return doesn't extend the time for payment of tax due. The total income tax estimated to be due on Form 1041 must be paid in full by the regular due date of the return. For additional information, see the Instructions for Form 7004.

**Where to file.** The personal representative of an estate files the estate's income tax return (Form 1041) with the Internal Revenue Service Center assigned to the state where the personal representative lives or has their principal place of business. A list of the states and assigned Service Centers is in the Instructions for Form 1041.



Form 1040-NR must be filed at the following address:

Department of the Treasury  
Internal Revenue Service  
Kansas City, MO 64999 USA

If enclosing a payment, mail Form 1040-NR to:

Internal Revenue Service  
P.O. Box 1303  
Charlotte, NC 28201-1303 USA

***Electronic filing.*** Form 1041 can be filed electronically. See the instructions for more information.

***Private delivery services (PDSs).*** Filers can use certain PDSs designated by the IRS to meet the “timely mailing as timely filing” rule for tax returns. Go to [IRS.gov/PDS](https://www.irs.gov/PDS) for the current list of designated services.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using a PDS, go to

[IRS.gov/PDSStreetAddresses](https://www.irs.gov/PDSStreetAddresses).



*PDSs can't deliver items to IRS P.O. boxes. You must use the U.S. Postal Service to mail any items to an IRS P.O. box address.*

## **Distributions to Beneficiaries**

If you are the beneficiary of an estate that is required to distribute all its income currently, you must report your share of the distributable net income, whether or not you have actually received the distribution.

If you are a beneficiary of an estate that isn't required to distribute all its income currently, you must report all income that is required to be distributed to you currently (whether or not actually distributed), plus all other amounts paid, credited, or required to be distributed to you, up to your share of distributable net income. As explained earlier

under *Income Distribution Deduction*, for an amount to be income required to be distributed currently, there must be a specific requirement for current distribution either under local law or the terms of the decedent's will. If there is no such requirement, the income is reportable only when distributed.

If the estate has more than one beneficiary, the separate shares rule discussed earlier under *Income Distribution Deduction* may have to be used to determine the distributable net income allocable to each beneficiary. The beneficiaries in the examples shown next don't meet the requirements of the separate shares rule.

## **Income That Must Be Distributed Currently**

Beneficiaries entitled to receive currently distributable income must generally include in gross income the entire amount due them. However, if the income required to be

distributed currently is more than the estate's distributable net income figured without deducting charitable contributions, each beneficiary must include in gross income a ratable part of the distributable net income.

**Example.** Under the terms of the will of G. Peters, \$5,000 a year is to be paid to the surviving spouse and \$2,500 a year is to be paid to G. Peter's child, Cameron, out of the estate's income during the period of administration. There are no charitable contributions. For the year, the estate's distributable net income is only \$6,000. The distributable net income is less than the currently distributable income, so only \$4,000  $[(\$5,000 \div \$7,500) \times \$6,000]$  must be reported in the surviving spouse's gross income, and only \$2,000  $[(\$2,500 \div \$7,500) \times \$6,000]$  must be reported in Cameron's gross income.

### **Annuity payable out of income or corpus.**

Income that is required to be distributed currently includes any amount that must be paid out of income or corpus (principal of the estate) to the extent the amount is satisfied out of income for the tax year. An annuity that must be paid in all events (either out of income or corpus) would qualify as income that is required to be distributed currently to the extent there is income of the estate not paid, credited, or required to be distributed to other beneficiaries for the tax year.

**Example 1.** H. Frank's will provides that \$500 be paid to the local Community Chest out of income each year. It also provides that \$2,000 a year is currently distributable out of income to H. Frank's sibling, Charlie, and an annuity of \$3,000 is to be paid to H. Frank's other sibling, Jessie, out of income or corpus. Capital gains are allocable to corpus, but all expenses are to be charged against income. Last year, the estate had income of \$6,000

and expenses of \$3,000. The personal representative paid \$500 to the Community Chest and made the distributions to Charlie and Jessie as required by the will.

The estate's distributable net income (figured before the charitable contribution) is \$3,000. The currently distributable income totals \$2,500 (\$2,000 to Charlie and \$500 to Jessie). The income available for Jessie's annuity is only \$500 because the will requires that the charitable contribution be paid out of current income. The \$2,500 treated as distributed currently is less than the \$3,000 distributable net income (before the contribution), so \$2,000 must be included in Charlie's gross income and \$500 must be included in Jessie's gross income.

***Example 2.*** Assume the same facts as in *Example 1*, except the estate has an additional \$1,000 of administration expenses, commissions, etc., chargeable to corpus. The estate's distributable net income (figured

before the charitable contribution) is now \$2,000 (\$3,000 – \$1,000 additional expense). The amount treated as currently distributable income is still \$2,500 (\$2,000 to Charlie and \$500 to Jessie). The \$2,500 treated as distributed currently is more than the \$2,000 distributable net income, so \$1,600  $[(\$2,000 \div \$2,500) \times \$2,000]$  must be included in Charlie's gross income and \$400  $[(\$500 \div \$2,500) \times \$2,000]$  must be included in Jessie's gross income. Charlie and Jessie are beneficiaries of amounts that must be distributed currently, so they don't benefit from the reduction of distributable net income by the charitable contribution deduction.

## **Other Amounts Distributed**

Any other amount paid, credited, or required to be distributed to the beneficiary for the tax year must also be included in the beneficiary's gross income. Such an amount is in addition to those amounts that are required to be distributed currently, as discussed

earlier. It doesn't include gifts or bequests of specific sums of money or specific property if such sums are paid in three or fewer installments. However, amounts that can be paid only out of income aren't excluded under this rule. If the sum of the income that must be distributed currently and other amounts paid, credited, or required to be distributed exceeds distributable net income, these other amounts are included in the beneficiary's gross income only to the extent distributable net income exceeds the income that must be distributed currently. If there is more than one beneficiary, each will include in gross income only a pro rata share of such amounts.

The personal representative can elect to treat distributions paid or credited by the estate within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year.



The following are examples of other amounts distributed.

- Distributions made at the discretion of the personal representative.
- Distributions required by the terms of the will when a specific event occurs.
- Annuities that must be paid in any event, but only out of corpus (principal).
- Distributions of property in kind as defined earlier under *Income Distribution Deduction*, under *Income Tax Return of an Estate—Form 1041*.
- Distributions required for the support of the decedent's surviving spouse or other dependent for a limited period, but only out of corpus (principal).

If an estate distributes property in kind, the amount of the distribution is ordinarily the lesser of the estate's basis in the property or the property's FMV when distributed.

However, the amount of the distribution is the property's FMV if the estate recognizes gain on the distribution. See *Gain or loss on distributions in kind* in the discussion *Income To Include*, earlier.

**Example.** The terms of M. Scott's will require the distribution of \$2,500 of income annually to M. Scott's spouse, Reese. If any income remains, it may be accumulated or distributed to M. Scott's two children, Joe and Alex, in amounts at the discretion of the personal representative. The personal representative may also invade the corpus (principal) for the benefit of M. Scott's spouse and children.

Last year, the estate had income of \$6,000 after deduction of all expenses. Its distributable net income is also \$6,000. The personal representative distributed the required \$2,500 of income to Reese. In addition, the personal representative distributed \$1,500 each to Joe and Alex and an additional \$2,000 to Reese.

Reese includes \$2,500 of currently distributable income in gross income. The other amounts distributed totaled \$5,000 ( $\$1,500 + \$1,500 + \$2,000$ ) and are includible in the incomes of Reese, Joe, and Alex to the extent of \$3,500 (distributable net income of \$6,000 minus currently distributable income to Reese of \$2,500). Reese will include an additional \$1,400 [ $(\$2,000 \div \$5,000) \times \$3,500$ ] in gross income. Joe and Alex each will include \$1,050 [ $(\$1,500 \div \$5,000) \times \$3,500$ ] in their gross incomes.

## **Discharge of a Legal Obligation**

If an estate, under the terms of a will, discharges a legal obligation of a beneficiary, the discharge is included in that beneficiary's income as either currently distributable income or other amount paid. This doesn't apply to the discharge of a beneficiary's obligation to pay alimony or separate maintenance.

The beneficiary's legal obligations include a legal obligation of support, for example, of a minor child. Local law determines a legal obligation of support.

## **Character of Distributions**

An amount distributed to a beneficiary for inclusion in gross income retains the same character for the beneficiary that it had for the estate.

**No charitable contribution made.** If no charitable contribution is made during the tax year, treat the distributions as consisting of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the total distributable net income.

Distributable net income was defined earlier under *Income Distribution Deduction*, under *Income Tax Return of an Estate—Form 1041*. However, if the will or local law specifically

provides or requires a different allocation, use that allocation.

**Example 1.** An estate has distributable net income of \$3,000, consisting of \$1,800 in rents and \$1,200 in taxable interest. There is no provision in the will or local law for the allocation of income. The personal representative distributes \$1,500 each to Harper and Drew, beneficiaries in their parent's will. Each will be treated as having received \$900 in rents and \$600 of taxable interest.

**Example 2.** Assume in *Example 1* that the will provides for the payment of the taxable interest to Harper and the rental income to Drew and that the personal representative distributed the income under those provisions. Harper is treated as having received \$1,200 in taxable interest and Drew is treated as having received \$1,800 of rental income.

**Charitable contribution made.** If a charitable contribution is made by an estate and the terms of the will or local law provide for the contribution to be paid from specified sources, that provision governs. If no provision or requirement exists, the charitable contribution deduction must be allocated among the classes of income entering into the computation of the income of the estate before allocation of other deductions among the items of distributable net income. In allocating items of income and deductions to beneficiaries to whom income must be distributed currently, the charitable contribution deduction isn't taken into account to the extent that it exceeds income for the year reduced by currently distributable income.

**Example.** The will of H. Thomas requires a current distribution from income of \$3,000 a year to H. Thomas's spouse, Kai, during the administration of the estate. The will also

provides that the personal representative, using discretion, may distribute the balance of the current earnings either to H. Thomas's child, Avery, or to one or more designated charities. Last year, the estate's income consisted of \$4,000 of taxable interest and \$1,000 of tax-exempt interest. There were no deductible expenses. The personal representative distributed the \$3,000 to Kai, made a contribution of \$2,500 to the local heart association, and paid \$1,500 to Avery.

The distributable net income for determining the character of the distribution to Kai is \$3,000. The charitable contribution deduction to be taken into account for this computation is \$2,000 (the estate's income (\$5,000) minus the currently distributable income (\$3,000)). The \$2,000 charitable contribution deduction must be allocated: \$1,600 [ $(\$4,000 \div \$5,000) \times \$2,000$ ] to taxable interest and \$400 [ $(\$1,000 \div \$5,000) \times \$2,000$ ] to tax-exempt interest. Kai is considered to have

received \$2,400 (\$4,000 – \$1,600) of taxable interest and \$600 (\$1,000 – \$400) of tax-exempt interest. Kai must include the \$2,400 in gross income and must report the \$600 of tax-exempt interest, but it isn't taxable.

To determine the amount to be included in Avery's gross income, however, take into account the entire charitable contribution deduction. The currently distributable income is greater than the estate's income after taking into account the charitable contribution deduction, so none of the amount paid to Avery must be included in Avery's gross income for the year.

## **How and When To Report**

How income from the estate is reported depends on the character of the income in the hands of the estate. When the income is reported depends on whether it represents amounts credited or required to be distributed to beneficiaries or other amounts.



**How to report estate income.** Each item of income keeps the same character in the hands of a beneficiary as it had in the hands of the estate. If the items of income distributed or considered to be distributed include dividends, tax-exempt interest, or capital gains, they will keep the same character in the beneficiary's hands for purposes of the tax treatment given those items. Generally, a beneficiary reports dividends on Form 1040 or 1040-SR, line 3b, and capital gains on Schedule D (Form 1040). The tax-exempt interest, while not included in taxable income, must be shown on Form 1040 or 1040-SR, line 2a. Report business and other nonpassive income in Part III of Schedule E (Form 1040), Supplemental Income and Loss.

The estate's personal representative must provide the beneficiary with the classification of the various items that make up the beneficiary's share of the estate income and

the credits the beneficiary takes into consideration to properly prepare the beneficiary's individual income tax return. See *Schedule K-1 (Form 1041)*, later.

**When to report estate income.** If income from the estate is credited or must be distributed to a beneficiary for a tax year, the beneficiary reports that income (even if not distributed) on the return for that year. The personal representative can elect to treat distributions paid or credited within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year. If this election is made, the beneficiary must report that distribution on the beneficiary's return for that year.

Other income from the estate is reported on the beneficiary's return for the year in which it was received. If the beneficiary's tax year is different from the estate's tax year, see *Different tax years* next.

***Different tax years.*** Each beneficiary must include their share of the estate income in the beneficiary's return for the tax year in which the last day of the estate's tax year falls. If the tax year of the estate is a fiscal year ending on June 30, 2023, and the beneficiary's tax year is the calendar year, the beneficiary will include in gross income for the tax year ending December 31, 2023, their share of the estate's distributable net income distributed or required to be distributed during the fiscal year ending the previous June 30.

***Death of individual beneficiary.*** If an individual beneficiary dies, the beneficiary's share of the estate's distributable net income may be distributed or be considered distributed by the estate for its tax year that doesn't end with or within the last tax year of the beneficiary. In this case, the estate income that must be included in the gross income on the beneficiary's final return is

based on the amounts distributed or considered distributed during the tax year of the estate in which the beneficiary's last tax year ended. However, for a cash basis beneficiary, the gross income of the last tax year includes only the amounts actually distributed before death. Income that must be distributed to the beneficiary but, in fact, is distributed to the beneficiary's estate after death is included in the gross income of the beneficiary's estate as income in respect of a decedent.

***Termination of nonindividual beneficiary.***

If a beneficiary that isn't an individual, for example, a trust or a corporation, ceases to exist, the amount included in its gross income for its last tax year is determined as if the beneficiary were a deceased individual. However, income that must be distributed before termination, but which is actually distributed to the beneficiary's successor in

interest, is included in the gross income of the nonindividual beneficiary for its last tax year.

**Schedule K-1 (Form 1041).** The personal representative of the estate must provide the beneficiary with a copy of Schedule K-1 (Form 1041) or a substitute Schedule K-1. The beneficiary shouldn't file Schedule K-1 (Form 1041) with the beneficiary's Form 1040 or 1040-SR, but should keep it for their personal records.

Each beneficiary (or nominee of a beneficiary) who receives a distribution from the estate for the tax year or to whom any item is allocated must receive a Schedule K-1 (Form 1041) or substitute. The personal representative must furnish the form to each beneficiary or nominee by the date on which the Form 1041 is filed.

**Nominees.** A person who holds an interest in an estate as a nominee for a beneficiary must provide the estate with the name and address of the beneficiary, and any other required

information. The nominee must provide the beneficiary with the information received from the estate.

***Penalty.*** A personal representative (or nominee) who fails to provide the correct information may be subject to a \$310 penalty for each failure. If it is shown that such failure is due to intentional disregard of the filing requirement, the penalty amount increases.

***Consistent treatment of items.***

Beneficiaries must treat estate items the same way on their individual returns as those items are treated on the estate's income tax return. If their treatment is different from the estate's treatment, the beneficiary must file Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), with the beneficiary's return to identify the difference. If the beneficiary doesn't file Form 8082 and the estate has filed a return, the IRS can immediately assess and collect any tax and penalties that result from adjusting

the item to make it consistent with the estate's treatment.

## **Bequest**

A bequest is the act of giving or leaving property to another through the last will and testament. Generally, any distribution of income (or property in kind) to a beneficiary is an allowable deduction to the estate and is includible in the beneficiary's gross income to the extent of the estate's distributable net income. However, a distribution won't be an allowable deduction to the estate and won't be includible in the beneficiary's gross income if the distribution meets all the following requirements.

- It is required by the terms of the will.
- It is a gift or bequest of a specific sum of money or property.
- It is paid out in three or fewer installments under the terms of the will.

**Specific sum of money or property.** To meet this test, the amount of money or the identity of the specific property must be determinable under the decedent's will as of the date of death. To qualify as specific property, the property must be identifiable both as to its kind and its amount.

**Example 1.** D. Rogers' will provided that D. Rogers' child, Taylor, receive D. Rogers' interest in the Rogers-Jones partnership. D. Rogers' other child, Angel, would receive a sum of money equal to the value of the partnership interest given to Taylor. The bequest to Taylor is a gift of a specific property ascertainable at the date of D. Rogers' death. The bequest of a specific sum of money to Angel is determinable on the same date.

**Example 2.** M. Jenkins' will provided that the surviving spouse, Riley, would receive money or property to be selected by the personal representative equal in value to half of M.



Jenkins' adjusted gross estate. The identity of the property and the money in the bequest are dependent on the personal representative's discretion and the payment of administration expenses and other charges, which aren't determinable at the date of M. Jenkins' death. As a result, the provision isn't a bequest of a specific sum of money or of specific property, and any distribution under that provision is a deduction for the estate and income to the beneficiary (to the extent of the estate's distributable net income). The fact that the bequest will be specific sometime before distribution is immaterial. It isn't ascertainable by the terms of the will as of the date of death.

### **Distributions not treated as bequests.**

The following distributions aren't bequests that meet all the requirements listed earlier that allow a distribution to be excluded from

the beneficiary's income and don't allow it as a deduction to the estate.

***Paid only from income.*** An amount that can be paid only from current or prior income of the estate doesn't qualify even if it is specific in amount and there is no provision for installment payments.

***Annuity.*** An annuity or a payment of money or of specific property in lieu of, or having the effect of, an annuity isn't the payment of specific property or a sum of money.

***Residuary estate.*** If the will provides for the payment of the balance or residue of the estate to a beneficiary of the estate after all expenses and other specific legacies or bequests, that residuary bequest isn't a payment of specific property or a sum of money.

***Gifts made in installments.*** Even if the gift or bequest is made in a lump sum or in three or fewer installments, it won't qualify as

specific property or a sum of money if the will provides that the amount must be paid in more than three installments.

**Conditional bequests.** A bequest of specific property or a sum of money that may otherwise be excluded from the beneficiary's gross income won't lose the exclusion solely because the payment is subject to a condition.

**Installment payments.** Certain rules apply in determining whether a bequest of specific property or a sum of money has to be paid or credited to a beneficiary in more than three installments.

***Personal items.*** Don't take into account bequests of articles for personal use, such as personal and household effects and automobiles.

***Real property.*** Don't take into account specifically designated real property, the title to which passes under local law directly to the beneficiary.

***Other property.*** All other bequests under the decedent's will for which no time of payment or crediting is specified and that are to be paid or credited in the ordinary course of administration of the estate are considered as required to be paid or credited in a single installment. Also, all bequests payable at any one specified time under the terms of the will are treated as a single installment.

***Testamentary trust.*** In determining the number of installments that must be paid or credited to a beneficiary, the decedent's estate and a testamentary trust created by the decedent's will are treated as separate entities. Amounts paid or credited by the estate and by the trust are counted separately.

## **Termination of Estate**

The termination of an estate is generally marked by the end of the period of administration and by the distribution of the assets to the beneficiaries under the terms of the will or under the laws of succession of the state if there is no will. These beneficiaries may or may not be the same persons as the beneficiaries of the estate's income.

## **Period of Administration**

The period of administration is the time actually required by the personal representative to assemble all the decedent's assets, pay all the expenses and obligations, and distribute the assets to the beneficiaries. This may be longer or shorter than the time provided by local law for the administration of estates.

**Ends if all assets distributed.** If all assets are distributed except a reasonable amount set aside, in good faith, for the payment of

unascertained or contingent liabilities and expenses (but not including a claim by a beneficiary, as a beneficiary), the estate will be considered terminated.

**Ends if period unreasonably long.** If settlement is prolonged unreasonably, the estate will be treated as terminated for federal income tax purposes. From that point on, the income, deductions, and credits of the estate are considered those of the person or persons succeeding to the property of the estate.

## **Transfer of Unused Deductions to Beneficiaries**

If the estate has unused loss carryovers or excess deductions for its last tax year, they are allowed to those beneficiaries who succeed to the estate's property. See Successor beneficiary, later.

**Note.** See Notice 2018-61 and Regulations section 1.67-4 for more information about allowable beneficiary deductions.

**Unused loss carryovers.** An unused NOL carryover or capital loss carryover existing upon termination of the estate is allowed to the beneficiaries succeeding to the property of the estate. That is, these deductions will be claimed on the beneficiary's tax return. This treatment occurs only if a carryover would have been allowed to the estate in a later tax year if the estate had not been terminated.

Both types of carryovers generally keep their same character for the beneficiary as they had for the estate. However, if the beneficiary of a capital loss carryover is a corporation, the corporation will treat the carryover as a short-term capital loss regardless of its status in the estate. The NOL carryover and the capital loss carryover are used in figuring the beneficiary's AGI and taxable income. The

beneficiary may have to adjust any NOL carryover in figuring the AMT.

The first tax year to which the loss is carried is the beneficiary's tax year in which the estate terminates. If the loss can be carried to more than 1 tax year, the estate's last tax year (whether or not a short tax year) and the beneficiary's first tax year to which the loss is carried each constitute a tax year for figuring the number of years to which a loss may be carried. A capital loss carryover from an estate to a corporate beneficiary will be treated as though it resulted from a loss incurred in the estate's last tax year (whether or not a short tax year), regardless of when the estate actually incurred the loss.

If the last tax year of the estate is the last tax year to which an NOL may be carried, see No double deductions, later. For a general discussion of NOLs, see Pub. 536. For a discussion of capital losses and capital loss carryovers, see Pub. 550.



**Excess deductions.** If the deductions in the estate's last tax year (other than the exemption deduction or the charitable contributions deduction) are more than gross income for that year, the beneficiaries succeeding to the estate's property can claim the excess as a deduction in figuring taxable income. To establish these deductions for the beneficiaries, a return must be filed for the estate along with a schedule showing the computation of each kind of deduction and the allocation of each to the beneficiaries.

Under [\*Final Regulations - TD9918\*](#), each excess deduction on termination of an estate or trust retains its separate character as an amount allowed in arriving at AGI, a non-miscellaneous itemized deduction, or a miscellaneous itemized deduction. For more information, see the Instructions for Form 1041.

***No double deductions.*** An NOL deduction allowable to a successor beneficiary can't be considered in figuring the excess deductions on termination. However, if the estate's last tax year is the last year in which a deduction for an NOL can be taken, the deduction, to the extent not absorbed in the last return of the estate, is treated as an excess deduction on termination. Any item of income or deduction, or any part thereof, taken into account in figuring an NOL or a capital loss carryover of the estate for its last tax year can't be used again to figure the excess deduction on termination.

**Successor beneficiary.** A beneficiary entitled to an unused loss carryover or an excess deduction is the beneficiary who, upon the estate's termination, bears the burden of any loss for which a carryover is allowed or of any deductions more than gross income.

***If decedent had no will.*** If the decedent had no will, the beneficiaries are those heirs or next of kin to whom the estate is distributed. If the estate is insolvent, the beneficiaries are those to whom the estate would have been distributed had it not been insolvent. If the decedent's spouse is entitled to a specified dollar amount of property before any distributions to other heirs and the estate is less than that amount, the spouse is the beneficiary to the extent of the deficiency.

***If decedent had a will.*** If the decedent had a will, a beneficiary normally means the residuary beneficiaries (including residuary trusts). Those beneficiaries who receive specific property or a specific amount of money aren't ordinarily considered residuary beneficiaries, except to the extent the specific amount isn't paid in full.

Also, a beneficiary who isn't strictly a residuary beneficiary, but whose devise or bequest is determined by the value of the

estate as reduced by the loss or deduction, is entitled to the carryover or the deduction. This includes the following beneficiaries.

- A beneficiary of a fraction of the decedent's net estate after payment of debts, expenses, and specific bequests.
- A nonresiduary beneficiary, when the estate is unable to satisfy the bequest in full.
- A surviving spouse receiving a fractional share of the estate in fee under a statutory right of election when the losses or deductions are taken into account in determining the share. However, such a beneficiary doesn't include a recipient of a dower or curtesy, or a beneficiary who receives any income from the estate from which the loss or excess deduction is carried over.

**Allocation among beneficiaries.** The total of the unused loss carryovers or the excess deductions on termination that may be deducted by the successor beneficiaries is to be divided according to the share of each in the burden of the loss or deduction.

**Example.** Under the parent's will, Ash is to receive \$20,000. The remainder of the estate is to be divided equally between Ash's siblings, Danny and Robin. After all expenses are paid, the estate has sufficient funds to pay Ash only \$15,000, with nothing to Danny and Robin. In the estate's last tax year, there are excess deductions of \$5,000 and \$10,000 of unused loss carryovers. The total of the excess deductions and unused loss carryovers is \$15,000 and Ash is considered a successor beneficiary to the extent of \$5,000, so Ash is entitled to one-third of the unused loss carryover and one-third of the excess deductions. Ash's siblings may divide the

other two-thirds of the excess deductions and the unused loss carryovers between them.

## **Transfer of Credit for Estimated Tax Payments**

When an estate terminates, the personal representative can elect to transfer to the beneficiaries the credit for all or part of the estate's estimated tax payments for the last tax year. To make this election, the personal representative must complete Form 1041-T, Allocation of Estimated Tax Payments to Beneficiaries, and file it either separately or with the estate's final Form 1041. The Form 1041-T must be filed by the 65th day after the close of the estate's tax year.



*Filing Form 1041-T with Form 1041 doesn't change the due date for filing Form 1041-T. The IRS will reject a late-filed election. If Form 1041-T is rejected and Form 1041 was filed based on a successful election, then the personal*

*representative must file an amended Form 1041, including amended Schedule(s) K-1.*

The estimated tax allocated to each beneficiary is treated as paid or credited to the beneficiary on the last day of the estate's final tax year and must be reported in box 13 of Schedule K-1 (Form 1041), using code A. If the estate terminated in 2023, this amount is treated as a payment of 2023 estimated tax made by the beneficiary on January 15, 2024.

## **Estate and Gift Taxes**



*This publication doesn't contain all the rules and exceptions for federal estate, gift, or generation-skipping transfer (GST) taxes, nor does it contain all the rules that apply to nonresident noncitizens. If you need more information, see Form 709; Form 706; Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States; and the related instructions.*

*This publication also doesn't contain any information about state or local taxes. That information should be available from your state and local taxing authority.*

The discussion below is to give you a general understanding of when estate, gift, and GST taxes apply and when they don't. It explains how much money or property can be given away during life or left to heirs at death before any tax will be owed. If the decedent gave someone money or property during the decedent's life, the personal representative may have to pay the federal gift tax on behalf of the decedent if it wasn't previously paid. The money and property owned by the decedent at death is the estate and may be subject to federal estate tax. This is in addition to any federal income tax that is owed on the gross income of the estate.

Most gifts aren't subject to the gift tax and most estates aren't subject to the estate tax. For example, there is usually no tax if a gift is



given to a spouse or charity or if the estate goes to the decedent's spouse or charity at death. If gifts are made to someone else, the gift tax usually doesn't apply until the value exceeds the annual exclusion for the year. See Annual exclusion under *Gift Tax*, later. Even if the gift or estate tax applies, it may be eliminated by the applicable credit amount, discussed later.

**Person receiving the gift or bequest.**

Generally, the person who receives a gift or bequest of property from an estate won't have to pay any federal gift tax or estate tax. Also, that person won't have to pay income tax on the value of the gift or inheritance received.

**Note.** Gifts or bequests received from covered expatriates after June 16, 2008, may be subject to a tax which must be paid by the recipient. Consult a qualified tax professional for more information.

**No income tax deduction.** Making a gift or leaving property from an estate to heirs doesn't ordinarily affect federal income tax liability. The value of gifts made (other than gifts that are charitable contributions) or any federal gift tax resulting from making those gifts can't be deducted from income tax liability. The value of any bequests made or estate tax resulting from making bequests is also not deductible from income tax liability.

**Filing requirements.** For estate tax purposes, the personal representative may be required to file Form 706. If death occurred in 2023, Form 706 must be filed if the gross estate of the decedent, plus any adjusted taxable gifts and specific gift tax exemption, is valued at more than \$12,920,000. Form 706 must also be timely filed if the estate elects to transfer any DSUE to a surviving spouse (this is also known as the portability election), regardless of the size of the gross estate.

If Form 706 is required, the return and payment of any tax is due within 9 months after the date of the decedent's death. To apply for an extension of time to file the return and/or pay the tax due, use Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes, to apply for an automatic 6-month extension of time to file.

An executor can only elect to transfer the DSUE amount to the surviving spouse if the Form 706 is filed timely; that is, within 9 months of the decedent's date of death or, if you have received an extension of time to file, before the 6-month extension period ends.

**Note.** Executors who did not have a filing requirement under section 6018(a) but failed to timely file Form 706 to make the portability election may be eligible for an extension under Rev. Proc. 2022-32, 2022-30 I.R.B.

101 (superseding Rev. Proc. 2017-34, 2017-26 I.R.B. 1282). Executors filing to elect portability may now file Form 706 on or before the fifth anniversary of the decedent's death.

The federal gift tax return, Form 709, is filed for every year in which a gift is made.

However, a gift tax return isn't generally required unless money or property worth more than the annual exclusion for that year is given to someone other than the decedent's spouse or the gift given isn't subject to the annual exclusion. The annual gift exclusion is \$17,000 for 2023. See *Annual exclusion*, later, for more information.

Generally, you must file Form 709 by April 15 of the year after the gift was made. An extension of time to file the return is available by filing Form 8892, Application for Automatic Extension of Time To File Form 709 and Form 709-NA and/or Payment of Gift/Generation-Skipping Transfer Tax.

**Note.** Any extension of time granted for filing an individual tax return will also automatically extend the time to file your gift tax return. An income tax return extension is made on Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.

**Basic exclusion amount.** The basic exclusion amount for decedents who died in 2023 is \$12,920,000.

Beginning in 2011, a predeceased spouse's unused exclusion, the DSUE amount, may be added to the basic exclusion amount to determine the applicable exclusion amount. The DSUE amount is only available if an election is made on the Form 706 filed by the predeceased spouse's estate.

The total of the basic exclusion amount and any DSUE amount received from the estate of a predeceased spouse is the applicable exclusion amount. This amount may be

applied against tax due on lifetime gifts and/or transfers at death.

**Applicable credit amount.** A credit is an amount that reduces or eliminates tax. The applicable credit applies to both the gift tax and the estate tax and it equals the tax on the applicable exclusion amount. The applicable credit must be subtracted from any gift or estate tax owed. Any applicable credit used against gift tax in 1 year reduces the amount of credit that can be used against gift or estate taxes in a later year.

In 2023, the credit on the basic exclusion amount is \$5,113,800 (exempting \$12,920,000 from tax). The total amount of applicable credit available to a person will equal the tax on the basic exclusion amount plus the tax on any DSUE amount.

For examples of how the credit works, see [Applying the applicable credit to gift tax](#) and [Applying the applicable credit to estate tax](#), later.