



MANUAL TRANSMITTAL

Department of the Treasury
Internal Revenue Service

21.7.5

AUGUST 14, 2017

EFFECTIVE DATE

(10-01-2017)

PURPOSE

- (1) This transmits revised IRM 21.7.5, Business Tax Returns and Non-Master File Accounts-Estate and Gift Tax Returns.

MATERIAL CHANGES

- (1) Various editorial, grammatical, and formatting changes were made throughout the IRM. Also, cross-references were added, removed, or revised, as appropriate.

IRM	Changes
IRM 21.7.5.1 through IRM 21.7.5.1.8	Internal Controls were added to the IRM due to a Government Accountability Office (GAO) audit.
IRM 21.7.5.3.2	Added a link to Rev. Proc. 2017-34.
IRM 21.7.5.3.4	Added information on Notice 2017-6 and Notice 2017-15.
IPU 17U0408 issued 03-01-2017 IRM 21.7.5.3.7	Added subsection to migrate guidance from the obsolete IRM 21.2.5.4.12.1, Processing Requests for Deferment of Federal Taxes (Form 1127 Application for Extension of Time for Payment of Tax Due to Undue Hardship Only).
IRM 21.7.5.4.1.6(1)	Changed credit to deduction in 3rd bullet.
IPU 17U0408 issued 03-01-2017 IRM 21.7.5.4.1.8	Updated language in (4)(d) and (5)(b) to state "if requested."
IRM 21.7.5.4.1.8(5)(a)	Added a link to the IRM 20 for documenting interest adjustments.
IRM 21.7.5.4.2.2	Added a reminder that interest cannot be abated due to reasonable cause.
IRM 21.7.5.4.5.1(1)	Clarified that Forms 706-QDT should be routed to Submission Processing NMF Accounting.

EFFECT ON OTHER DOCUMENTS

IRM 21.7.5, **Estate and Gift Tax Returns**, dated September 2, 2016 (effective date October 1, 2016) is superseded. This IRM includes IRM Procedural Updates after October 1, 2017, IPU 17U0408.

AUDIENCE

This IRM provides procedural guidance for employees assigned to resolve issues involving Form 706 series and Form 709 series returns.

Kevin M. Morehead
Director, Accounts Management
Wage and Investment Division

21.7.5

Estate and Gift Tax Returns

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21.7.5-1 Applicable Credit and Basic Exclusion Amounts (IRC 2010)

- 21.7.5.1
(10-01-2017)
Estate and Gift Tax Returns Program Scope and Objectives
- (1) **Purpose:** To provide procedures for addressing/resolving telephone and paper issues relating to Estate and Gift Tax (E&G) series returns.
 - (2) **Audience:** The primary users of this IRM are customer service representatives (CSRs) who answer Estate and Gift questions. The IRM is intended for Small Business Self-Employed issues involving Estate and Gift Tax series returns.
 - (3) **Policy Owner:** Director, Wage and Investment (W&I)
 - (4) **Program Owner:** Examination Operations, Field & Campus Policy.
 - (5) **Primary Stakeholders:** Small Business Self-Employed (SBSE), Wage and Investment (W&I).
 - (6) **Program Goals:** Program goals for this type of work are included in the IRM 1.4.40, Resource Guide for Managers - SB/SE Field and Office Examination Group Manager.
- 21.7.5.1.1
(10-01-2017)
Background
- (1) Employees in the Estate and Gift Tax Teams respond to taxpayer correspondence and phone calls as well as process claims, certain applications and other internal adjustment requests.
 - a. IRM 21.7.5 provides specific guidance to employees assigned to the Estate and Gift (E&G) teams.
 - b. In addition, IRM 21.7.5 provides general guidance for employees in Accounts Management(AM) who may receive misdirected toll-free calls.
- 21.7.5.1.2
(10-01-2017)
Authority
- (1) Information regarding authorities delegated to Estate and Gift Tax Returns and Accounts Management can be found in IRM 1.4.3.3, Authorities.
- 21.7.5.1.3
(10-01-2017)
Roles and Responsibilities
- (1) IRM 1.1.1.3 , Statutory Authority, provides guidance for Estate and Gift Tax (E&G) employees.
 - (2) IRM 1.1.13.9.4, *Accounts Management* provides guidance to employees assigned to the Accounts Management organization.
 - (3) The Small Business/Self Employed (SB/SE) and Wage and Investment (W&I) Business Operating Divisions are responsible for taxpayer relationships by:
 - a. Providing taxpayers top quality service by helping them understand and meet their tax responsibilities
 - b. Applying tax law with integrity and fairness to all.
 - c. In addition, providing general tax-related information, information on the status of taxpayer returns/refunds/accounts and adjusting accounts, when appropriate.
- 21.7.5.1.4
(10-01-2017)
Program Management and Review
- (1) IRM 1.4.40, *Resource Guide for Managers - SB/SE Field and Office Examination Group Manager*, provides guidance for program management and review of programs assigned to Estate and Gift Tax Operations.

- 21.7.5.1.5
(10-01-2017)
Program Controls
- (1) FY 2018 Program Letter, Measures and Operating Guidelines.
 - (2) IRM 21.10.1, *Embedded Quality (EQ) Program for Accounts Management, Campus Compliance, Field Assistance, Tax Exempt/Government Entities, Return Integrity and Compliance Services (RICS) and Electronic Products and Services Support.*
- 21.7.5.1.6
(10-01-2017)
Terms/Definitions/Acronyms
- (1) The *ReferenceNet Legal and Tax Research Service* page provides an *Acronym Database* to research acronyms found within this IRM. Acronyms are also found in specific subsections of this IRM.
- 21.7.5.1.7
(10-01-2017)
Related Resources
- (1) Refer to IRM 1.4.2.15, *Related Resources*, for information on related resources that impact internal controls.
- 21.7.5.1.8
(10-01-2017)
Overview
- (1) This section contains information on Form 706 and Form 709 U.S. Estate and Gift Tax series returns. The forms covered in this section are:
 - Form 706 , *United States Estate (and Generation-Skipping Transfer) Tax Return*
 - Form 706-NA , *U.S. Estate (and Generation-Skipping Transfer) Tax Return*
 - Form 706-A , *United States Additional Estate Tax Return (IRC Section 2032A)*
 - Form 706-GS(D) , *Generation-Skipping Transfer Tax Return For Distributions*
 - Form 706-GS(T) , *Generation-Skipping Transfer Tax Return For Terminations*
 - Form 706-QDT, *U.S. Estate Tax Return for Qualified Domestic Trusts*
 - Form 706-D , *United States Additional Estate Tax Return Under IRC Section 2057*
 - Form 709, *United States Gift (and Generation-Skipping Transfer) Tax Return*
- Note:** Amended returns that reflect an increase in tax are assessed per IRM 25.6.1.9.9, *Procedures for Processing Amended Returns - in General, if the statute is imminent.*
- (2) All forms contained in this section (unless otherwise noted) and related correspondence are processed at the Cincinnati Campus. All domestic and international estate and gift tax work is processed in the Cincinnati campus only. Forward all related forms, amended returns, claims, penalty abatement requests, notices, or other correspondence to:

Estate and Gift Tax Operation
201 W. Rivercenter Boulevard
Covington, KY 41011
Attention: Stop 824G

21.7.5.2

(01-01-2005)

What Are Form 706 and Form 709 Series Returns?

- (1) Form 706, **United States Estate (and Generation-Skipping Transfer) Tax Return**, is used by the executor of a decedent's estate to compute the estate tax imposed by Chapter 11 of the Internal Revenue Code (IRC) and certain generation-skipping transfer taxes imposed at death under Chapter 13. Different types of Forms 706 (mentioned above) are filed according to specific requirements of each estate.
- (2) Form 709, **United States Gift (and Generation-Skipping Transfer) Tax Return**, is used to report transfers subject to federal gift and certain generation-skipping transfer taxes and to compute tax due, if any, on those transfers.

21.7.5.3

(10-01-2010)

Estate and Gift Tax Adjustments Research

- (1) All adjustments to estate and gift accounts are input by the Estate and Gift Tax Operation at the Cincinnati Campus. Adjustments cannot be made by other campuses or other personnel. This includes tax, penalties and interest. **No other areas are authorized to adjust these accounts.**
- (2) Estate and gift tax adjustments follow the same basic procedures as other Business Master File (BMF) adjustments with the exception of extensions of time to pay. See IRM 4.25.2.1.3, *Extension of Time to Pay Estate Tax*, - IRC Section 6161, for more information.

Note: Form 1127, Application for Extension of Time for Payment of Tax Due to Undue Hardship, is used by taxpayers to request an extension of time to pay **gift** taxes and certain other taxes but not estate taxes; see Form 4768, **Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation Skipping Transfer) Taxes**. The conditions under which extensions may be granted under IRC 6161 are found in the Form 1127 instructions.
- (3) If an assessment is made on Non-Master File (NMF) for original return, use existing NMF procedures for making additional adjustments (i.e., Form 706-A and Form 706-(R-1)). See IRM 21.7.12, *Non-Master File (NMF) Adjustments*, for more information.
- (4) Verify re-input returns for correct tax liability, tax period, and Taxpayer Identification Number (TIN).

21.7.5.3.1

(10-01-2011)

Changes Resulting From the Economic Growth and Tax Relief Reconciliation Act of 2001 (EGTRRA), PL 107-16

- (1) Many changes to the estate and gift tax were made by EGTRRA legislation. Many of these changes were not effective until later years. The changes effective in 2009 and earlier that affect material in this IRM have been incorporated.
- (2) Sections 501 - 581, of PL 107-16, enacted estate and gift tax legislation. (Refer to sections 501 - 581 of this act for information not contained in this IRM.)
- (3) EGTRRA included a modified carryover basis system. Under that law, assets received by a person who died in 2010 would not receive the historical step-up in basis to the fair market value for estate tax purposes because there was no estate tax in 2010. Instead, the decedent's basis in the property, or its date of death fair market value, if less, would be carried over from the person who died to the recipient. Also, a decedent's executor is allowed to allocate a

\$1,300,000 increase in basis to certain appreciated property passing to any person and an additional \$3,000,000 increase in basis to property that goes to the decedent's spouse.

21.7.5.3.2
(10-01-2017)
**Tax Relief,
Unemployment
Insurance
Reauthorization, and
Job Creation Act of
2010, PL 111-312
(Sections 301-304)
(TRUIRJCA)**

- (1) After being repealed for most of 2010, the Estate and Generation-Skipping Transfer (GST) taxes were reinstated on December 17, 2010. *Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010*, PL 111-312 (TRUIRJCA) (also known as Extender's Legislation) provides provisions to the prior law (*Economic Growth and Tax Relief Reconciliation Act of 2001*, PL 107-16, also known as EGTRRA).
- (2) **Section 301** of TRUIRJCA *Reinstatement of Estate Tax; Repeal of Carryover Basis* Section includes:
 - **Special election** - allows an executor of an estate of a decedent who died in 2010 to make an election (a 301(c) election) to apply certain rules (including the modified carryover basis rules and other rules from part V of EGTRRA) to property acquired from a decedent who died in 2010. The election is made by filing Form 8939, Allocation of Increase in Basis for Property Acquired From a Decedent.
 - **Extension of time to file Form 706** - in the case of the estate of a decedent dying after December 31, 2009, and before the date of enactment (DOE) of TRUIRJCA, filing any return (including any election required to be made on the return), making any payment of tax under chapter 11, or making any disclaimer of an interest in property passing by reason of the death of the decedent shall not be earlier than the date which is 9 months after the DOE.
 - **Extension of time to file Form 709** - in the case of any generation-skipping transfer made after December 31, 2009, and made before the date of enactment (DOE) of TRUIRJCA, the due date for filing any return under IRC 2662 (including any election required to be made on such return) shall not be earlier than the date which is 9 months after the DOE.
- (3) **Section 302**, of TRUIRJCA *Modifications to Estate, Gift and Generation-Skipping Transfer Taxes*:
 - **Applicable credit and exclusion amount** - the applicable credit amount is the amount of tentative tax that would be determined under Code Section 2001(c) if the amount with respect to which such tentative tax is to be computed were equal to the applicable exclusion amount (\$5,000,000).
 - **Inflation adjustment** - in the case of any decedent dying in a calendar year after 2011, the dollar amount shall be increased by an amount equal to such dollar amount multiplied by the cost-of living. If any amount, as adjusted, is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.
 - **Maximum estate tax rate** - Over \$500,000\$155,800, plus 35 percent of the excess of such amount over \$500,000.
 - **Modification to gift tax** - For gifts made after December 31, 2010, a citizen or resident of the U.S. is allowed a credit against the tax

imposed for each calendar year. The amount is equal to the applicable credit for the calendar year reduced by the sum of the allowable credit to an individual for all preceding calendar periods.

- **Modification of gift tax rate** - on or after January 1, 2011 IRC 2505(a) is amended to read that for purposes of applying paragraph (2) for any calendar year, the tax rate in effect for that calendar year will, in lieu of the rates in effect for the preceding calendar periods, be used in determining the amounts allowable as a credit under this section for all preceding calendar periods.
- **Modification of GST transfer tax rate** - for any generation-skipping transfer made after December 31, 2009 and before January 1, 2011, the applicable rate will be zero.
- **Modifications of estate and gift taxes to reflect differences in credit resulting from different tax rates** - the tax imposed shall be the amount equal to the excess of tentative tax on the sum of taxable estate, adjusted taxable gifts over the aggregate amount of tax which would have been payable under Chapter 12 of the Code.

Note: The term “adjusted taxable gifts” means the total amount of the taxable gifts (within the meaning of Code Section 2503) made by the decedent after December 31, 1976, other than gifts which are includible in the gross estate of the decedent.

- **Gift tax** - in the case of a citizen or resident of the U.S., a credit will be allowed against the tax imposed by Code 2501 for each calendar year amount equal to the amount of the tentative tax under the rate schedule in Code Section 2502 (a)(2) for any calendar year in lieu of the rates of tax in effect for the preceding calendar periods. This is reduced by the sum of the amounts allowable as a credit to the individual under Code Section 2505 for all preceding periods.

Exception: As otherwise provided in TRUIRJCA sec. 302 applies to estates of decedents dying, GST transfers, and gifts made, after December 31, 2009.

(4) **Section 303**, Applicable Exclusion Amount Increased by Unused Exclusion Amount of Deceased Spouse:

- **Applicable exclusion amount** -The applicable exclusion amount is the sum of the basic exclusion amount (\$5,000,000) and, in the case of a surviving spouse's, the deceased spousal unused exclusion (DSUE) amount. A surviving spouse must include in his or her applicable exclusion amount only the DSUE amount of the deceased spouse most recently predeceasing such surviving spouse (known as the last deceased spouse), and then, only if the executor of the deceased spouse's estate elected portability of the DSUE amount on a timely-filed estate return. See *IR-2011-97* for more information. For additional information, see *IR-2012-24* which supplements *IR-2011-97*. See updated information *Rev. Proc. 2017-34*.
- **Inflation adjustment** - for any decedent dying in a calendar year after January 1, 2011 the \$5,000,000 amount of the basic exclusion amount shall be increased by an amount equal to such dollar amount, multiplied

by the cost-of-living adjustment (COLA) determined under IRC 1(f)(3)(b) for such calendar year by substituting "calendar year 2010" for "calendar year 1992" in IRC 1(f)(3)(B). If any amount as adjusted under the preceding sentence is not a multiple of \$10,000, such amount shall be rounded to the nearest multiple of \$10,000.

- **Deceased spousal unused exclusion amount** -With respect to the surviving spouse of a deceased spouse dying after December 31, 2010, the DSUE amount is the lesser of the basic exclusion amount or the excess of the basic exclusion amount of the last such deceased spouse of the surviving spouse over the amount with respect to which the tentative tax is determined under IRC 2001(b)(1) on the estate of the deceased spouse.
- **Election required** - A DSUE amount may not be taken into account by the surviving spouse unless the executor of the estate of the deceased spouse files an estate tax return on which the amount is computed and makes an election on the return that the amount may be taken into account. Such election is irrevocable. An executor elects portability by filing a complete and properly-prepared estate tax return that is filed within 9 months of the decedent's date of death (or within 15 months if an extension of the time for filing the estate tax return is in effect). A timely election is required for portability even if an estate otherwise has no filing requirement. See *IR -2011-97* for more information. An estate that is qualifying estate may secure a 6-month extension of time to file the estate return to elect portability, even if the estate missed the deadline for filing Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes, to secure the automatic 6-month extension. For additional information, see *IR-2012-24*.
- **Examination of prior returns after expiration of period of limitations with respect to deceased spousal unused exclusion amount** - after the time has expired under IRC 6501 in which a tax may be assessed under Chapter 11 or Chapter 12 of the Code with respect to a DSUE amount, the **Secretary** may examine a return of the deceased spouse to make a determination for purposes of determining the DSUE amount available to the surviving spouse.

Note: TRUIRJCA sec. 303 applies to estates of decedents dying and gifts made after December 31, 2010.

(5) **Section 304**, Application of EGTRRA Sunset to this Title:

- **Application of EGTRRA sunset to title III of the Act** - under Section 901(a) of EGTRRA all provisions of, and amendments made by, EGTRRA shall not apply to taxable, plan, or limitation years beginning after December 31, 2010, or in the case of title V of EGTRRA, to estates of decedents dying, gifts made, or GST transfers after December 31, 2010. Under Section 901(b) of EGTRRA, the code and Employee Retirement Income Security Act of 1974 (ERISA) shall be applied and administered to years, estates, gifts, and transfers described in Section 901(a) of EGTRRA as if the provisions and amendments described had never been enacted.

21.7.5.3.2.1
(08-19-2015)

Form 8939, Allocation of Increase in Basis for Property Acquired From a Decedent

- (1) Form 8939 is a special election for the allocation of increase in basis for property acquired from a decedent. If the special election is not made, the rules for determining basis of property acquired from a decedent who died in tax year 2010 are the same as the rules for property acquired from a decedent who died in 2008 or 2009. Pub 559, Survivors, Executors, and Administrators, provides guidance for decedent's estates that did not make the special election. Publication 559 does not include a discussion of the application of the special election. Generally, the special election benefits estates that exceed the \$5,000,000 applicable exclusion for 2010. For more information about the special election and its application, see Pub 4895, Tax Treatment of Property Acquired From a Decedent Dying in 2010.
- (2) Form 8939 should not be filed with the final Form 1040 for taxpayers who died in 2010. The filing deadline is January 17, 2012, for the Form 8939 irrevocable election. See *IR-2011-91* for more information.

21.7.5.3.3
(01-31-2013)

American Taxpayer Relief Act of 2012 - PL 112-240

- (1) The American Taxpayer Relief Act of 2012 (PL 112-240) with respect to Estate, Gift and GST taxes provides the following:
 - **Estates** - Permanently provides maximum federal estate tax marginal rate of 40 percent with an annually inflation-adjusted \$5,000,000 exclusion for estates of decedents dying after December 31, 2012.
 - **Portability** - Makes "portability" permanent between spouses. Prior to the permanent extension, Portability was only available to the estates of decedents dying after December 31, 2010 and before January 1, 2013. Portability allows the estate of the decedent who is survived by a spouse to make an election to permit the surviving spouse to apply the decedent's unused exclusion (the deceased spousal unused exclusion amount (DSUE)) to the surviving spouse's own transfers during life and at death.
 - **State Death Tax Deduction** - Extends the state deduction for state estate taxes.
 - **Miscellaneous Estate Tax Provisions** - Made permanent the repeal of Qualified family-owned business interest (QFOBI); retains the provisions passed in the 2001 act (EGTRRA) relating to qualified conservation easements; made permanent the changes to the number of owners a closely held business could have and still be eligible to pay the estate in installments under Section 6166, and eliminating the 5 percent surtax on estates larger than \$10,000,000 .
 - **Gift Tax** - Provides for a maximum federal gift tax marginal rate of 40 percent and a gift tax exemption (and related unified credit (applicable credit amount)) of \$ 5,000,000 (inflation adjusted) for gifts made after 2012.
 - **Generation-Skipping Tax (GST)** - Provides for a maximum federal GST tax rate of 40 percent with a \$5,000,000 exemption and extends a number of GST tax-related provisions scheduled to expire after 2012. They include automatic allocation of GST exemption to certain transfers and the ability to opt out of such automatic allocation; clarification of valuation rules with respect to the determination of the inclusion ratio for GST tax purposes; provisions allowing for a qualified severance of a trust for purposes of the GST tax; and relief to request an extension of

time to allocate GST exemption to transfers occurring before January 1, 2001 or an extension of time to opt out of the automatic GST exemption allocation rules.

- (2) **Modifications of Estate Tax-** Code Section 2001(c), as amended by Section 302(a)(2) of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010, is amended by changing “Over \$500,000” and all that follows. The tax computation table below reflects the amendments made under the American Taxpayer Relief Act of 2012 (ATRA).

If the amount of Estate taxable income is:	Then compute the Estate tax as:
Over \$500,000 but not over \$750,000	\$155,800, plus 37 percent of the excess of such amount over \$500,000
Over \$750,000 but not over \$1,000,000	\$248,300, plus 39 percent of the excess of such amount over \$750,000
Over \$1,000,000	\$345,800, plus 40 percent of the excess of such amount over \$1,000,000

- (3) Code Section 2010(c)(4)(B)(i) is amended by changing “basic exclusion amount” and inserting “applicable exclusion amount”. The amendment corrects a technical reference in the 2010 Act.

21.7.5.3.4
(07-17-2014)

**Defense of Marriage Act
(DOMA) - Revenue
Ruling 2013-17**

- (1) As a result of the Supreme Court’s decision in, *United States v. Windsor*, 570 U.S., 133 S. Ct. 2675 (2013), the Service issued *Rev. Rul. 2013-17*, effective September 16, 2013, with the following guidance on tax treatment of same-sex spouses:
- For federal tax purposes, the terms “spouse”, “husband”, and “wife” includes individuals of the same sex who were lawfully married under the laws of a state whose laws authorize the marriage of two individuals of the same sex and who remain married.
 - For federal tax purposes, the Service will recognize a marriage of individuals of the same sex that was validly created under the laws of the state of celebration even if the married couple resides in a state that does not recognize the validity of same-sex marriages.
 - For federal tax purposes, the terms , “spouse” “husband and wife”, “husband” and “wife” do not include individuals (whether of the opposite sex or the same sex) who have entered into a registered domestic partnership, civil union, or other similar formal relationship that as recognized under state law is not denominated as a marriage under the laws of that state, and the term “marriage” does not include such formal relationships.
- (2) The rules related to marital issues remain the same.
- (3) See *Notice 2017-6*, this notice provides guidance on the application of the decision in *United States v. Windsor*, 570 U.S. ___, 133 S. Ct. 2675 (2013), and the holdings of Revenue Ruling 2013–17, 2013–38 I.R.B. 201, to the rules re-

garding the applicable exclusion amount under §§ 2010(c) and 2505 of the Internal Revenue Code (Code), and the generation-skipping transfer (GST) exemption under § 2631, as they relate to certain gifts, bequests, and generation-skipping transfers by (or to) same-sex spouses. In particular, this notice provides special administrative procedures allowing certain taxpayers and the executors of certain taxpayers' estates to recalculate a taxpayer's remaining applicable exclusion amount and remaining GST exemption to the extent an allocation of that exclusion or exemption was made to certain transfers made while the taxpayer was married to a person of the same sex.

- (4) See *Notice 2017-15*, this notice provides guidance on the application of the decision in *United States v. Windsor*, 570 U.S. ___, 133 S. Ct. 2675 (2013), and the holdings of Revenue Ruling 2013-17, 2013-38 I.R.B. 201, to the rules regarding the applicable exclusion amount under §§ 2010(c) and 2505 of the Internal Revenue Code (Code), and the generation-skipping transfer (GST) exemption under § 2631, as they relate to certain gifts, bequests, and generation-skipping transfers by (or to) same-sex spouses. In particular, this notice provides special administrative procedures allowing certain taxpayers and the executors of certain taxpayers' estates to recalculate a taxpayer's remaining applicable exclusion amount and remaining GST exemption to the extent an allocation of that exclusion or exemption was made to certain transfers made while the taxpayer was married to a person of the same sex.

21.7.5.3.5
(10-01-2016)
**Instructions for Call
Referrals/Case
Transfers by Customer
Service Representatives
(CSRs)**

- (1) Taxpayers may call with estate and gift questions regarding an account or concerning tax law.

Note: Estate and gift questions are considered out of scope for Accounts Management employees.

- (2) Account questions generally refer to an extension or return that has already been filed. Examples of account issues include:
- CP Notice issues (math error, balance due, etc.)
 - Extension of time to file return
 - Extension to Pay, i.e., IRC 6161
 - Payoff request
 - Closing letters
 - Penalty or interest issues
 - Installment agreements, i.e., IRC 6161 and IRC 6166
 - Receipt of payment
 - Form 8939, Allocation of Increase in Basis for Property Acquired From a Decedent
- (3) Tax law issues generally are unrelated to a filed return. Examples of tax law issues/questions include:
- Executor's responsibilities
 - Internal Revenue Code (IRC) Sections
 - Items to be reported/deductions allowed on an estate tax return
- (4) **Do not confuse** Form 706, "**U.S. Estate Tax Return**", (MFT 52) calls with Form 1041, "**U.S. Income Tax Return for Estates & Trusts**", (MFT 05) calls. There are two distinguishably different "**Estates**".

- When an individual dies, the property and debts they have accumulated up to the date of death are referred to as their “**Estate**”. The gross estate is reported on Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, if certain dollar criteria are met. See IRM 21.7.5.4.1, Form 706 Procedures.
 - The other common type of “**Estate**” is a decedent’s estate. It is also created with the death of the taxpayer and remains open until the final distribution of the assets of the estate to the heirs and other beneficiaries. Income that is received after the date of death must be reported on Form 1041, U. S. Fiduciary Income Tax Return (for Estates and Trusts), if there is gross income of \$600 or more in the taxable year, or if any beneficiary is a non-resident alien. (See IRM 21.7.4.4.1.1.1, Domestic Decedents and Bankruptcy Estates.)
- (5) The Estate and Gift Tax Program toll-free telephone number, 1-866-699-4083, is available for **account** calls (pertaining to Form 706 and Form 709 only) from 8:00 a.m. until 4:00 p.m., Eastern Time, Monday through Friday. Route Estate and Gift **account calls** as follows:
- Provide the taxpayer with the Estate and Gift toll-free telephone number, 1-866-699-4083, then transfer the caller to extension 90281, or if you are a site with Infrastructure Upgrade Project (IUP) transfer to 3020, **or**
 - Offer to prepare Form e-4442/4442, *Inquiry Referral*, for routing to Estate and Gift at the Cincinnati campus via fax at 1-855-386-5128.
- (6) International Estate and Gift tax account calls from taxpayers located within the U.S. and certain countries that can call toll-free numbers, will call 1-866-699-4083. International Estate and Gift taxpayers located outside the U.S. may call 1-859-669-2349 (not a toll-free number) for **account** calls (pertaining to Form 706-NA and Form 709 only). This telephone number goes to voice mail and the messages are checked daily. The International email address is sbse.eg.intl@irs.gov, and can be given to international callers located outside the U.S.
- (7) Calls relating to estate and gift **tax law issues** (non-account related) cannot be transferred by all call sites. However, if your system allows you to transfer the call, transfer to 92194 (English) and 92195 (Spanish), or if your site is using the IUP numbers transfer to 3013 (English) and 3014 (Spanish). Otherwise, advise the taxpayer that you are unable to transfer them and that they must call back on 1-800-829-1040. Regular hours of operation for tax law type of calls: M-F 7:00 a.m. until 7:00 p.m., taxpayer’s local time. Alaska and Hawaii will follow Pacific Time.
- Reminder:** Beginning January 2, 2014, AM will **NOT** be answering Out-of-Scope (OOS) tax law questions; see IRM 21.1.1.6.1, Out of Scope and Limited Service, for more information. Apologize for any inconvenience the taxpayer may have incurred.
- (8) For all other Estate type questions (i.e., Form 1041) the taxpayer should call 1-800-829-4933, Business & Speciality Tax Help Line. However, if your system allows you to transfer the call, transfer to 92030 (English) and 92031 (Spanish) for account type questions, sites using IUP TTG numbers transfer to 1030 (English) and 1031 (Spanish). For tax law type calls transfer to 92194 (English) and 92195 (Spanish), for sites using IUP TTG numbers transfer to 3013 (English) and 3014 (Spanish).

Note: Effective January 2012, AM toll free hours of operation changed to 7 a.m. to 7 p.m. local time with the exception of Puerto Rico. Puerto Rico's toll free hours of operation are 8 a.m. to 8 p.m. local time (Atlantic Time zone); Alaska and Hawaii follow Pacific Time. Apologize for any inconvenience.

21.7.5.3.6
(10-01-2011)
**Instructions for Call
Referrals/Case Transfers
by Estate and Gift Tax
Employees**

- (1) To ensure quality service, Estate and Gift Tax employees can provide the name and extension number of the Estate and Gift campus employee assigned to the taxpayer's case when transferring the customer to the correct extension.

21.7.5.3.7
(03-01-2017)
**Processing Requests for
Deferment of Federal
Taxes (Form 1127
Application for
Extension of Time for
Payment of Tax Due to
Undue Hardship Only)**

- (1) Forward requests for deferment of payment of federal taxes to the appropriate Collection Advisory group for the geographic area in which the taxpayer is located. See Pub 4235, Collection Advisory Group Addresses, for the current address listing. However, if the tax due is a gift tax reportable on Form 709, send Form 1127 to:
Department of the Treasury Internal Revenue Center
Cincinnati, OH 45999

Note: See IRM 4.25.2, Campus Procedures for Estate Tax for Form 4768, Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.

- (2) Process Form 1127, Application for Extension of Time for Extension of Time for Payment of Tax Due to Undue Hardship, as follows:

If...	Then...
An unprocessed Form 1127 is received in field office	Forward to the appropriate Collection Advisory group for the geographic area in which the taxpayer is located. Exception: If Form 709 is shown in Part I, route to: Compliance Services, Estate and Gift Tax Campus Operation. See IRM 3.11.106.1.9, Correspondence Imaging System (CIS) Returns, and IRM 21.1.7-17, Forms - Routing Guide.
A copy of an approved Form 1127 is received in field office	Process it in field office to delay enforced collection action.
Form 1127 refers to a MF tax form	Immediately input a TC 470 as instructed on Form 4844, Request for Terminal Action.

If...	Then...
Form 1127 refers to a NMF tax form	Process as outlined in IRM 3.21.25, Miscellaneous Tax Returns.

21.7.5.4
(01-01-2005)
**Estate and Gift Tax
Returns Procedures**

- (1) The remainder of this section contains procedures for estate and gift taxes.
- (2) Procedures in this IRM are intended for:
 - The tax examiners located in Estate and Gift Tax Operation at the Cincinnati campus
 - Employees who respond to taxpayer calls regarding estate and gift **account related** issues involving **Form 706 and Form 709**.

21.7.5.4.1
(03-05-2014)
Form 706 Procedures

- (1) Form 706 must be filed by the executor for the estate of every U.S. citizen or resident whose gross estate plus adjusted taxable gifts and specific exemption, exceed certain limitations. For decedents dying between 1987 and 1997, Form 706 was required if the total of these amounts exceeded \$600,000. The Taxpayer Relief Act of 1997 (TPRA), and most recently PL 107-16, *Economic Growth and Tax Relief Reconciliation Act of 2001*, see Exhibit 21.7.5-1.
- (2) Return and tax are due nine months after date of death, unless an extension of time for filing and/or payment (Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes), has been granted. Additional information on extensions of time to pay can be found in IRM 4.25.2, Campus Procedures For Estate Tax.

Exception: Tax year 2010 estates that request an extension on Form 4768 will have until March 2012 to file their estate tax returns and pay any estate tax due. Normally, a six-month filing extension is automatically granted to estates filing this form, but extensions of time to pay are granted only for good cause. As a result, most 2010 estates that timely file Form 4768 will have until Monday, March 19, 2012 to file Form 706 or Form 706-NA. For estates of those dying late in 2010 (after Dec. 16, 2010 and before Jan. 1, 2011), the due date is 15 months after the date of death. No late-filing or late-payment penalties will be due although interest will be charged on any estate tax paid after the original due date. See *IR-2011-91* for more information.

- (3) Route claims and/or amended returns involving non-resident U.S. citizens to Cincinnati Campus through local routing procedures.
- (4) Form 706 is filed under the decedent's Social Security Number (SSN). When researching IDRS, input a "V" behind the decedent's SSN (i.e., 000-00-0000V). The MFT is 52 and the tax period consists of six zeros (000000). Although the return is filed under the decedent's SSN, research via BMF command codes such as BMFOL and BRTVU. Also, input a "W" behind the decedent's SSN to research accounts on the invalid segment.

21.7.5.4.1.1
(10-01-2011)
Form 706 Installments

- (1) Decedent's personal representative (executor) may elect (under IRC 6166) to pay installments on an account where the return was filed timely, including extensions, if the value of an interest in a closely held business is 35 percent of the adjusted gross estate. The election under IRC 6166 does not extend the return due date. Per Notice 2007-90, the IRS will determine on a case-by-case basis whether security will be required when an estate that fulfills the requirement of IRS to pay all or a part of the estate tax in installments. More information on installments can be found in IRM 4.25.2, Campus Procedures For Estate Tax.
- (2) Effective for decedents dying after December 31, 1997, and before January 1, 2004, a limited deduction is allowed for the value of the decedent's closely held business. For decedents dying after December 31, 1997 the special interest rate on deferred estate tax is ordinarily to 2 percent. In addition, any interest on any amount that exceeds the 2 percent portion shall be computed at 45 percent of the normal interest rate for deficiencies. (See IRM 20.2.10.1, Interest on Estate Tax Returns, for information on interest on estate taxes.) For decedents dying prior to January 1, 1998, this rate is generally 4 percent. See IRM 4.25.2.1.24, Supplemental Return for Estates of Decedents Dying Prior to January 1, 1998 the Effective Date of the Taxpayer Relief Act of 1997.

21.7.5.4.1.2
(10-03-2007)
Form 706 Tax Computation

- (1) The total amounts on all schedules are carried forward to part 5, page 3 of Form 706.
- (2) Math verify all tax computations **relevant to amended returns**.

21.7.5.4.1.3
(10-01-2011)
Gross Estate Tax

- (1) Gross estate tax, Line 8, is computed by applying the value of the taxable estate, Line 3, plus the value of adjusted taxable gifts, Line 4, to the unified rate schedule of Table A, which follows, and then subtracting the total gift tax payable, Line 7, to the tax rate (Column D) on Table A, which follows.

Table A Unified Rate Schedule			
Taxable Amount Over	Taxable Amount Not Over	Taxable Amount in First Column	Rate of Tax on Excess Over Amount in First Column
			(Percent)
0	10,000	0	18
10,000	20,000	1,800	20
20,000	40,000	3,800	22
40,000	60,000	8,200	24
60,000	80,000	13,000	26
80,000	100,000	18,200	28
100,000	150,000	23,800	30
150,000	250,000	38,800	32
250,000	500,000	70,800	34
500,000	750,000	155,800	37
750,000	1,000,000	248,300	39
1,000,000	1,250,000	345,800	41
1,250,000	1,500,000	448,300	43
1,500,000	2,000,000	555,800	45
2,000,000 Over 2,000,000	2,500,000 -----	780,800 780,800	50 for 2002 and prior 49 for 2003 48 for 2004 47 for 2005 46 for 2006 45 for 2007, 2008 and 2009

Note: As a result of PL 107-16, the rate for all amounts over \$2,000,000 is reduced 1 percent each year after 2002 until it reaches 45 percent in 2007.

(2) The reduced rates are as follows:

- For 2002, the rate is reduced to 50 percent for amounts over \$2,500,000.
- For 2003, the rate is reduced to 49 percent for amounts over \$2,000,000.
- For 2004, the rate is reduced to 48 percent for amounts over \$2,000,000.
- For 2005, the rate is reduced to 47 percent for amounts over \$2,000,000.

- For 2006, the rate is reduced to 46 percent for amounts over \$2,000,000.
- For 2007, 2008 , and 2009 the rate is reduced to 45 percent for amounts over \$2,000,000.

21.7.5.4.1.4
(03-05-2014)

**Applicable Credit
Amount (Unified Credit)**

- (1) Line 11 of Form 706 allows an applicable credit amount to be taken against the tax.
- (2) The applicable credit amount taken on gift tax returns reduces the amount of credit that can be taken on Form 706, see Exhibit 21.7.5-1. PL 107-16 changed this amount beginning 2002 and subsequent.

Note: *2011 and subsequent amounts can be greater than table amount because of the Portability election. Also, if the amount is lower than the maximum amount of Unified Credit allowed for that year, the taxpayer may have filed a Schedule T (Qualified Family-Owned Business Interest (i.e., QFOBI).

If a Schedule T was filed, or if Line 24 (Page 3, Part 5 (Recapitulation), Form

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21.7.5.4.1.5
(08-19-2015)

**State Death Tax
Deduction**

- (1) Before 2005, a credit was allowed against the Federal estate tax for any estate, inheritance, legacy, or succession taxes ("death taxes") actually paid to any State or the District of Columbia with respect to any property included in the decedent's gross estate. The maximum amount of credit allowable for State death taxes was determined under a graduated rate table, the top rate of which was 16 percent, based on the size of the decedent's adjusted taxable estate. Most States imposed a "pick-up" or "soak-up" estate tax, which served to impose a State tax equal to the maximum Federal credit allowed. The state death tax credit line is computed by applying the amount on Line 3, Page 1, to tax rate (column 4) on Table B amount shown below.

Table B Maximum Credit for State Death Taxes (Based on Federal adjusted taxable estate, which is the Federal taxable estate reduced by \$60,000)			
Adjusted taxable estate equal to or more than	Adjusted taxable estate less than	Credit on amount in first column	Rates of credit on excess over amount in first column (Percent)
0	\$40,000	0	None
\$40,000	90,000	0	0.8
90,000	140,000	\$400	1.6
140,000	240,000	1,200	2.4
240,000	440,000	3,600	3.2
440,000	640,000	10,000	4.0
640,000	840,000	18,000	4.8
840,000	1,040,000	27,600	5.6
1,040,000	1,540,000	38,800	6.4
1,540,000	2,040,000	70,800	7.2
2,040,000	2,540,000	106,800	8.0
2,540,000	3,040,000	146,800	8.8
3,040,000	3,540,000	190,800	9.6
3,540,000	4,040,000	238,800	10.4
4,040,000	5,040,000	290,800	11.2
5,040,000	6,040,000	402,800	12.0
6,040,000	7,040,000	522,800	12.8
7,040,000	8,040,000	650,800	13.6
8,040,000	9,040,000	786,800	14.4
9,040,000	10,040,000	930,800	15.2
10,040,000	...	1,082,800	16.0

- (2) PL 107–16 did not change these rates. However, it did change the percentage of the credit that can be taken beginning in 2002. For 2002, only 75 percent of the credit can be taken. For 2003, only 50 percent can be taken for 2004, only 25 percent can be taken, and after 2004, the credit is replaced with the State Death Tax Deduction.
- (3) Beginning with decedents dying January 1, 2005 and subsequent, the State Death Tax Credit has been replaced by the State Death Tax Deduction.

Taxpayers may take a deduction on line 3b for estate, inheritance, legacy or succession taxes paid as the result of the decedent's death to any state or the District of Columbia. There is no dollar limit on this deduction.

21.7.5.4.1.6
(10-01-2017)
Net Estate Tax

- (1) The net estate tax line is determined by subtracting the following items from gross estate tax:
 - Allowable unified credit (applicable credit amount)
 - Credit for state death taxes
 - Deduction for federal gift taxes on pre-1977 gifts - Gift taxes payable
 - Credit for foreign death taxes - Schedule P
 - Credit for federal estate taxes on prior transfers - Schedule Q

21.7.5.4.1.7
(10-03-2007)
**Estate and Gift Tax
Examiner Function
Limitations and
Procedures (Form 706)**

- (1) All areas must refer correspondence and requests for adjustments to Estate and Gift to the Cincinnati Campus. The Tax Examiners' Function in Estate and Gift is generally limited to:
 - Correction of processing errors
 - Penalty and/or interest assessments
 - Tax increases as shown on amended returns

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Note: Refer to IRM 25.6, Statute of Limitations, for information or procedures involving the Assessment Statute Expiration Date (ASED).

- (2) Non-remit Form 706 and Form 709 ("plain" Form 706 and Form 709, not Form 706-GST, etc.) **marked "amended", "corrected", or "supplemental"** are sorted by Receipt and Control (R&C) and forwarded directly to the Estate and Gift Operation. If these returns are not identified by R&C, but are subsequently identified in Code and Edit, they are forwarded to the Estate and Gift Operation. Follow the procedures in IRM 21.7.9.3.1, Amended / Corrected / Adjusted Returns that By-Pass Submission Processing, for controlling these cases.
- (3) Form 706 and Form 709, marked **"amended", "corrected," or "supplemental"** received with remittance are **"G"** coded and generate a TRNS, Duplicate Filing Condition (DUPE).
- (4) Also, follow instructions in IRM 21.7.5.4.1.8 through IRM 21.7.5.4.1.11 directly below when working these cases.

21.7.5.4.1.8
(03-01-2017)
**Amended Returns or
Adjustment Requests
With No Open TC 420
(-L freeze) or Record on
AIMS (Audit Information
Management System)
(Form 706)**

- (1) Route all cases to Estate and Gift Tax Operation, Cincinnati Campus, Stop 824G.
- (2) The Estate and Gift Tax Examiners use CFOL when necessary. Order a transcript if unable to obtain the necessary information.
- (3) Form 706 require the following Item Reference Numbers (IRNs) when adjusting tax:
 - 074 - Generation-skipping transfer taxes, Line 17
 - 075 - IRC 4980A tax, formerly Line 23

Note: In 1997, P.L. 105-34, Section 1073(a) repealed IRC 4980A.

 - 076 - Net estate tax, Line 16

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- a. Secure the original return and route the amended returns to Estate and

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selects the case for Area Office (AO) examination.

- b. If the classifier sends the return back for adjustment, input TC 291 for the correct amount of decrease using the appropriate IRNs listed above, and input No Source Document (NSD), using blocking series (BS 15).

Note: Attach/Associate the amended return to the TC 150 (controlling DLN (Document Locator Number)) in order to preserve the 75-year retention period.

- c. Adjust interest and/or penalties, as necessary.
- d. **If requested, send Estate Tax closing document (Letter 627).**

Note: Per IRC 2058, interest is **not** permitted on any portion of a refund of estate taxes due to a state death tax credit/deduction. The portion of the refund that is attributable to the state death tax deduction should be refunded without interest for decedents dying after December 31, 2004.

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and Gift Tax Examiner must:

- a. **Adjust tax, interest, and/or penalties as necessary, using BS 15. See IRM 20.2.1.5.2.1(2) , Manual Calculation of Interest - Documentation, for more information.**
- b. **If requested, send Estate Tax closing document (Letter 627).**

Note: It is not necessary to monitor these adjustments. Close your control base and notate the action taken on the case.

- (6) No tax change. The Estate and Gift tax examiner employee must:

- a. Input TC 290 \$.00 using BS15.
- b. Input as NSD and attach to **controlling** DLN using Form 10023-B.
- c. If there is no change to Net Estate Tax, State Death Tax Deduction or Generation-Skipping Tax (GST), then send a no change letter. If changes have been made to; Net Estate Tax, State Death Tax Deduction, or GST, then send an amended closing letter.

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21.7.5.4.1.9
(10-01-2009)

**Amended Returns or
Adjustment Requests
With Open TC 420 or
Record on AIMS (Form
706)**

check AIMS status.

- a. If case is open in the field, close IDRS control base and route to appropriate area per AIMS.
- b. If the case is not open in the field, secure the original return.
- c. Math verify tax computations relevant to amended returns.
- d. Refer to Transfer Tax Technician (TTT).
- e. When case is returned, input adjustment as NSD in BS 15.
- f. Monitor for the adjustment to post. The original base can be closed and a new one opened with a current received date.
- g. Route both the original and the amended returns to the Clerical Staff in Estate and Gift (E&G) to close the case off AIMS database and to input TC 421. Clerk routes case to files.

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- a. If case is open in the field, close IDRS control base and route to appropriate area per AIMS.
- b. If case is not open in the field, leave case open on IDRS in monitor status "M" and control to unit number 0283X00003.
- c. Math verify tax computations relevant to amended returns and route to Advance File.
- d. After case is returned, input adjustment as NSD in BS 15 and notate the case file, tax decreased.
- e. Monitor for the adjustment to post. The original base can be closed and a new one opened with a current received date.
- f. Route both the original and the amended returns to the Clerical Staff in E&G to close the case off AIMS database and to input TC 421. Clerk routes case to Files.

(3) Tax increases; the Estate and Gift Tax Examiners must:

- a. Adjust tax, interest and/or penalties as needed; input as NSD, using BS 15.
- b. Input the applicable priority code to override the TC 420.
- c. Notate the case file, "Additional tax assessed."
- d. Monitor the adjustment until it posts. (The original base can be closed and new one opened with a current received date.)
- e. **Route to** Advance File if necessary. Route to appropriate area if open in the field.

(4) No Tax Change; the Estate and Gift Tax Examiners must:

- a. Input TC 290 \$.00, using BS 15 to release -A freeze.
- b. Close IDRS using the appropriate activity code.
- c. Route the case as indicated by AIMS.

21.7.5.4.1.10
(04-28-2009)
**Duplicate Filing
Condition, Correct
Return Posted First
(Form 706)**

- (1) If Form 706 posted to a module as a TC 150 and the spouse's return posted as a duplicate, research IDRS and Service Center Replacement System (SCRS) (IMF and BMF) for spouse's valid SSN.
- (2) Take the following action:

If	Then
Valid SSN is found.	<ol style="list-style-type: none"> 1. Verify the return for correct liabilities, period, and TIN. 2. Transfer applicable payments to correct SSN. 3. Re-enter the spouse's return to correct SSN, using Form 13596, Reprocessing Returns.
Valid SSN is not found.	<ol style="list-style-type: none"> 1. Issue Letter 1408C, SSN and Name Verification for Estate or Gift Tax Returns, to the Estate to verify SSN. 2. Have Entity assign a temporary SSN to second return (spouse's). 3. Notify the executor of estate of temporary SSN assigned. 4. Establish new account on IDRS (CC ENREQ-TC 000) before payments are transferred. 5. Input CC ENREQ to correct the date of death and/or any other incorrect information on the original account. 6. Input TC 290 \$.00 to release '-A' freeze, using the appropriate HC. 7. Adjust penalties and/or interest, if necessary.

21.7.5.4.1.11
(04-28-2009)
**Duplicate Filing
Condition, Incorrect
Return Posted First
(Form 706)**

- (1) Hand carry original delinquent returns that are 2 years and 9 months or older (based on the return due date) to the Statute function for clearance before sending to Submission Processing. See IRM 25.6.1.8, Original Delinquent Returns, for more statute information.
- (2) Route Form 706 with a document code 47 DLN to a tax examiner in Estate and Gift at the Cincinnati campus. (See IRM 21.7.5.1 for mailing address.)
- (3) Use the procedures below to process returns without a document code 47 in the DLN.
 - a. Input TC 29X with the appropriate item reference numbers (074, 076) to adjust tax to amount shown on correct return.
 - b. Adjust interest and/or penalties, if necessary.
 - c. Attach adjustment document to correct return.
 - d. Transfer credits, if necessary.
 - e. Re-input first return to correct SSN using, Form 13596, Reprocessing Returns.

21.7.5.4.1.12
(10-03-2007)

**Incorrect Posting of a
Second Return to an
Account Which Was/Is
in Installment Status
(Status 14)**

- (1) Do the following:
 - a. Transfer payment(s) to correct account.
 - b. Route all cases in Status 14 to a tax examiner in Estate and Gift at the Cincinnati campus. See IRM 21.7.5.1 for mailing address.
 - c. If the return is eligible for installment privilege, route to the Tax Examiner Function in Estate and Gift at Cincinnati campus, for input of TC 488.
 - d. If a remittance from a second return **erroneously** creates a zero balance on the original account, input TC 488. Also, input TC 290 \$.00 to release the "-A" freeze.
 - e. When a TC 300 has posted to the incorrect SSN, route the case to Tax Examiner Function in Estate and Gift at the Cincinnati campus.

21.7.5.4.1.13
(01-01-2005)

**IRC 2603(a)(2),
Generation-Skipping
Transfer Tax (GST)
Imposed on Direct Skip
From a Trust**

- (1) This section provides that the GST imposed on a direct skip from a trust must be paid by the trustee (not the estate).
- (2) In case of a direct skip from a trust occurring on the death of a decedent, the GST tax is due and payable nine months after decedent's death. Schedule R-1 is used to compute GST tax.
- (3) Schedule R-1 serves as a payment voucher for trustee to remit GST tax to IRS. An automatic extension of time to file Schedule R-1 and pay tax due is granted until two months after due date (including extensions) of the return. However, interest is assessed on any unpaid tax.

21.7.5.4.1.14
(08-19-2015)

**Schedule R-1
Processing**

- (1) Schedule R-1 is processed to Automated Non-Master File (ANMF) as:
 - MFT 53
 - Document Code 85
 - BS 590-599
- (2) After the assessment is established on ANMF, the Schedule R-1 will be associated with the Form 706; route Schedule R-1 to Estate and Gift at the Cincinnati campus. (See IRM 21.7.5.1 for mailing address.) Estate & Gift Unit will associate the Schedule R-1 with Form 706. Any request for adjustment must be made using ANMF procedures. Prepare Form 1331-B, Notice of Adjustment, Form 5734, Non-Master File Assessment Voucher, or Form 2859, Request for Quick or Prompt Assessment, to Accounting function for input to ANMF. Form 706 must be pulled to obtain a copy of the original assessment document. Attach a copy of Schedule R-1 to the request.

21.7.5.4.2
(06-05-2013)

Form 706-NA

- (1) Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, is filed by estate of a nonresident who is not a U.S. citizen.
- (2) A nonresident not a citizen decedent is a decedent who is neither domiciled in, nor a citizen of, the United States at the time of death.
- (3) The estate tax is imposed on the transfer of the decedent's taxable estate, rather than on the receipt of any part of it.
- (4) For purposes of this form, a U.S. citizen who was a resident of a U.S. Territory at the time of his death is considered a "nonresident - not a citizen of the United States", but only if such person acquired U.S. citizenship solely as a result of:

- a. His/her being a citizen of such territory, or
 - b. His/her birth or residence within such territory
- (5) The executor of the estate must file Form 706-NA if, at the date of death, the value of the decedent's gross estate located in the United States under Internal Revenue Code situs rules exceeds the filing limit. The filing limit is \$60,000, which is reduced by the sum of:
 - a. The gift tax specific exemption (IRC section) allowed with respect to gifts made between September 9, 1976, and December 31, 1976.
 - b. The total taxable gifts made after December 31, 1976, that are not included in the gross estate.

Note: For the estates of decedents dying after November 10, 1988, the estate tax is computed using the unified rate schedule in IRC 2001(c).
- (6) Form 706-NA is due 9 months after the date of decedent's death, unless an extension of time for filing and/or payment was granted using Form 4768, Application for Extension of Time to File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.
- (7) Only E&G at Campus Compliance Operations, Cincinnati (CCOC) can approve Form 706-NA extension of time for filing.
 - a. The extension may be granted even though an application is made later than 9 months from the date of death.
 - b. However, unless the personal representative is abroad, the extended due date for filing the estate tax return may not be later than 15 months from the date of the decedent's death.
- (8) The MFT for Form 706-NA is 52 and the tax period is always 000000.
- (9) Both original and amended Form 706-NA, along with correspondence involving the form, are filed and worked by the Estate and Gift Tax team located at the Cincinnati Campus.
- (10) The tax is due when the return is filed unless deferred payment under IRC 6161(a) or IRC 6163(b) has been granted. For more information, see IRM 3.12.263.13, Section 01 Data, Form 706-NA General Information.
- (11) Form 706-NA filers do not have the same privilege that Form 706 filers have to make installment payments for the balance due under IRC 6166.
 - a. The balance due must be paid within 9 months after the decedent's death unless an extension of time to pay was granted.
 - b. In that case, they must attach a copy of the approved Form 4768 to Form 706-NA.
- (12) Payment must be made by check or money order payable to the United States Treasury for the face value in U.S. dollars.
- (13) Cincinnati E&G is the only function that can issue a transfer certificate or an International Closing Letter.
 - a. If no TIN is specified, research CC NAMES and NAMEI to locate an SSN or ITIN using a "W" or a "V" at the end of the TIN.

- b. If the account has an unreversed TC 420 and the status is higher than 08, route correspondence and Audit Information Management System (AIMS) print to CCOC / E&G on Form 3210.
- c. If the account has an unreversed TC 420 and status is lower than 06, explain to the taxpayer that the Service has nine months from the date the return is processed to provide a closing letter. If more than 9 months have passed, refer to CCOC / E&G on Form 3210.
- d. If TC 421 is posted on the account and if the account is paid in full (no balance due), request the original return from Files using the controlling DLN and mail the taxpayer a photocopy of the closing letter that is attached to the closed Form 706-NA.

Reminder: Refile the complete 706-NA package.

- e. If no return is located, or no TIN is located on Master File, forward Form 706-NA. for processing.
- (14) **Do not** send payment tracers, penalty abatement claims, or mixed entity cases to BMF Classification; these cases are worked by E&G only.

21.7.5.4.2.1
(06-05-2013)
Estate Tax Treaties

- (1) Estate tax treaties are in effect with the following countries:
- Australia
 - Austria
 - Canada (see Article XXIX B of the U.S.-Canada income tax treaty)
 - Denmark
 - Finland
 - France
 - Germany
 - Greece
 - Ireland
 - Italy
 - Japan
 - Netherlands
 - Norway
 - Republic of South Africa
 - Switzerland
 - United Kingdom
- (2) Generally, the maximum unified credit under the Code (IRC 2102(b)) is \$13,000 for all decedents dying after November 10, 1988, and for former U.S. Citizens or long-term residents of the United States who expatriated within the 10 years prior to death and are subject to tax under Section 877(b) for the year of their death (IRC 2107).
- (3) A decedent who was a citizen of the United States and a resident of a possession at the time of his or her death is generally considered to be a nonresident not a citizen of the United States for estate tax purposes (IRC 2209). The maximum unified credit for such an individual is the greater of:
- a. \$13,000, or
 - b. \$46,800 times a fraction of the U.S. gross estate over the entire gross estate, wherever located. The numerator of the fraction is Line 1 of Schedule B of Form 706-NA and the denominator is Line 3 of Schedule B, (IRC 2102 (b) (2)).

21.7.5.4.2.2
(10-01-2017)

**Form 706-NA
Adjustment Procedures**

- (1) All tax abatements and assessments are processed using BMF Adjustment procedures; see IRM 21.7.5.4, *Form 706 Procedures*.
- (2) All tax adjustments to Form 706-NA are Category A Examination criteria.
- (3) The MFT for Form 706-NA is 52. The date of death (DOD) must be entered on the tax period 000000.
- (4) Returns are subject to normal penalty and interest assessments. Reasonable cause guidelines are applicable to penalty assessments.

Reminder: Never reduce or remove interest for reasonable cause. There is no provision in the law permitting interest to be adjusted for reasonable cause.

- (5) For inquiries on Form 706-NA accounts, as well as on Form 706 and Form 709 with foreign addresses that cannot be addressed using IDRS research, prepare a Form 4442 and fax to the Cincinnati Estate and Gift Tax Team at 859-669-3006. This number is approved for use by international executors and representatives.

21.7.5.4.2.3
(06-05-2013)

**Estate Tax Provisions in
the 1980 U.S. / Canadian
Income Tax Treaty, as
amended by the 1995
and 2007 Protocols,
Article XXIXB (Taxes
Imposed by Reasons of
Death)**

- (1) The paragraphs below outline the provisions and potential credits allowable for U.S. residents and Canadian residents under the U.S.-Canada Income Tax Treaty (Treaty), as amended by the 1995 and 2007 Protocols.

Note: Canada does not have an estate tax, but rather has a tax on capital gains at death.

- (2) Form 706: The executor of a U.S. resident decedent's estate can generally claim a charitable deduction for Federal estate tax purposes equal to the value of the property transferred, at death, to a Canadian tax exempt organization (charity). The effect is that no U.S. Federal estate tax will be imposed on the value of the property transferred to a Canadian charity. See Article XXIXB(1)(a) of the Treaty.
- (3) Form 706-NA: The executor of a nonresident decedent's estate, who is a resident of Canada, may not have to pay capital gains tax imposed in Canada due to the transfer of property to a U.S. charity by reason of the death. See Article XXIXB(1)(b) of the Treaty.
- (4) Pro-rata unified credit: The executor of a nonresident decedent's U.S. estate may now claim a pro-rata unified credit, but the gross estate outside the United States must be substantiated. See Article XXIXB(2) of the Treaty.
- (5) The pro-rata formula for calculating the unified credit is the gross U.S. estate (estate subject to U.S. estate taxation) (divided by) the gross worldwide estate (multiplied) by the unified credit amount. For yearly maximum allowable amounts, see table in IRM 21.7.5.4.1.4, Applicable Credit Amount (Unified Credit).
- (6) Marital credit:
 - In addition to the unified credits, the executors of U.S. estates can take advantage of the marital credit against U.S. estate tax, with respect to

- certain bequests to a surviving spouse resident in either the U.S. or Canada at the time of decedent's death. See Article XXIXB(3) of the Treaty.
 - The amount of the marital credit is limited to the lesser of the amount of the unified credit allowable to the estate, or the amount of U.S. estate tax that would otherwise be imposed on the transfer of qualifying property to the surviving spouse.
 - The marital credit is not an unlimited marital deduction.
 - If the surviving spouse is a U.S. citizen, the credit cannot exceed the U.S. estate tax attributable to the property that qualifies for a marital deduction.
- (7) Treatment of certain trusts - For Canadian tax returns, the Canadian exemption for the Canadian deemed capital transfer tax for U.S. spousal trust has been extended. See Article XXIXB(6) of the Treaty.
- (8) Credit for Canadian deemed capital transfer tax - For Form 706 U.S. estate tax returns, a credit is allowable against the U.S. federal estate tax imposed on the estate of a U.S. resident or citizen decedent for the Canadian federal and provincial deemed capital transfer tax on assets situated outside the United States. See Article XXIXB(7) of the Treaty.
- (9) \$1,200,000 "Small Estate" exemption:
 - a. On Form 706-NA returns, the assets subject to U.S. estate tax in the U.S. estate of a nonresident not a citizen decedent are those assets on which gain would be taxable under Article XIII (Gains) of the Treaty, which generally includes U.S. real estate and U.S. business property, provided that the decedent's worldwide gross estate does not exceed U.S. \$1,200,000, at the time of death. See Article XXIXB(8) of the Treaty.
- (10) Claims for refund and retroactivity of the treaty:
 - a. All U.S. estate tax return claims must be filed within the time limits set by the Code.
 - b. Claims that are otherwise filed untimely are acceptable if they were filed within one year from the date the Protocol was effective (November 9, 1995).
 - c. The Protocol's estate tax provisions, other than (1)(a), have retroactive effective dates. These apply to estates of decedents who died after November 10, 1988, if appropriate claims for refund are timely filed.
 - d. The treaty does not contain a restricted interest provision.

21.7.5.4.2.4
(06-05-2013)
**Form 706-CE, Certificate
of Payment of Foreign
Death Tax**

- (1) Form 706-CE must be filed before the IRS can allow a credit for foreign death taxes claimed on Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return.
- (2) Three copies of Form 706-CE must be prepared for each foreign death tax for which a credit is claimed.
- (3) The executor is responsible for sending the original and one copy to the foreign government where the tax was paid. That foreign government office should certify the form for resident or nonresident U.S. Citizens and send it to the appropriate address listed below. The taxpayer keeps the third copy of the form.

If...	Then...
Decedent was a Resident U.S. Citizen	Department of The Treasury Internal Revenue Service Center Cincinnati, OH 45999
Decedent was a Non-Resident U.S. Citizen	Department of The Treasury Internal Revenue Service Center Cincinnati, OH 45999

- (4) If the foreign government refuses to certify Form 706-CE, the executor must file it directly with the IRS Service Center for resident or nonresident citizens listed above as appropriate. The following must be submitted:
- A completed Form 706-CE (except the certification part)
 - A statement, signed under penalties of perjury, to explain why the foreign government did not certify it
 - A copy of the foreign death tax return, and
 - A copy of the receipt or cancelled check verifying the payment of the foreign death tax
- (5) The IRS Service Center for resident U.S. Citizens must be notified if there is a refund of any of the foreign death taxes already paid to a foreign government for which a credit is being claimed, and the estate must pay to the IRS any additional federal estate tax due resulting from the foreign refund.

21.7.5.4.3
(08-19-2015)

Form 706-A, United States Additional Estate Tax Return (to report dispositions or cessations of qualified use under IRC Section 2032A of the Internal Revenue Code)

- (1) The Executor of an estate (if decedent at time of death was a citizen or resident of the U.S.) files Form 706-A to report sale or cessation of the qualified use of farm or closely held business property at its farm or business use (qualified use) value rather than its fair market value. (See IRC Section 2032A.) The actual election is made by the Executor on Form 706, Schedule A-1. (See Form 706-A Instructions.) Once made, the election cannot be revoked.
- (2) An additional tax is imposed if **both** criteria below are met:
- Disposition or cessation of qualified use was before death of qualified heir.
 - Disposition or cessation was within 10 years after decedent's death.
- (3) Additional tax is reported by an heir on Form 706-A, which must also be filed and paid if there was any involuntary conversion or exchange of the specially valued property (even if conversion or exchange was nontaxable). Form 706-A is due within six (6) months after taxable disposition or cessation of qualified use. An extension of time to file of up to six months can be requested by filing Form 4768.

21.7.5.4.3.1
(01-01-2005)

Form 706-A Processing

- (1) Form 706-A is filed under the heir's SSN . The tax period is determined from the earliest date shown on Schedule A, Form 706-A, Column C.
- (2) Forms 706-A are processed NMF as:
- MFT 53
 - Tax Class 6
 - Document Code 84

- (3) Forms 706-A are Category A and must be referred to an Estate and Gift attorney or paralegal specialist in Estate and Gift Tax Operation for approval prior to taking any adjustment action. (Follow standard NMF procedures and IRM 21.7.12, Non-Master File (NMF) Adjustments, to adjust tax, penalty, and interest.)
- 21.7.5.4.3.2
(10-01-2011)
IRC 2032A Claims
- (1) Route these claims to the Estate and Gift Tax Operation at the Cincinnati campus. See IRM 21.7.5.1, Estate and Gift Tax Returns Overview, for mailing address.
- (2) For processing IRC 2032A claims see IRM 4.25.11.1, IRC 2032A Special Use Valuation Election.
- 21.7.5.4.4
(08-19-2015)
Form 706-GS(D) and Form 706-GS(T)
- (1) Tax is imposed on distributions and certain terminations of interests in trusts, which are subject to the GST tax.
- (2) Form 706-GS(D), Generation-Skipping Transfer Tax Return For Distributions, and Form 706-GS(T), Generation-Skipping Transfer Tax Return For Terminations, are processed as MF returns.
- (3) All Form 706-GS(D) and Form 706-GS(T) claims for tax decreases or increases are Category A and are routed to Estate and Gift Tax Operation. Estate and Gift follows IRM 21.7.5.4.1.8 or IRM 21.7.5.4.1.9 for adjustment procedures.
- 21.7.5.4.4.1
(08-19-2015)
Form 706-GS(D) Processing
- (1) Form 706-GS(D) is used by the skip-person distributee to calculate and report tax due on taxable trust distributions. It must be filed by April 15 of year following the year when the **distributions** were made.
- Note:** However, for distributions made in 2010, the due dates are modified as follows: For distributions made between January 1, 2010, and December 16, 2010, the due date for Form 706-GS(D) was September 19, 2011. See Pub. L. 111-312, Section 302(d)(2); IRC 7503. For 2010 distributions made December 17, 2010, or later, the due date for Form 706-GS(D) was April 18, 2011, due to the Emancipation Day holiday in the District of Columbia.
- (2) Beginning January 1, 2006, IRS consolidated Form 2758, Form 7004, Form 8736 and Form 8800. Form 7004, Application for Automatic 6-Month Extension of Time to File Certain Business Income Tax, Information, and Other Returns, has replaced Form 2758 to request an extension of time to file. However, beginning with returns due on or after January 15, 2009, certain forms (Form 1041, Form 1065, and Form 8804) have a five-month extension period.
- (3) Form 706-GS(D) is filed under either an EIN or SSN.
- If skip-person distributee is a **trust**, return is filed under trust's **EIN**.
 - If skip-person is an **individual**, return is filed under distributee's **SSN**.
- (4) Form 706-GS(D) are processed as:
- MFT 78
 - Document Code 59
 - Tax Class 5

- (5) Adjust tax by using TC 29X. Tax is found on Line 9, Net GST tax (Form revision date February 2011).

21.7.5.4.4.2
(08-19-2015)

**Form 706-GS(D-1)
Processing**

- (1) Generally, the trustee must file Copy A of Form 706-GS(D-1) with the IRS and send Copy B to the distributee by April 15 of the year following the calendar year when the distribution was made. If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day.

Note: However, for distributions made in 2010, the due dates are modified as follows: For distributions made between January 1, 2010, and December 16, 2010, the due date for the Form 706-GS (D) was September 19, 2011. See Pub. L. 111-312, sec. 301(d)(2). For 2010 distributions made December 17, 2010, or later, the due date for the Form 706-GS (D) was April 18, 2011, due to the Emancipation Day holiday in the District of Columbia.

- (2) Form 706-GS(D-1) Copy A - If the inclusion ratio is greater than zero, search for filing of Form 706-GS(D), MFT 78, under the skip person's SSN or EIN for the same tax period, and verify that the inclusion ratios match. Follow the table below:

Form 706-GS(D) Filed	Ratio Match	Disposition
Yes	Yes	Associate the Form 706-GS(D-1) with the F 706-GS(D).
Yes	No	Refer to E&G Estate Tax Attorney (ETA).
No		Correspond with the skip person and request return. If no reply, refer to E&G ETA.
No - Return is not due, F 706-GS(D-1) is for current year.		Route the Copy A document to Files for retention.

Note: Form 706-GS(D-1) is an unnumbered return. If Form 706-GS(D-2) Copy B is received, treat as Copy A and follow the instructions in this subsection.

21.7.5.4.4.3
(10-01-2011)

**Form 706-GS(T)
Processing**

- (1) Form 706-GS(T) is used by the trustee to calculate and report the tax due on taxable terminations of trust interests. Form 706-GS(T) must be filed by April 15 of the year following the year in which the **termination** occurs.
- (2) Beginning January 1, 2006, IRS consolidated Form 2758, Form 7004, Form 8736, and Form 8800. Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns, has replaced Form 2758 to request an extension of time to file.
- (3) Form 706-GS(T) are filed under an EIN.
- (4) They are processed as:

- MFT 77
- Document code 29
- Tax class 5

(5) Adjust tax by using TC 29X. The tax is found on Line 12, Total net GST tax.

21.7.5.4.5
(08-19-2015)
**Form 706-QDT, U.S.
Estate Tax Return for
Qualified Domestic
Trusts**

- (1) Trustees or designated filers of a Qualified Domestic Trust (QDT) use Form 706-QDT to figure and report the estate tax due on certain distributions from the QDT. Amount of tax on the value of the property remaining in the QDT on the date of the surviving spouse's death must also be figured.
- (2) A QDT applies only in those situations where a decedent's surviving spouse is **not** a U.S. citizen. A QDT is any trust that qualifies for an estate tax marital deduction under IRC 2056A, and that also meets the following requirements:
 - Trust instrument requires at least one trustee be a citizen of the U.S. or a domestic corporation.
 - Trust instrument requires that no distribution of corpus (the principal of a fund or estate as distinct from income or interest) from the trust may be made, unless that trustee has the right to withhold from distribution, QDT tax imposed on distribution.
 - QDT election has been made for the trust by the executor of estate of decedent.
 - The requirements of all applicable regulations have been met.
- (3) If the surviving spouse is a beneficiary of more than one QDT from a single decedent and that decedent's executor has so elected, designated filer selected by the executor is liable for filing the return and paying the tax.
- (4) A taxable distribution (taxable event) with respect to a QDT is any of the following:
 - Any distribution from a QDT before death of the surviving spouse, except distributions of income to surviving spouse and any distributions made to surviving spouse on account of hardship
 - Death of surviving spouse
 - Failure of trust to qualify as a QDT
- (5) Form 706-QDT is an annual return due on or after January 1, but not later than April 15 of the year following any calendar year in which taxable distributions are made. If surviving spouse has died, Form 706-QDT must be filed within nine months following date of death.
- (6) Form 4768 is used to request an extension of time to file.

21.7.5.4.5.1
(08-14-2017)
**Form 706-QDT
Processing**

- (1) Forms 706-QDT are filed and processed in **Cincinnati** through the Submission Processing NMF Accounting function.
- (2) They are processed as:
 - MFT 53
 - Document Code 85
 - Tax Class 6

are Category A.

21.7.5.4.6
(02-09-2015)

Form 706-D, United States Additional Estate Tax Return Under IRC Section 2057

- (1) Form 706-D, United States Additional Estate Tax Return Under Code Section 2057, was made historical in 2013. The Qualified Family-Owned Business Interest provisions were repealed and references to it in the Code were removed by Section 221(a)(97).
- (2) Form 706-D was used to report and pay additional estate tax (recapture tax) required by IRC 2057 when certain “taxable events” occur with respect to a qualified family-owned business interest (QFOBI) received by a qualified heir. It is a result of RRA 98. (For definition and examples of taxable events, see the Form 706-D instructions.)
- (3) Each qualified heir assumed personal liability for a portion of the additional tax imposed by IRC 2057 with respect to his/her interest in a QFOBI for which a deduction was taken on Form 706 filed for decedents dying after December 31, 1997, and before January 1, 2004. If a taxable event occurs, or there is an involuntary conversion or exchange of a QFOBI, Form 706-D must be filed.
- (4) If a qualified heir reinvests all of the involuntary conversion proceeds in qualified replacement property, or if the qualified heir exchanges qualified property solely for qualified exchange property, then there is no additional estate tax. **However, the qualified heir must complete Form 706-D (even though there is no tax) to notify IRS that the involuntary conversion or exchange took place.**
- (5) Form 706-D is due within six months after the taxable disposition, disqualifying act, or cessation of qualified use of the QFOBI, unless an extension of time has been granted. Form 4768 is used to request an extension of time to file. Circle “Form 706-D” at the top. Form 706-D is filed at the same campus where the Form 706 for the decedent’s estate was filed. Interest is due on the tax on Form 706-D from the due date of Form 706.
- (6) The tax period is determined from the earliest date shown on Schedule A, Form 706-D, Column C.
- (7) Forms 706-D are processed NMF as MFT 53, tax class 6, document code 84, blocking series 650–699. Amended Forms 706-D are Category A and must be referred to Estate and Gift for any adjustment action. (Follow standard NMF procedures and IRM 21.7.12, *Non-Master File (NMF) Adjustments*, to adjust tax, penalty, and interest.) **The volume of Forms 706-D is extremely minimal.**

21.7.5.4.7
(12-17-2015)

Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return

- (1) Form 709 is used to report transfers of real or personal property subject to the federal gift and GST taxes. All gift and GST taxes are computed and filed on a calendar year basis. The tax is imposed on the **donor**, the person giving the gift. The **donee** is the recipient of the gift.
- (2) Form 709 is due on or after January 1, but no later than April 15 of the year following the calendar year when the gifts were made. If donor dies during the year gifts were made, executor must file Form 709 not later than the earlier of:
 - Due date (including extensions) of donor’s estate tax return (Form 706)
 - April 15 of year following calendar year the gifts were made

(3) Form 709 is required for the following:

- Gifts of **present interests** in property to a donee other than a spouse exceeding the annual exclusion. (See Form 709 Instructions for information on present interest.) Based on TPRA (1997), the annual exclusion is indexed in \$1,000 increments based on cost of living adjustments for 1998 and subsequent. See the Exhibit 21.7.5-1 for the annual exclusion amount:
- Gifts of **present interests** in property to a spouse who is not a citizen of the U.S. that exceed the amount in the table below:

For gifts made during calendar year	Annual Exclusion Amount
2003	112,000
2004	114,000
2005	117,000
2006	120,000
2007	125,000
2008	128,000
2009	133,000
2010	134,000
2011	136,000
2012	139,000
2013	143,000
2014	145,000
2015	147,000
2016	148,000

- Gifts of **future interests** in property to a donee (See Form 709 Instructions for information on future interests.)

(4) Form 709 is **not** required for outright gifts to a spouse who is a U.S. citizen regardless of the amount of gifts. Also, Form 709 is not required if the only gifts made during the year were deductible as gifts to charities, as long as the entire interest was transferred. If only a partial interest was transferred or the transfer was to someone other than a charity, Form 709 must be filed.

(5) Transfers **not** subject to the gift tax are:

- Transfers to political organizations
- Payments which qualify for educational and medical exclusion
- Disclaimers, a complete refusal to accept a property interest (Form 709 Instructions have additional information on disclaimers.)

- (6) Only individuals are required to file gift tax returns. If a trust, estate, partnership, or corporation makes a gift, the individuals, beneficiaries, partners, or stockholders are considered donors and may be liable for the gift and GST taxes. Gifts made to an individual are not taken as deductions on the donor's individual income tax return and they are not included as income on the recipient's income tax return. Only income derived from gifts is subject to income tax.

21.7.5.4.7.1
(10-01-2008)
Gift Splitting

- (1) Gift splitting is effective for the entire calendar year and the liability for the entire gift tax of each spouse is joint and several. (Either one or both are liable, the same as on a joint income tax return.) When spouses agree, all gifts either of them makes to third parties during the calendar year are considered made one-half by each if the conditions below are met:
 - a. They were married to one another at time gift was made.
 - b. If divorced or widowed after gift, they did not remarry during the rest of the calendar year.
 - c. Neither was a nonresident alien at time of the gift.
 - d. One spouse was not given a general power of appointment over the property interest transferred.
- (2) A married couple may not file a joint gift tax return. There are no provisions in the Code for a joint gift tax return. Each spouse may have to file separate returns. See the Instructions to Form 709 for more information on gift splitting.

21.7.5.4.7.2
(08-19-2015)
Form 8892, Payment of Gift/GST Tax and/or Application for Extension of Time to File Form 709

- (1) There are two methods for extending the time to file a gift tax return. Neither method extends the time to pay the gift or GST taxes:
 - a. Any extension of time to file the Individual Income Tax Return made on Form 2350, Application for Extension of Time to File U.S. Income Tax Return, or Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return, automatically extends the time (up to six-months) to file a gift tax return. (Taxpayers may use these forms to extend the time for filing their gift tax return only if they are also requesting an extension of time to file their personal income tax return (Form 1040)).
 - b. Beginning in 2005, taxpayers file Form 8892, Payment of Gift/GST Tax and/or Application for Extension of Time to File Form 709, to request up to a six-month extension of time to file. Form 8892 also serves as a payment voucher for the balance due of gift taxes due with the extension. (See the Instructions to Form 8892 for more specific information.)
- (2) Taxpayers who receive an extension of time to file their Form 709 return due to filing an extension on their personal (Form 1040) account, **WILL NOT** have a TC 460 input on their Form 709 account. However, Notice Review is reviewing CP Notices generated on Form 709 accounts for these situations. Follow the instructions in IRM 20.1.2, Failure to File Tax Return or Pay Tax, for these types of taxpayer inquiries.

21.7.5.4.7.3
(01-03-2013)
Form 709 Tax Adjustments

- (1) Route all Form 709 cases to Estate and Gift Operation, Cincinnati Campus, Stop 824G.

(3) When the case is returned:

- a. Math verify tax computations relevant to amended returns.
- b. Check Schedule A to ensure the donees' names are listed.
- c. **Input TC 29X, BS 15, NSD, using IRNs 074 (GST) and 077 (gift tax) and adjust the item reference numbers listed above** when applicable. The dollar amounts for these fields may be positive or negative. However, do not attempt to reduce below zero.
- d. Research to determine if Form 706 has been filed. Follow the table below:

If	And	Then
Form 706 has not been filed.		Route Form 709 to Alpha File.
Form 706 has been filed.	There is no open TC 420.	Route Form 709 to be associated with the Form 706 controlling DLN via Form 10023-B.
Form 706 has been filed.	There is an open TC 420.	Route Form 709 to Advance File or Field group, as appropriate per AIMS.

Note: Also, see IRM 21.7.5.4.1.7(2) for instructions to work non-remit “amended”, “corrected”, or “supplemental” Forms 709.

- (4) Effective January 1, 2006, and subsequent, the following item reference numbers (IRN's) were assigned to Form 709 accounts and appear on CCs BMFOL and TXMOD:

IRN	Description	Location on Form 709:
115	Taxable Gifts Current Period Amount	Line 1, page 1
116	Taxable Gifts Prior Period Amount	Line 2, page 1
117	Total Gifts Current Period Amount	Line 1, page 3

- (5) The total gifts of the donor (Schedule A) are reduced by the following items:
- Split gifts
 - Annual exclusion (See IRM 21.7.5.4.7(3) for the annual exclusion amount for gifts to a donee other than a spouse, and for gifts to a spouse who is not a citizen of the United States.)
 - Marital deduction
 - Charitable deduction
- (6) Any unified credit (also known as “applicable credit amount”) available is subtracted from the tax computed on table below to determine the tax due for gifts made from 1998 – 2001. The Applicable Credit Amount for gift tax is not the same as the Applicable Credit Amount for estate tax for gifts made after 2002. **For gifts made in 2002 and subsequent, use the table in IRM 21.7.5.4.1.3, *Gross Estate Tax*, and see the Note below that table.** See the table in IRM 21.7.5.4.1.4 , *Applicable Credit Amount (Unified Credit)*, to determine the applicable credit amount (unified credit).

Table for Computing Gift Tax (Gifts made 1998 — 2001)			
Taxable amount over	Taxable amount not over	Tax on amount in first column	Rate of tax on excess over amount in first column
			(Percent)
.....	\$10,000	18
\$10,000	20,000	\$1,800	20
20,000	40,000	3,800	22
40,000	60,000	8,200	24
60,000	80,000	13,000	26
80,000	100,000	18,200	28
100,000	150,000	23,800	30
150,000	250,000	38,800	32
250,000	500,000	70,800	34
500,000	750,000	155,800	37
750,000	1,000,000	248,300	39
1,000,000	1,250,000	345,800	41
1,250,000	1,500,000	448,300	43
1,500,000	2,000,000	555,800	45
2,000,000 Over 2,000,000 (See Note below table)	2,500,000 -----	780,800 780,000	49 for 2001 and prior
2,500,000 Over 2,500,000 (Not applicable after 2002)	3,000,000 -----	1,025,800	53 for 2001 and prior
3,000,000 (Not applicable after 2001)		1,290,800	55 for 2001 and prior
10,000,000 (Not applicable after 2001)	17,184,000	5,140,800	60 for 2001 and prior
17,184,000 (Not applicable after 2001)		9,451,200	55 for 2001 and prior

Note: As a result of PL 107-16, for 2002, the rate is reduced for amounts over \$2,500,000. For 2003, the rate is reduced for amounts over \$2,000,000 and is further reduced 1 percent each year after until it reaches 45 percent in 2007. See the table in IRM 21.7.5.4.1.3, *Gross Estate Tax*, for gifts made after December 31, 2001.

21.7.5.4.7.4
(10-01-2017)
“Tax Increase
Prevention Act”, P.L.
113-295 (H.R. 5771),
Achieving a Better Life
Experience Act of 2014 -
ABLE

- (1) Division B, Section 102 of the Tax Increase Prevention Act of 2014 created IRC 529A, Qualified ABLE programs, and is effective in taxable years beginning after December 31, 2014. A qualified ABLE program means is a program established and maintained by a State, or State agency or instrumentality. An ABLE account is a tax-favored savings account that can accept contributions for an eligible blind or disabled individual who is the designated beneficiary. The account is used to provide for qualified disability expenses. thereof - under which a person may make contributions for a taxable year, for the benefit of an individual who is an eligible individual for such taxable year, to an ABLE account that is established for the purpose of meeting the qualified disability expenses of the designated beneficiary of the account.

Note: The term ‘designated beneficiary’ in connection with an ABLE account established under a qualified ABLE program is the owner of the ABLE account and who either established the account (or for whom the account was established) at a time when he or she was an eligible individual or who has succeeded the former designated beneficiary in that capacity (successor designated beneficiary) means the eligible individual who established an ABLE account and is the owner of such account.

- (2) A designated beneficiary is limited to only one ABLE account at a time An ABLE account limits a designated beneficiary to one ABLE account for purposes of under IRC 529A.
- (3) An individual may establish an ABLE account if the individual’s blindness or disability occurred before age 26, and either of the following applies:
 - a. The individual is entitled to benefits based on blindness or disability under Title II or XVI of the Social Security Act; or
 - b. The individual files a disability certification with a qualified ABLE program, including the individual’s diagnosis by a physician (as defined in section 1861(r) of the Social Security Act) relating to the individual’s relevant impairment or impairments. The individual must certify that the individual either has a medically determinable physical or mental impairment which results in marked and severe functional limitations, which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than 12 months; or that the individual is blind (within the meaning of section 1614(a)(2)) of the Social Security Act.
- (4) A qualified person for an ABLE account is a resident of such State or a resident of a contracting State.
 - a. Unless it is in cash.
 - b. Except in the case of contributions under subsection 529 (c)(1)(C), if a contribution to an ABLE account would result in aggregate contributions from all contributors to the ABLE account for the taxable year exceeding the amount in effect under IRC 2503(b) for the calendar year in which the taxable year begins.

- (5) A program shall not be treated as a qualified ABLE program unless it provides separate accounting for each designated beneficiary.
- (6) A program shall not be treated as a qualified ABLE program unless it provides that any designated beneficiary under such program may, directly or indirectly, direct the investment of any contributions to the program (or any earnings) no more than 2 times in any calendar year.
- (7) A program shall not be treated as a qualified ABLE program if it allows any interest in the program or any portion of the interest to be used as security for a loan.
- (8) A program shall not be treated as a qualified ABLE program unless it provides adequate safeguards to prevent aggregate contributions on behalf of a designated beneficiary in excess of the limit established by the State under Section 529(b)(6). The aggregate contributions include contributions under any prior qualified ABLE program of any State or State agency or instrumentality thereof.

21.7.5.4.7.5
(08-19-2015)
**Tax Rules for ABLE
Accounts**

- (1) Under Chapter 12 (Gift Tax) and Chapter 13 (Generation-Skipping Tax transfer) any contribution to a qualified ABLE program on behalf of any designated beneficiary will be treated as a completed gift to a designated beneficiary that is not a future interest in property and will not be treated as a qualified transfer under IRC 2503(e).
- (2) A distribution from an ABLE account to the account's designated beneficiary will not be treated as a taxable gift.
- (3) The taxes imposed by Chapter 12 and Chapter 13 shall not apply to a transfer of the designated beneficiary under IRC 529A (c)(1)(C).
- (4) Additional tax may be imposed on distributions that are not used for disability expenses.
 - a. If distributions exceed qualified disability expenses, the earnings portion of the distribution is included in taxable income for the year, after a calculation. The tax on any distribution included in taxable income is increased by 10 percent.
- (5) Additional tax shall not apply if:
 - a. The payment or distribution to a beneficiary (or estate of the designated beneficiary) is made on or after the death of the designated beneficiary.
 - b. The distribution is made during the same taxable year of its contribution on behalf of a designated beneficiary and is received on or before the due date (including extensions of time) of the designated beneficiary's return for such taxable year and is accompanied by the amount of net income attributable to the excess contribution. Such net income will be includible in gross income for the taxable year in which the excess contribution was made.

21.7.5.4.8
(10-03-2007)
**Form 709-A, United
States Short Form Gift
Tax Return**

- (1) Form 709-A, United States Short Form Gift Tax Return, was **obsoleted effective October 2003. If you receive a current Form 709-A, return it to the taxpayer with the appropriate letter, advising the taxpayer that the form is obsolete and to file Form 709.**

- (2) Prior to October 2003, Form 709-A was filed by certain married couples instead of Form 709 to report non-taxable gifts they consented to split. A joint Form 709-A was not allowable.
- (3) Form 709-A was filed if all of the following requirements were met:
 - a. Taxpayer was a U.S. citizen or resident and married during the entire year to same individual, who must also be a U.S. citizen or resident.
 - b. The only gifts, other than qualified transfers to a third party, consist entirely of present interests in tangible personal property, cash, stocks and bonds listed on a stock exchange, or U.S. savings bonds.
 - c. Gifts to any one third-party donee (other than gifts for tuition or medical care) during calendar year, did not total more than \$22,000.
 - d. A gift of terminable interest was not made to spouse during calendar year.
 - e. Spouse did not make gifts during calendar year to any of donees listed on taxpayer's Form 709-A, did not make gifts of terminable interest to taxpayer, did not make gifts (other than tuition or medical care) of over \$11,000 to any other donee, and did not make gifts of any future interest to any other donee.
 - f. Both spouses agreed to split all of gifts that either one made during calendar year.
- (4) Form 709-A was a calendar year return due on or after January 1, but not later than April 15 of the year following the year the nontaxable split gifts were made. An extension of time to file a calendar year income tax return also extended the time to file Form 709-A.
- (5) The Estate and Gift tax examiner employee must input TC 290 \$.00 in appropriate BS to release the "-A" freeze on amended or corrected returns.

21.7.5.5
(01-01-2005)

**Killed in Terrorist Action
(KITA) Estate Tax
Returns**

- (1) Use the following information to process Estate Tax Returns identified as KITA.

21.7.5.5.1
(01-01-2007)

Background Information

- (1) Sec. 101 of PL 107-134, *Victims of Terrorism Tax Relief Act of 2001*, amended IRC 692(relating to income taxes of members of Armed Forces on death) to include specified terrorist victims by adding (d) (4). This section defines a "specified terrorist victim" to mean any decedent who:
 - a. Dies as a result of wounds or injury incurred as a result of the terrorist attacks against the U.S. on April 19, 1995, or September 11, 2001, or
 - b. Dies as a result of illness incurred as a result of an attack involving anthrax occurring on or after September 11, 2001, and before January 1, 2002.
- (2) Sec. 103 addresses the Estate Tax provisions of PL 107-134 of the bill. IRC 2201 was amended to provide special rates for qualified decedents, unless the executor elects not to have this section apply.
- (3) "Qualified decedent" means any specified terrorist victim (as defined in IRC 692(d)(4)) or any citizen or resident of the U.S. dying while in active services of the Armed Forces of the U.S., if they:

- a. Were killed in action while serving in a combat zone, as determined under Section 112(c), or
 - b. Died as a result of wounds, disease, or injury suffered while serving in a combat zone (as determined under Section 112 (c)), and while in the line of duty, by reason of a hazard to which such decedent was subjected as an incident of such service.
- (4) The provisions under IRC 2201 also apply to Form 706-NA, which is processed at the Cincinnati Campus. This situation could arise if, for example, a foreign national died in the attacks and had U.S. holdings subject to the estate tax.
- (5) The Military Family Tax Relief Act of 2003 amended IRC 2201 (b) to include any astronaut whose death occurs in the line of duty and applies to the estate of decedents dying after December 31, 2002. This includes the Columbia Space Shuttle Heroes.

21.7.5.5.2
(01-01-2005)
Tax Computation

- (1) The following special rate schedule, Rate Schedule Under the Victims of Terrorism Tax Relief Act of 2001, must be used for qualified decedents:

Note: Use this table only for the estates of decedents that qualify for the special treatment under IRC 2201 (used by Estate and Gift tax examiners for KITA only) as revised by the Victims of Terrorism Tax Relief Act of 2001 and the Military Family Tax Relief Act of 2003.

Taxable amount over	Taxable amount not over	Tax on amount in first column	Rate of tax on excess over amount in first column
			(Percent)
0	\$100,000	0	0
\$100,000	150,000	0	1
150,000	200,000	\$500	2
200,000	300,000	1,500	3
300,000	500,000	4,500	4
500,000	700,000	12,500	5
700,000	900,000	22,500	6
900,000	1,100,000	34,500	7
1,100,000	1,600,000	48,500	8
1,600,000	2,100,000	88,500	9
2,100,000	2,600,000	133,500	10
2,600,000	3,100,000	183,500	11
3,100,000	3,600,000	238,500	12
3,600,000	4,100,000	298,500	13

Taxable amount over	Taxable amount not over	Tax on amount in first column	Rate of tax on excess over amount in first column
4,100,000	5,100,000	363,500	14
5,100,000	6,100,000	503,500	15
6,100,000	7,100,000	653,500	16
7,100,000	8,100,000	813,500	17
8,100,000	9,100,000	983,500	18
9,100,000	10,100,000	1,163,500	19
10,100,000	---	1,353,500	20

- (2) Tentative tax is reduced by the tax that would have been payable on adjusted taxable gifts, if any. It is also computed using the rate schedule above.
- (3) Credits against the tax, including the unified credit under IRC 2010 (computed using the IRC 2001(c) rate schedule), and the State death tax credit under IRC 2011, then apply to reduce or eliminate the amount of estate tax payable.
- (4) The statute of limitations for claiming a refund for the estates of victims of the Oklahoma City bombing was waived for one year from the date of enactment of this bill. Refunds of credits were allowed if claims were filed before the close of the one-year period beginning January 23, 2002, and ending on January 22, 2003. Procedures for processing amended returns with expired ASER/RSED are provided in IRM 21.7.5.5.5.

21.7.5.5.3
(10-01-2009)
**Special Processing
Required for KITA
Forms 706**

- (1) Original or amended Forms 706 filed under the Victims of Terrorism Tax Relief Act of 2001 are processed at the Cincinnati Campus. Original Form 706 should be mailed to the Cincinnati Submission Processing Center. Amended Form 706 filed under the Victims of Terrorism Tax Relief Act of 2001 must be mailed to:

Estate and Gift Tax Operation
201 W. Rivercenter Blvd.
Covington, KY 41011
Attention: Stop 824G

- (2) If amended Killed in Terrorist Activities (KITA) Form 706 and Form 706-NA are received at any other campus, transfer the case using Form 3210, Document Transmittal, to the Estate and Gift Tax Operation at the address above.
- (3) Write one of the following across the top of the first page of each return:
 - KITA - Oklahoma City
 - KITA - 911
 - KITA - Anthrax
 - IRC 2201
- (4) Original KITA returns are coded with Computer Condition Code (CCC) "B". This allows the tax to be computed using the special rate schedule.

21.7.5.5.4
(10-03-2007)
**Cases Received in the
Estate Tax Operation**

- (1) Expedite all processing of KITA claims and returns.
- (2) KITA returns must include a copy of the death certificate as proof of death.
- (3) All KITA cases must be controlled on IDRS within three business days after receipt in Estate and Gift, using IDRS **category code "KITA"**.
- (4) All contact with the executor/surviving spouse must be made through the appropriate, designated employee.
- (5) Taxpayer inquiries on KITA cases must receive a reply within three (3) business days.
- (6) All time expended in support of the KITA program is reported under Program Code 82385. This code is valid for all functions.

21.7.5.5.5
(10-01-2010)
**KITA Statute of
Limitations**

- (1) The statute of limitations for claiming a refund for the estates of victims of the Oklahoma City bombing was waived for one year beginning on January 23, 2002, (the date of enactment of this bill) and ending on January 22, 2003. Refunds or credits are allowed if claims are filed before the close of the one-year period.
- (2) Additional information can be found in Publication 3920, Tax Relief for Victims of Terrorist Attacks, and IRM 21.6.6.3.22, Federal Income Tax Forgiveness for Certain United States (U.S.) Military and Civilian Employees and Other Individuals.

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Exhibit 21.7.5-1 (12-17-2015)**Applicable Credit and Basic Exclusion Amounts (IRC 2010)****Estate Tax**

Decedents Dying In	Applicable Credit Amount	Basic Exclusion Amount	Basic Exclusion Amount with State Tax Credit
1987-1997	192,800	600,000	642,424
1998	202,050	625,000	670,455
1999	211,300	650,000	698,485
2000 and 2001	220,550	675,000	727,174
2002	345,800	1,000,000	1,067,664
2003	345,800	1,000,000	1,043,456
2004	555,800	1,500,000	1,537,097
2005	555,800	1,500,000	Credit for State Death Taxes Repealed
2006-2008	780,800	2,000,000	Credit for State Death Taxes Repealed
2009	1,455,800	3,500,000	Credit for State Death Taxes Repealed
2010-2011	1,730,800	5,000,000	Credit for State Death Taxes Repealed
2012	1,772,800	5,120,000	Credit for State Death Taxes Repealed
2013	2,045,800	5,250,000	Credit for State Death Taxes Repealed
2014	2,081,800	5,340,000	Credit for State Death Taxes Repealed
2015	2,117,800	5,430,000	Credit for State Death Taxes Repealed
2016	2,125,800	5,450,000	Credit for State Death Taxes Repealed

Gift Tax

Gifts Made In	Applicable Credit Amount	Basic Exclusion Amount
1987-1997	192,800	600,000
1998	202,050	625,000
1999	211,300	650,000

Exhibit 21.7.5-1 (Cont. 1) (12-17-2015)**Applicable Credit and Basic Exclusion Amounts (IRC 2010)**

Gifts Made In	Applicable Credit Amount	Basic Exclusion Amount
2000 and 2001	220,550	675,000
2002 through 2009	345,800	1,000,000
2010	330,800	1,000,000
2011	1,730,800	5,000,000
2012	1,772,800	5,120,000
2013	2,045,800	5,250,000
2014	2,081,800	5,340,000
2015	2,117,800	5,430,000
2016	2,125,800	5,450,000

Generation-Skipping Transfer Tax

GST Transfers In	Exemption
1986-1998	1,000,000
1999	1,010,000
2000	1,030,000
2001	1,060,000
2002	1,100,000
2003	1,120,000
2004 and 2005	1,500,000
2006-2008	2,000,000
2009	3,500,000
2010	5,000,000 (No GST Tax on direct skips, taxable distributions and taxable terminations in 2010)
2011	5,000,000
2012	5,120,000
2013	5,250,000
2014	5,340,000
2015	5,430,000
2016	5,450,000

Exhibit 21.7.5-1 (Cont. 2) (12-17-2015)**Applicable Credit and Basic Exclusion Amounts (IRC 2010)****Gift Tax Annual Exclusion (IRC 2503)**

Gifts Made In	Annual Exclusion
1981 and Prior	3,000
1982-2001	10,000
2002-2005	11,000
2006-2008	12,000
2009-2012	13,000
2013-2016	14,000

Ceiling on Special Use Valuation (IRC 2032A)

Decedents Dying In	Maximum Reduction in Value
1983-1998	750,000
1999	760,000
2000	770,000
2001	800,000
2002	820,000
2003	840,000
2004	850,000
2005	870,000
2006	900,000
2007	940,000
2008	960,000
2009-2010	1,000,000
2011	1,020,000
2012	1,040,000
2013	1,070,000
2014	1,090,000
2015	1,100,000
2016	1,110,000

Exhibit 21.7.5-1 (Cont. 3) (12-17-2015)**Applicable Credit and Basic Exclusion Amounts (IRC 2010)****Ceiling on Closely Held Business Value Eligible for Special Low Interest Rate (IRC 6166)**

Decedents Dying In	Maximum Reduction in Value
1977-1998	1,000,000
1999	1,010,000
2000	1,030,000
2001	1,060,000
2002	1,100,000
2003	1,120,000
2004	1,140,000
2005	1,170,000
2006	1,200,000
2007	1,250,000
2008	1,280,000
2009	1,330,000
2010	1,340,000
2011	1,360,000
2012	1,390,000
2013	1,430,000
2014	1,450,000
2015	1,470,000
2016	1,480,000