Instructions for Form 706

(Rev. September 2023)

For decedents dying after December 31, 2022

United States Estate (and Generation-Skipping Transfer) Tax Return

Volume 4 of 5

Department of the Treasury
Internal Revenue Service

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Do not deduct on this schedule amounts paid as trustees' commissions whether received by you acting in the capacity of a trustee or by a separate trustee. If such amounts were paid in administering property not subject to claims, deduct them on Schedule L.

Note. Executors' commissions are taxable income to the executors. Therefore, be sure to include them as income on your individual income tax return.

Attorney fees. Enter the amount of attorney fees that have actually been paid or that you reasonably expect to be paid. If, on the final examination of the return, the fees claimed have not been awarded by the proper court and paid, the deduction will be allowed, provided the Chief, Estate and Gift/ Excise Tax Examination, is reasonably satisfied that the amount claimed will be paid and that it does not exceed a reasonable payment for the services performed, taking into account the size and character of the estate and the

local law and practice. If the fees claimed have not been paid at the time of final examination of the return, the amount deducted must be supported by an affidavit, or statement signed under penalties of perjury, by the executor or the attorney stating that the amount has been agreed upon and will be paid.

Do not deduct attorney fees incidental to litigation incurred by the beneficiaries. These expenses are charged against the beneficiaries personally and are not administration expenses authorized by the Code.

Interest expense. Interest expenses incurred after the decedent's death are generally allowed as a deduction if they are reasonable, necessary to the administration of the estate, and allowable under local law.

Interest incurred as the result of a federal estate tax deficiency is a deductible administrative expense. Penalties on estate

tax deficiencies are not deductible even if they are allowable under local law.

Note. If you elect to pay the tax in installments under section 6166, you may not deduct the interest payable on the installments.

Miscellaneous expenses. Miscellaneous administration expenses necessarily incurred in preserving and distributing the estate are deductible. These expenses include appraiser's and accountant's fees, certain court costs, and costs of storing or maintaining assets of the estate.

The expenses of selling assets are deductible only if the sale is necessary to pay the decedent's debts, the expenses of administration, or taxes, or to preserve the estate or carry out distribution.

Schedule K—Debts of the Decedent, and Mortgages and Liens

Use Schedule PC to make a protective claim for refund for expenses which are not currently deductible under section 2053. For such a claim, report the expense on Schedule K but without a value in the last column.

You must complete and attach Schedule K if you claimed deductions on either item 15 or item 16 of *Part 5—Recapitulation.*

Income vs. estate tax deduction. Taxes, interest, and business expenses accrued at the date of the decedent's death are deductible both on Schedule K and as deductions in respect of the decedent on the income tax return of the estate.

If you choose to deduct medical expenses of the decedent only on the estate tax return, they are fully deductible as claims against the estate. If, however, they are claimed on the

decedent's final income tax return under section 213(c), they may also not be claimed on the estate tax return. In this case, you may also not deduct on the estate tax return any amounts that were not deductible on the income tax return because of the percentage limitations.

Debts of the Decedent

List under *Debts of the Decedent* only valid debts the decedent owed at the time of death. List any indebtedness secured by a mortgage or other lien on property of the gross estate under *Mortgages and Liens.* If the amount of the debt is disputed or the subject of litigation, deduct only the amount the estate concedes to be a valid claim.

Generally, if the claim against the estate is based on a promise or agreement, the deduction is limited to the extent that the liability was contracted bona fide and for an adequate and full consideration in money or

money's worth. However, any enforceable claim based on a promise or agreement of the decedent to make a contribution or gift (such as a pledge or a subscription) to or for the use of a charitable, public, religious, etc., organization is deductible to the extent that the deduction would be allowed as a bequest under the statute that applies.

Certain claims of a former spouse against the estate based on the relinquishment of marital rights are deductible on Schedule K. For these claims to be deductible, all of the following conditions must be met.

- The decedent and the decedent's spouse must have entered into a written agreement relative to their marital and property rights.
- The decedent and the spouse must have been divorced before the decedent's death and the divorce must have occurred within the 3-year period beginning on the date 1 year before

the agreement was entered into. It is not required that the agreement be approved by the divorce decree.

- The property or interest transferred under the agreement must be transferred to the decedent's spouse in settlement of the spouse's marital rights.

You may not deduct a claim made against the estate by a remainderman relating to section 2044 property. Section 2044 property is described in the instructions for *Part 4—General Information*, line 7.

Include in this schedule notes unsecured by mortgage or other lien and give full details, including:

- Name of payee,
- Face and unpaid balance,
- Date and term of note,
- Interest rate, and

- Date to which interest was paid before death.

Include the exact nature of the claim as well as the name of the creditor. If the claim is for services performed over a period of time, state the period covered by the claim.

Example. Electric Illuminating Co., for electric service during December 2022, $150.

If the amount of the claim is the unpaid balance due on a contract for the purchase of any property included in the gross estate, indicate the schedule and item number where you reported the property. If the claim represents a joint and separate liability, give full facts and explain the financial responsibility of the co-obligor.

Property and income taxes. The deduction for property taxes is limited to the taxes accrued before the date of the decedent's death. Federal taxes on income received during the decedent's lifetime are deductible,

but taxes on income received after death are not deductible.

Keep all vouchers or original records for inspection by the IRS.

Allowable death taxes. If you elect to take a deduction for foreign death taxes under section 2053(d) rather than a credit under section 2014, the deduction is subject to the limitations described in section 2053(d) and its regulations.

Mortgages and Liens

Under *Mortgages and Liens*, list only obligations secured by mortgages or other liens on property included in the gross estate at its full value or at a value that was undiminished by the amount of the mortgage or lien. If the debt is enforceable against other property of the estate not subject to the mortgage or lien, or if the decedent was personally liable for the debt, include the full value of the property subject to the mortgage

or lien in the gross estate under the appropriate schedule and deduct the mortgage or lien on the property on this schedule.

However, if the decedent's estate is not liable, include in the gross estate only the value of the equity of redemption (or the value of the property less the amount of the debt), and do not deduct any portion of the indebtedness on this schedule.

Notes and other obligations secured by the deposit of collateral, such as stocks, bonds, etc., should also be listed under *Mortgages and Liens.*

Description

Include under the “Description” column the particular schedule and item number where the property subject to the mortgage or lien is reported in the gross estate.

Include the name and address of the mortgagee, payee, or obligee, and the date and term of the mortgage, note, or other agreement by which the debt was established. Also include the face amount, the unpaid balance, the rate of interest, and the date to which the interest was paid before the decedent's death.

Schedule L—Net Losses During Administration and Expenses Incurred in Administering Property Not Subject to Claims

Use Schedule PC to make a protective claim for refund for expenses which are not currently deductible under section 2053. For such a claim, report the expense on Schedule L but without a value in the last column.

Complete Schedule L and file it with the return if you claim deductions on either item 19 or item 20 of *Part 5—Recapitulation.*

Net Losses During Administration

You may deduct only those losses from thefts, fires, storms, shipwrecks, or other casualties that occurred during the settlement of the estate. Deduct only the amount not reimbursed by insurance or otherwise.

Describe in detail the loss sustained and the cause. If you received insurance or other compensation for the loss, state the amount collected. Identify the property for which you are claiming the loss by indicating the schedule and item number where the property is included in the gross estate.

If you elect alternate valuation, do not deduct the amount by which you reduced the value of an item to include it in the gross estate.

Do not deduct losses claimed as a deduction on a federal income tax return or depreciation in the value of securities or other property.

Expenses Incurred in Administering Property Not Subject to Claims

You may deduct expenses incurred in administering property that is included in the gross estate but that is not subject to claims. Only deduct these expenses if they were paid before the section 6501 period of limitations for assessment expired.

The expenses deductible on this schedule are usually expenses incurred in the administration of a trust established by the decedent before death. They may also be incurred in the collection of other assets or the transfer or clearance of title to other property included in the decedent's gross estate for estate tax purposes, but not included in the decedent's probate estate.

The expenses deductible on this schedule are limited to those that are the result of settling the decedent's interest in the property or of vesting good title to the property in the

beneficiaries. Expenses incurred on behalf of the transferees (except those described earlier) are not deductible. Examples of deductible and nondeductible expenses are provided in Regulations section 20.2053-8(d).

List the names and addresses of the persons to whom each expense was payable and the nature of the expense. Identify the property for which the expense was incurred by indicating the schedule and item number where the property is included in the gross estate. If you do not know the exact amount of the expense, you may deduct an estimate, provided that the amount may be verified with reasonable certainty and will be paid before the period of limitations for assessment (referred to earlier) expires. Keep all vouchers and receipts for inspection by the IRS.

Schedule M—Bequests, etc., to Surviving Spouse (Marital Deduction)

If any assets to which the special rule of Regulations section 20.2010-2(a)(7)(ii) applies are reported on this schedule, do not enter any value in the last three columns. See the instructions for Part 5—Recapitulation*, item 23, for information on how to estimate and report the value of these assets.*

General

You must complete Schedule M and file it with the return if you claim a deduction on item 21 of *Part 5—Recapitulation*.

The marital deduction is authorized by section 2056 for certain property interests that pass from the decedent to the surviving spouse. You may claim the deduction only for property interests that are included in the decedent's gross estate (Schedules A through I).

Note. The marital deduction is generally not allowed if the surviving spouse is not a U.S. citizen. The marital deduction is allowed for property passing to such a surviving spouse in a QDOT or if such property is transferred or irrevocably assigned to such a trust before the estate tax return is filed. The executor must elect QDOT status on the return. See the instructions that follow for details on the election.

Property Interests That You May List on Schedule M

Generally, you may list on Schedule M all property interests that pass from the decedent to the surviving spouse and are included in the gross estate. However, do not list any *nondeductible terminable interests* (described later) on Schedule M unless you are making a QTIP election. The property for which you make this election must be included on Schedule M. See *Qualified terminable interest property,* later.

For the rules on common disaster and survival for a limited period, see section 2056(b)(3).

You may list on Schedule M only those interests that the surviving spouse takes:

1. As the decedent's legatee, devisee, heir, or donee;
2. As the decedent's surviving tenant by the entirety or joint tenant;
3. As an appointee under the decedent's exercise of a power or as a taker in default at the decedent's nonexercise of a power;
4. As a beneficiary of insurance on the decedent's life;
5. As the surviving spouse taking under dower or curtesy (or similar statutory interest); and
6. As a transferee of a transfer made by the decedent at any time.

Property Interests That You May Not List on Schedule M

Do not list the following on Schedule M.

1. The value of any property that does not pass from the decedent to the surviving spouse.
2. Property interests that are not included in the decedent's gross estate.
3. The full value of a property interest for which a deduction was claimed on Schedules J through L. The value of the property interest should be reduced by the deductions claimed with respect to it.
4. The full value of a property interest that passes to the surviving spouse subject to a mortgage or other encumbrance or an obligation of the surviving spouse. Include on Schedule

M only the net value of the interest after reducing it by the amount of the mortgage or other debt.

5. Nondeductible terminable interests (described later).

6. Any property interest disclaimed by the surviving spouse.

Terminable Interests

Certain interests in property passing from a decedent to a surviving spouse are referred to as *terminable interests.*

These are interests that will terminate or fail after the passage of time, or on the occurrence or nonoccurrence of a designated event. Examples are life estates, annuities, estates for terms of years, and patents.

The ownership of a bond, note, or other contractual obligation, which when discharged would not have the effect of an annuity for

life or for a term, is not considered a terminable interest.

Item number	Description of property interests passing to surviving spouse. For securities, give CUSIP number. If trust, partnership, or closely held entity, give EIN.	Amount
	All other property:	
B1	One-half the value of a house and lot, 256 South West Street, held by decedent and surviving spouse as joint tenants with right of	$182,500

	survivorship under deed dated July 15, 1975 (Schedule E, Part 1, item 1)	
B2	Proceeds of Metropolitan Life Insurance Company Policy No. 104729, payable in one sum to surviving spouse (Schedule D, item 3) . .	200,000
B3	Cash bequest under Paragraph Six of will . .	100,000

Nondeductible terminable interests. Unless you are making a QTIP election, do not enter a terminable interest on Schedule M if:

1. Another interest in the same property passed from the decedent to some other person for less than adequate

and full consideration in money or money's worth; and

2. By reason of its passing, the other person or that person's heirs may enjoy part of the property after the termination of the surviving spouse's interest.

This rule applies even though the interest that passes from the decedent to a person other than the surviving spouse is not included in the gross estate, and regardless of when the interest passes. The rule also applies regardless of whether the surviving spouse's interest and the other person's interest pass from the decedent at the same time.

Property interests that are considered to pass to a person other than the surviving spouse are any property interest that (a) passes under a decedent's will or intestacy; (b) was transferred by a decedent during life; or (c) is held by or passed on to any person as a decedent's joint tenant, as appointee under a

decedent's exercise of a power, as taker in default at a decedent's release or nonexercise of a power, or as a beneficiary of insurance on the decedent's life. See Regulations section 20.2056(c)-3.

For example, a spouse was devised real property for life, from the decedent, with remainder to the children. The life interest that passed to the spouse does not qualify for the marital deduction because it will terminate at the spouse’s death and the children will thereafter possess or enjoy the property.

However, if the decedent purchased a joint and survivor annuity for themselves and the spouse who survived them, the value of the survivor's annuity, to the extent that it is included in the gross estate, qualifies for the marital deduction because even though the interest will terminate on the spouse’s death, no one else will possess or enjoy any part of the property.

The marital deduction is not allowed for an interest that the decedent directed the executor or a trustee to convert, after death, into a terminable interest for the surviving spouse. The marital deduction is not allowed for such an interest even if there was no interest in the property passing to another person and even if the terminable interest would otherwise have been deductible under the exceptions described later for life estates, life insurance, and annuity payments with powers of appointment. For more information, see Regulations section 20.2056(b)-1(f); and Regulations section 20.2056(b)-1(g), *Example (7)*.

If any property interest passing from the decedent to the surviving spouse may be paid or otherwise satisfied out of any of a group of assets, the value of the property interest is, for the entry on Schedule M, reduced by the value of any asset or assets that, if passing from the decedent to the surviving spouse,

would be nondeductible terminable interests. Examples of property interests that may be paid or otherwise satisfied out of any of a group of assets are a bequest of the residue of the decedent's estate, or of a share of the residue, and a cash legacy payable out of the general estate.

Example. A decedent bequeathed $100,000 to the surviving spouse. The general estate includes a term for years (valued at $10,000 in determining the value of the gross estate) in an office building, which interest was retained by the decedent under a deed of the building by gift to the decedent’s child. Accordingly, the value of the specific bequest entered on Schedule M is $90,000.

Life estate with power of appointment in the surviving spouse. A property interest, whether or not in trust, will be treated as passing to the surviving spouse, and will not be treated as a nondeductible terminable interest if the following five conditions apply.

1. The surviving spouse is entitled for life to all of the income from the entire interest.

2. The income is payable annually or at more frequent intervals.

3. The surviving spouse has the power, exercisable in favor of the surviving spouse or the estate of the surviving spouse, to appoint the entire interest.

4. The power is exercisable by the surviving spouse alone and (whether exercisable by will or during life) is exercisable by the surviving spouse in all events.

5. No part of the entire interest is subject to a power in any other person to appoint any part to any person other than the surviving spouse (or the surviving spouse's legal representative or relative if the surviving spouse is disabled; see Regulations section

20.2056(b)-5(a) and Rev. Rul. 85-35, 1985-1 C.B. 328).

If these five conditions are satisfied only for a specific portion of the entire interest, see Regulations sections 20.2056(b)-5(b) and -5(c) to determine the amount of the marital deduction.

Life insurance, endowment, or annuity payments, with power of appointment in surviving spouse. A property interest consisting of the entire proceeds under a life insurance, endowment, or annuity contract is treated as passing from the decedent to the surviving spouse, and will not be treated as a nondeductible terminable interest if the following five conditions apply.

1. The surviving spouse is entitled to receive the proceeds in installments, or is entitled to interest on them, with all amounts payable during the life of the spouse, payable only to the surviving spouse.

2. The installment or interest payments are payable annually, or more frequently, beginning not later than 13 months after the decedent's death.

3. The surviving spouse has the power, exercisable in favor of the surviving spouse or of the estate of the surviving spouse, to appoint all amounts payable under the contract.

4. The power of appointment is exercisable by the surviving spouse alone and (whether exercisable by will or during life) is exercisable by the surviving spouse in all events.

5. No part of the amount payable under the contract is subject to a power in any other person to appoint any part to any person other than the surviving spouse.

If these five conditions are satisfied only for a specific portion of the proceeds, see Regulations section 20.2056(b)-6(b) to determine the amount of the marital deduction.

Charitable remainder trusts. An interest in a charitable remainder trust will not be treated as a nondeductible terminable interest if:

1. The interest in the trust passes from the decedent to the surviving spouse, and
2. The surviving spouse is the only beneficiary of the trust other than charitable organizations described in section 170(c).

A *charitable remainder trust* is either a charitable remainder annuity trust or a charitable remainder unitrust. See section 664 for descriptions of these trusts.

Election To Deduct Qualified Terminable Interest Property (QTIP)

You may elect to claim a marital deduction for qualified terminable interest property or property interests. You make the QTIP election simply by listing the qualified terminable interest property on Part A of Schedule M and inserting its value. You are presumed to have made the QTIP election if you list the property and insert its value on Schedule M. If you make this election, the surviving spouse's gross estate will include the value of the qualified terminable interest property. See the instructions for *Part 4—General Information,* line 7, for more details. **The election is irrevocable.**

If you file a Form 706 in which you do not make this election, you may not file an amended return to make the election unless you file the amended return on or before the due date for filing the original Form 706.

The effect of the election is that the property (interest) will be treated as passing to the surviving spouse and will not be treated as a nondeductible terminable interest. All of the other marital deduction requirements must still be satisfied before you may make this election. For example, you may not make this election for property or property interests that are not included in the decedent's gross estate.

Qualified terminable interest property. *Qualified terminable interest property* is property (a) that passes from the decedent, (b) in which the surviving spouse has a qualifying income interest for life, and (c) for which election under section 2056(b)(7) has been made.

The surviving spouse has a *qualifying income interest for life* if the surviving spouse is entitled to all of the income from the property payable annually or at more frequent intervals, or has a usufruct interest for life in

the property, and during the surviving spouse's lifetime no person has a power to appoint any part of the property to any person other than the surviving spouse. An annuity is treated as an income interest regardless of whether the property from which the annuity is payable can be separately identified.

Regulations sections 20.2044-1 and 20.2056(b)-7(d)(3) state that an interest in property is eligible for QTIP treatment if the income interest is contingent upon the executor's election even if that portion of the property for which no election is made will pass to or for the benefit of beneficiaries other than the surviving spouse.

The QTIP election may be made for all or any part of qualified terminable interest property. A partial election must relate to a fractional or percentile share of the property so that the elective part will reflect its proportionate share of the increase or decline in the whole

of the property when applying section 2044 or 2519. Thus, if the interest of the surviving spouse in a trust (or other property in which the spouse has a qualified life estate) is qualified terminable interest property, you may make an election for a part of the trust (or other property) only if the election relates to a defined fraction or percentage of the entire trust (or other property). The fraction or percentage may be defined by means of a formula.

Election to deduct qualified terminable interest property under section 2056(b)(7). If a trust (or other property) meets the requirements of qualified terminable interest property under section 2056(b)(7), and

1. The trust or other property is listed on Schedule M, and
2. The value of the trust (or other property) is entered in whole or in part as a deduction on Schedule M,

then unless the executor specifically identifies the trust (all or a fractional portion or percentage) or other property to be excluded from the election, the executor shall be deemed to have made an election to have such trust (or other property) treated as qualified terminable interest property under section 2056(b)(7).

If less than the entire value of the trust (or other property) that the executor has included in the gross estate is entered as a deduction on Schedule M, the executor shall be considered to have made an election only as to a fraction of the trust (or other property). The numerator of this fraction is equal to the amount of the trust (or other property) deducted on Schedule M. The denominator is equal to the total value of the trust (or other property).

Qualified Domestic Trust (QDOT) Election

The marital deduction is allowed for transfers to a surviving spouse who is not a U.S. citizen only if the property passes to the surviving spouse in a QDOT or if such property is transferred or irrevocably assigned to a QDOT before the decedent's estate tax return is filed.

A QDOT is any trust:

1. That requires at least one trustee to be either a citizen of the United States or a domestic corporation,
2. That requires that no distribution of corpus from the trust can be made unless such a trustee has the right to withhold from the distribution the tax imposed on the QDOT,
3. That meets the requirements of any applicable regulations, and

4. For which the executor has made an election on the estate tax return of the decedent.

Note. For trusts created by an instrument executed before November 5, 1990, items 1 and 2 above will be treated as met if the trust instrument requires that all trustees be individuals who are citizens of the United States or domestic corporations.

You make the QDOT election simply by listing the qualified domestic trust or the entire value of the trust property on Schedule M and deducting its value. You are presumed to have made the QDOT election if you list the trust or trust property and insert its value on Schedule M. **Once made, the election is irrevocable.**

If an election is made to deduct qualified domestic trust property under section 2056A(d), provide the following information for each qualified domestic trust on an attachment to this schedule.

1. The name and address of every trustee.
2. A description of each transfer passing from the decedent that is the source of the property to be placed in trust.
3. The EIN for the trust.

The election must be made for an entire QDOT trust. In listing a trust for which you are making a QDOT election, **unless you specifically identify the trust as not subject to the election, the election will be considered made for the entire trust.**

The determination of whether a trust qualifies as a QDOT will be made as of the date the decedent's Form 706 is filed. If, however, judicial proceedings are brought before the Form 706's due date (including extensions) to have the trust revised to meet the QDOT requirements, then the determination will not be made until the court-ordered changes to the trust are made.

Election to deduct qualified domestic trust property under section 2056A. If a trust meets the requirement of a QDOT under section 2056A(a), the return is filed no later than 1 year after the time prescribed by law (including extensions), and the entire value of the trust or trust property is listed and entered as a deduction on Schedule M, then unless the executor specifically identifies the trust to be excluded from the election, the executor shall be deemed to have made an election to have the entire trust treated as qualified domestic trust property.

Note. For trusts with assets in excess of $2 million, see Regulations section 20.2056A-2(d) for additional requirements to ensure collection of the section 2056A estate tax.

Line 1

If property passes to the surviving spouse as the result of a qualified disclaimer, check "Yes" and attach a copy of the written disclaimer required by section 2518(b).

Line 3

Section 2056(b)(7)(C)(ii) creates an automatic QTIP election for certain joint and survivor annuities that are includible in the estate under section 2039. To qualify, only the surviving spouse can have the right to receive payments before the death of the surviving spouse.

The executor can elect out of QTIP treatment, however, by checking the "Yes" box on line 3. **Once made, the election is irrevocable.** If there is more than one such joint and survivor annuity, you are not required to make the election for all of them.

If you make the election out of QTIP treatment by checking "Yes" on line 3, you cannot deduct the amount of the annuity on Schedule M. If you do not elect out, you must list the joint and survivor annuities on Schedule M.

Listing Property Interests on Schedule M

List each property interest included in the gross estate that passes from the decedent to the surviving spouse and for which a marital deduction is claimed. This includes otherwise nondeductible terminable interest property for which you are making a QTIP election. Number each item in sequence and describe each item in detail. Describe the instrument (including any clause or paragraph number) or provision of law under which each item passed to the surviving spouse. Indicate the schedule and item number of each asset.

In listing otherwise nondeductible property for which you are making a QTIP election, unless you specifically identify a fractional portion of the trust or other property as not subject to the election, the election will be considered made for the entire interest.

Enter the value of each interest before taking into account the federal estate tax or any other death tax. The valuation dates used in determining the value of the gross estate also apply on Schedule M.

If Schedule M includes a bequest of the residue or a part of the residue of the decedent's estate, attach a copy of the computation showing how the value of the residue was determined. Include a statement showing the following.

- The value of all property that is included in the decedent's gross estate (Schedules A through I) but is not a part of the decedent's probate estate, such as lifetime transfers, jointly owned property that passed to the survivor on the decedent's death, and the insurance payable to specific beneficiaries.
- The values of all specific and general legacies or devises, with reference to

the applicable clause or paragraph of the decedent's will or codicil. (If legacies are made to each member of a class, for example, $1,000 to each of the decedent's employees, only the number in each class and the total value of property received by them need be furnished.)

- The dates of birth of all persons, the length of whose lives may affect the value of the residuary interest passing to the surviving spouse.
- Any other important information such as that relating to any claim to any part of the estate not arising under the will.

Lines 5a, 5b, and 5c. The total of the values listed on Schedule M must be reduced by the amount of the federal estate tax, the federal GST tax, and the amount of state or other death and GST taxes paid out of the property interest involved. If you enter an amount for

state or other death or GST taxes on line 5b or 5c, identify the taxes and attach your computation of them.

Attachments. If you list property interests passing by the decedent's will on Schedule M, attach a certified copy of the order admitting the will to probate. If, when you file the return, the court of probate jurisdiction has entered any decree interpreting the will or any of its provisions affecting any of the interests listed on Schedule M, or has entered any order of distribution, attach a copy of the decree or order. In addition, the IRS may request other evidence to support the marital deduction claimed.

Schedule O—Charitable, Public, and Similar Gifts and Bequests

If any assets to which the special rule of Regulations section 20.2010-2(a)(7)(ii) applies are reported on this schedule, do not enter any value in the last

three columns. See the instructions for Part 5—Recapitulation*, item 23, for information on how to estimate and report the value of these assets.*

General

You must complete Schedule O and file it with the return if you claim a deduction on item 22 of *Part 5—Recapitulation.*

You can claim the charitable deduction allowed under section 2055 for the value of property in the decedent's gross estate that was transferred by the decedent during life or by will to or for the use of any of the following.

- The United States, a state, a political subdivision of a state, or the District of Columbia, for exclusively public purposes.
- Any corporation or association organized and operated exclusively for religious, charitable, scientific, literary,

or educational purposes, including the encouragement of art, or to foster national or international amateur sports competition (but only if none of its activities involve providing athletic facilities or equipment, unless the organization is a qualified amateur sports organization) and the prevention of cruelty to children and animals. No part of the net earnings may benefit any private individual and no substantial activity may be undertaken to carry on propaganda, or otherwise attempt to influence legislation or participate in any political campaign on behalf of any candidate for public office.

- A trustee or a fraternal society, order, or association operating under the lodge system, if the transferred property is to be used exclusively for religious, charitable, scientific, literary,

or educational purposes, or for the prevention of cruelty to children or animals. No substantial activity may be undertaken to carry on propaganda or otherwise attempt to influence legislation, or participate in any political campaign on behalf of any candidate for public office.

- Any veterans organization incorporated by an Act of Congress or any of its departments, local chapters, or posts, for which none of the net earnings benefits any private individual.
- Employee stock ownership plans, if the transfer qualifies as a qualified gratuitous transfer of qualified employer securities within the meaning provided in section 664(g).

For this purpose, certain Indian tribal governments are treated as states and transfers to them qualify as deductible

charitable contributions. See section 7871 and Rev. Proc. 2008-55, 2008-39 I.R.B. 768, available at *Rev. Proc. 2008-55,* as modified and supplemented by subsequent revenue procedures, for a list of qualifying Indian tribal governments.

You may also claim a charitable contribution deduction for a qualifying conservation easement granted after the decedent's death under the provisions of section 2031(c)(9).

The charitable deduction is allowed for amounts that are transferred to charitable organizations as a result of either a qualified disclaimer (see *Line 2. Qualified Disclaimer,* later) or the complete termination of a power to consume, invade, or appropriate property for the benefit of an individual. It does not matter whether termination occurs because of the death of the individual or in any other way. The termination must occur within the period of time (including extensions) for filing

the decedent's estate tax return and before the power has been exercised.

The deduction is limited to the amount actually available for charitable uses. Therefore, if under the terms of a will or the provisions of local law, or for any other reason, the federal estate tax, the federal GST tax, or any other estate, GST, succession, legacy, or inheritance tax is payable in whole or in part out of any bequest, legacy, or devise that would otherwise be allowed as a charitable deduction, the amount you may deduct is the amount of the bequest, legacy, or devise reduced by the total amount of the taxes.

If you elected to make installment payments of the estate tax, and the interest is payable out of property transferred to charity, you must reduce the charitable deduction by an estimate of the maximum amount of interest that will be paid on the deferred tax.

For split-interest trusts or pooled income funds, only the figure that is passing to the charity should be entered in the “Amount” column. Do not enter the entire amount that passes to the trust or fund.

If you are deducting the value of the residue or a part of the residue passing to charity under the decedent's will, attach a copy of the computation showing how you determined the value, including any reduction for the taxes described earlier.

Also include the following.

- A statement that shows the values of all specific and general legacies or devises for both charitable and noncharitable uses. For each legacy or devise, indicate the paragraph or section of the decedent's will or codicil that applies. If legacies are made to each member of a class (for example, $1,000 to each of the decedent's employees), show only the number of

each class and the total value of property they received.

- The dates of birth of all life tenants or annuitants, the length of whose lives may affect the value of the interest passing to charity under the decedent's will.
- A statement showing the value of all property that is included in the decedent's gross estate but does not pass under the will, such as transfers, jointly owned property that passed to the survivor on the decedent's death, and insurance payable to specific beneficiaries.
- Any agreements with charitable beneficiaries, whether entered before or after the date of death of the decedent. • Verification of the sale or purchase of property that is the subject of a charitable deduction.

- Any other important information such as that relating to any claim, not arising under the will, to any part of the estate (that is, a spouse claiming dower or curtesy, or similar rights).

Line 2. Qualified Disclaimer

The charitable deduction is allowed for amounts that are transferred to charitable organizations as a result of a qualified disclaimer. To be a *qualified disclaimer*, a refusal to accept an interest in property must meet the conditions of section 2518. These are explained in Regulations sections 25.2518-1 through 25.2518-3. If property passes to a charitable beneficiary as the result of a qualified disclaimer, check the "Yes" box on line 2 and attach a copy of the written disclaimer required by section 2518(b).

Attachments

If the charitable transfer was made by will, attach a certified copy of the order admitting the will to probate, in addition to the copy of the will. If the charitable transfer was made by any other written instrument, attach a copy. If the instrument is of record, the copy should be certified; if not, the copy should be verified.

Value

The valuation dates used in determining the value of the gross estate also apply on Schedule O.

Schedule P—Credit for Foreign Death Taxes

General

If you claim a credit on *Part 2—Tax Computation*, line 13, complete Schedule P and file it with the return. Attach Form(s)

706-CE to Form 706 to support any credit you claim.

If the foreign government refuses to certify Form 706-CE, file it directly with the IRS as instructed on the Form 706-CE. See Form 706-CE for instructions on how to complete the form and a description of the items that must be attached to the form when the foreign government refuses to certify it.

The credit for foreign death taxes is allowable only if the decedent was a citizen or resident of the United States. However, see section 2053(d) and the related regulations for exceptions and limitations if the executor has elected, in certain cases, to deduct these taxes from the value of the gross estate. For a resident not a citizen, who was a citizen or subject of a foreign country for which the President has issued a proclamation under section 2014(h), the credit is allowable only if the country of which the decedent was a national allows a similar credit to decedents

who were U.S. citizens residing in that country.

The credit is authorized either by statute or by treaty. If a credit is authorized by a treaty, whichever of the following is the most beneficial to the estate is allowed.

- The credit figured under the treaty.
- The credit figured under the statute.
- The credit figured under the treaty, plus the credit figured under the statute for death taxes paid to each political subdivision or possession of the treaty country that are not directly or indirectly creditable under the treaty.

Under the statute, the credit is authorized for all death taxes (national and local) imposed in the foreign country. Whether local taxes are the basis for a credit under a treaty depends upon the provisions of the particular treaty.

If a credit for death taxes paid in more than one foreign country is allowable, a separate computation of the credit must be made for each foreign country. The copies of Schedule P on which the additional computations are made should be attached to the copy of Schedule P provided in the return.

The total credit allowable for any property, whether subjected to tax by one or more than one foreign country, is limited to the amount of the federal estate tax attributable to the property. The anticipated amount of the credit may be figured on the return, but the credit cannot finally be allowed until the foreign tax has been paid and a Form 706-CE evidencing payment is filed. Section 2014(g) provides that for credits for foreign death taxes, each U.S. possession is deemed a foreign country.

Convert death taxes paid to the foreign country into U.S. dollars by using the rate of exchange in effect at the time each payment of foreign tax is made.

If a credit is claimed for any foreign death tax that is later recovered, see Regulations section 20.2016-1 for the notice required within 30 days.

Limitation Period

The credit for foreign death taxes is limited to those taxes that were actually paid and for which a credit was claimed within the later of 4 years after the filing of the estate tax return, before the date of expiration of any extension of time for payment of the federal estate tax, or 60 days after a final decision of the Tax Court on a timely filed petition for a redetermination of a deficiency.

Credit Under the Statute

For the credit allowed by the statute, the question of whether particular property is situated in the foreign country imposing the tax is determined by the same principles that would apply in determining whether similar property of a nonresident not a U.S. citizen is

situated within the United States for purposes of the federal estate tax. See the Instructions for Form 706-NA.

Computation of Credit Under the Statute

Item 1. Enter the amount of the estate, inheritance, legacy, and succession taxes paid to the foreign country and its possessions or political subdivisions, attributable to property that is:

- Situated in that country,
- Subjected to these taxes, and
- Included in the gross estate.

The amount entered on item 1 should not include any tax paid to the foreign country for property not situated in that country and should not include any tax paid to the foreign country for property not included in the gross estate. If only a part of the property subjected to foreign taxes is both situated in

the foreign country and included in the gross estate, it will be necessary to determine the portion of the taxes attributable to that part of the property. Also, attach the computation of the amount entered on item 1.

Item 2. Enter the value of the gross estate, less the total of the deductions on items 21 and 22 of *Part 5—Recapitulation.*

Item 3. Enter the value of the property situated in the foreign country that is subjected to the foreign taxes and included in the gross estate, less those portions of the deductions taken on Schedules M and O that are attributable to the property.

Item 4. Subtract any credit claimed on line 15 for federal gift taxes on pre-1977 gifts (section 2012) from line 12 of *Part 2—Tax Computation*, and enter the balance on item 4 of Schedule P.

Credit Under Treaties

If you are reporting any items on this return based on the provisions of a death tax treaty, you may have to attach a statement to this return disclosing the return position that is treaty based. See Regulations section 301.6114-1 for details.

In general. If the provisions of a treaty apply to the estate of a U.S. citizen or resident, a credit is authorized for payment of the foreign death tax or taxes specified in the treaty. Treaties with death tax conventions are in effect with the following countries: Australia, Austria, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, the Netherlands, South Africa, Switzerland, and the United Kingdom.

A credit claimed under a treaty is in general figured on Schedule P in the same manner as the credit is figured under the statute with the following principal exceptions.

- The situs rules contained in the treaty apply in determining whether property was situated in the foreign country.
- The credit may be allowed only for payment of the death tax or taxes specified in the treaty (but see the instructions earlier for credit under the statute for death taxes paid to each political subdivision or possession of the treaty country that are not directly or indirectly creditable under the treaty).
- If specifically provided, the credit is proportionately shared for the tax applicable to property situated outside both countries, or that was deemed in some instances situated within both countries.
- The amount entered on item 4 of Schedule P is the amount shown on line 12 of *Part 2—Tax Computation*, less the total of the credits claimed for

federal gift taxes on pre-1977 gifts (section 2012) and for tax on prior transfers (line 14 of *Part 2—Tax Computation*). (If a credit is claimed for tax on prior transfers, it will be necessary to complete Schedule Q before completing Schedule P.) For examples of computations of credits under the treaties, see the applicable regulations.

Note. For computation of credit, in cases where property is situated outside both countries or deemed situated within both countries, see the appropriate treaty for details.

Schedule Q—Credit for Tax on Prior Transfers

General

Complete Schedule Q and file it with the return if you claim a credit on *Part 2—Tax Computation*, line 14.

The term “transferee” means the decedent for whose estate this return is filed. If the transferee received property from a transferor who died within 10 years before, or 2 years after, the transferee, a credit is allowable on this return for all or part of the federal estate tax paid by the transferor's estate for the transfer. There is no requirement that the property be identified in the estate of the transferee or that it exist on the date of the transferee's death. It is sufficient for the allowance of the credit that the transfer of the property was subjected to federal estate tax in the estate of the transferor and that the specified period of time has not elapsed. A credit may be allowed for property received as the result of the exercise or nonexercise of a power of appointment when the property is included in the gross estate of the donee of the power.

If the transferee was the transferor's surviving spouse, no credit is allowed for property received from the transferor to the extent that a marital deduction was allowed to the transferor's estate for the property. There is no credit for tax on prior transfers for federal gift taxes paid in connection with the transfer of the property to the transferee.

If you are claiming a credit for tax on prior transfers on Form 706-NA, you should first complete and attach *Part 5—Recapitulation* from Form 706 before figuring the credit on Schedule Q from Form 706.

Section 2056(d)(3) contains specific rules for allowing a credit for certain transfers to a spouse who was not a U.S. citizen where the property passed outright to the spouse, or to a qualified domestic trust.

Property

The term “property” includes any interest (legal or equitable) of which the transferee received the beneficial ownership. The transferee is considered the beneficial owner of property over which the transferee received a general power of appointment. Property does not include interests to which the transferee received only a bare legal title, such as that of a trustee. Neither does it include an interest in property over which the transferee received a power of appointment that is not a general power of appointment. In addition to interests in which the transferee received the complete ownership, the credit may be allowed for annuities, life estates, terms for years, remainder interests (whether contingent or vested), and any other interest that is less than the complete ownership of the property, to the extent that the transferee became the beneficial owner of the interest.

Maximum Amount of the Credit

The *maximum amount of the credit* is the smaller of:

1. The amount of the estate tax of the transferor's estate attributable to the transferred property, or
2. The amount by which:
    a. An estate tax on the transferee's estate determined without the credit for tax on prior transfers exceeds
    b. An estate tax on the transferee's estate determined by excluding from the gross estate the net value of the transfer.

If credit for a particular foreign death tax may be taken under either the statute or a death duty convention, and on this return the credit actually is taken under the convention, then no credit for that foreign death tax may be

taken into consideration in figuring estate tax (2a) or estate tax (2b) above.

Percent Allowable

Where transferee predeceased the transferor. If not more than 2 years elapsed between the dates of death, the credit allowed is 100% of the maximum amount. If more than 2 years elapsed between the dates of death, no credit is allowed.

Where transferor predeceased the transferee. The percent of the maximum amount that is allowed as a credit depends on the number of years that elapsed between dates of death. It is determined using the following table.

Period of Time Exceeding	Not Exceeding	Percent Allowable
- - - - -	2 years	100

2 years	4 years	80
4 years	6 years	60
6 years	8 years	40
8 years	10 years	20
10 years	- - - - -	none

How To Figure the Credit

A worksheet for Schedule Q is provided to allow you to figure the limits before completing Schedule Q. Transfer the appropriate amounts from the worksheet to Schedule Q as indicated on the schedule. You do not need to file the worksheet with Form 706, but keep it for your records.

Cases involving transfers from two or more transferors. Part I of the worksheet and Schedule Q enable you to figure the credit for as many as three transferors. The

number of transferors is irrelevant to Part II of the worksheet. If you are figuring the credit for more than three transferors, use more than one worksheet and Schedule Q, Part I, and combine the totals for the appropriate lines.

Section 2032A additional tax. If the transferor's estate elected special-use valuation and the additional estate tax of section 2032A(c) was imposed at any time up to 2 years after the death of the decedent for whom you are filing this return, check the box on Schedule Q. On lines 1 and 9 of the worksheet, include the property subject to the additional estate tax at its FMV rather than its special-use value. On line 10 of the worksheet, include the additional estate tax paid as a federal estate tax paid.

How To Complete the Schedule Q Worksheet

Most of the information to complete Part I of the worksheet should be obtained from the transferor's Form 706.

Line 5. Enter on line 5 the applicable marital deduction claimed for the transferor's estate (from the transferor's Form 706).

Lines 10 through 18. Enter on these lines the appropriate taxes paid by the transferor's estate.

If the transferor's estate elected to pay the federal estate tax in installments, enter on line 10 only the total of the installments that have actually been paid at the time you file this Form 706. See Rev. Rul. 83-15, 1983-1 C.B. 224, for more details.

Line 21. Add lines 11 (allowable applicable credit) and 13 (foreign death taxes credit) of *Part 2—Tax Computation* to the amount of any credit taken (on line 15) for federal gift taxes on pre-1977 gifts (section 2012). Subtract this total from *Part 2—Tax Computation*, line 8. Enter the result on line 21 of the worksheet.

Line 26. If you figured the marital deduction using the unlimited marital deduction in effect for decedents dying after 1981, for purposes of determining the marital deduction for the reduced gross estate, see Rev. Rul. 90-2, 1990-1 C.B. 169. To determine the "reduced adjusted gross estate," subtract the amount on line 25 of the Worksheet for Schedule Q from the amount on line 24 of the worksheet. If community property is included in the amount on line 24 of the worksheet, figure the reduced adjusted gross estate using the rules of Regulations section 20.2056(c)-2 and Rev. Rul. 76-311, 1976-2 C.B. 261.

Worksheet for Schedule Q—Credit for Tax on Prior Transfers

Part I	Transferor's tax on prior transfers					
	Item	Transferor (From Schedule Q) A	B	C	Total for all transfers (line 8 only)
1.	Gross value of prior transfer to this transferee				
2.	Death taxes payable from prior transfer				
3.	Encumbrances allocable to prior transfer				
4.	Obligations allocable to prior transfer				
5.	Marital deduction applicable to line 1 above, as shown on transferor's Form 706				
6.	**TOTAL**. Add lines 2, 3, 4, and 5				
7.	**Net value of transfers**. Subtract line 6 from line 1				
8.	**Net value of transfers**. Add columns A, B, and C of line 7				
9.	Transferor's tentative taxable estate (see line 3a, page 1, Form 706)				
10.	Federal estate tax paid				
11.	State death taxes paid				
12.	Foreign death taxes paid				
13.	Other death taxes paid				
14.	**TOTAL taxes paid**. Add lines 10, 11, 12, and 13				
15.	**Value of transferor's estate**. Subtract line 14 from line 9				
16.	Net federal estate tax paid on transferor's estate				
17.	Credit for gift tax paid on transferor's estate with respect to pre-1977 gifts (section 2012)				
18.	Credit allowed transferor's estate for tax on prior transfers from prior transferor(s) who died within 10 years before death of decedent				
19.	**Tax on transferor's estate**. Add lines 16, 17, and 18				
20.	Transferor's tax on prior transfers ((line 7 ÷ line 15) × line 19 of respective estates)				

Part II	Transferee's tax on prior transfers				
	Item				Amount
21.	Transferee's actual tax before allowance of credit for prior transfers (see instructions)			21.	
22.	Total gross estate of transferee from line 1 of the Tax Computation, page 1, Form 706			22.	
23.	Net value of all transfers from line 8 of this worksheet			23.	
24.	Transferee's reduced gross estate. Subtract line 23 from line 22			24.	
25.	Total debts and deductions (not including marital and charitable deductions) (line 3b of *Part 2—Tax Computation*, page 1; and items 18, 19, and 20 of the Recapitulation, page 3, Form 706)	25.			
26.	Marital deduction from item 21, Recapitulation, page 3, Form 706 (see instructions)	26.			
27.	Charitable bequests from item 22, Recapitulation, page 3, Form 706	27.			
28.	Charitable deduction proportion ([line 23 ÷ (line 22 – line 25)] × line 27)	28.			
29.	Reduced charitable deduction. Subtract line 28 from line 27	29.			
30.	Transferee's deduction as adjusted. Add lines 25, 26, and 29			30.	
31. (a)	Transferee's reduced taxable estate. Subtract line 30 from line 24			31(a).	
(b)	Adjusted taxable gifts			31(b).	
(c)	Total reduced taxable estate. Add lines 31(a) and 31(b)			31(c).	
32.	Tentative tax on reduced taxable estate		32.		
33. (a)	Post-1976 gift taxes paid	33(a).			
(b)	Unified credit (applicable credit amount)	33(b).			
(c)	Section 2012 gift tax credit	33(c).			
(d)	Section 2014 foreign death tax credit	33(d).			
(e)	Total credits. Add lines 33(a) through 33(d)		33(e).		
34.	Net tax on reduced taxable estate. Subtract line 33(e) from line 32			34.	
35.	Transferee's tax on prior transfers. Subtract line 34 from line 21			35.	

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Schedules R and R-1—Generation-Skipping Transfer Tax

Introduction and Overview

Schedule R is used to figure the generation-skipping transfer (GST) tax that is payable by the estate. Schedule R-1 is used to figure the GST tax that is payable by certain trusts that are includible in the gross estate.

The GST tax reported on Form 706 is imposed on only direct skips occurring at death. Unlike the estate tax, which is imposed on the value of the entire taxable estate regardless of who receives it, the GST tax is imposed on only the value of interests in property, wherever located, that actually pass to certain transferees, who are referred to as *skip persons* (defined later).

For purposes of Form 706, the property interests transferred must be includible in the gross estate before they are subject to the GST tax. Therefore, the first step in figuring

the GST tax liability is to determine the property interests includible in the gross estate by completing Schedules A through I of Form 706.

The second step is to determine who the skip persons are. To do this, assign each transferee to a generation and determine whether each transferee is a *natural person* or a *trust* for GST purposes. See section 2613 and Regulations section 26.2612-1(d) for details.

The third step is to determine which skip persons are transferees of *interests in property.* If the skip person is a natural person, anything transferred is an interest in property. If the skip person is a trust, make this determination using the rules under *Interest in property*, later. These first three steps are described in detail under *Determining Which Transfers Are Direct Skips*, later.

The fourth step is to determine whether to enter the transfer on Schedule R or on Schedule R-1. See the rules under *Dividing Direct Skips Between Schedules R and R-1*, later.

The fifth step is to complete Schedules R and R-1 using the *How To Complete* instructions for each schedule.

Determining Which Transfers Are Direct Skips

Effective dates. The rules below apply only for the purpose of determining if a transfer is a direct skip that should be reported on Schedule R or R-1 of Form 706.

In general. The GST tax is effective for the estates of decedents dying after October 22, 1986.

Irrevocable trusts. The GST tax will not apply to any transfer under a trust that was irrevocable on September 25, 1985, but only

to the extent that the transfer was not made out of corpus added to the trust after September 25, 1985. An addition to the corpus after that date will cause a proportionate part of future income and appreciation to be subject to the GST tax. For more information, see Regulations section 26.2601-1(b)(1).

Mental disability. If, on October 22, 1986, the decedent was under a mental disability to change the disposition of property owned and did not regain the competence to dispose of property before death, the GST tax will not apply to any property included in the gross estate (other than property transferred on behalf of the decedent during life and after October 21, 1986). The GST tax will also not apply to any transfer under a trust to the extent that the trust consists of property included in the gross estate (other than property transferred on behalf of the

decedent during life and after October 21, 1986).

Under a mental disability means the decedent lacked the competence to execute an instrument governing the disposition of property owned, regardless of whether there was an adjudication of incompetence or an appointment of any other person charged with the care of the person or property of the transferor.

If the decedent had been adjudged mentally incompetent, a copy of the judgment or decree must be filed with this return.

If the decedent had not been adjudged mentally incompetent, the executor must file with the return a certification from a qualified physician stating that in the physician's opinion the decedent had been mentally incompetent at all times on and after October 22, 1986, and that the decedent had not regained the competence to modify or revoke the terms of the trust or will prior to the

decedent’s death or a statement as to why no such certification may be obtained from a physician.

Direct skip. The GST tax reported on Form 706 and Schedule R-1 is imposed only on direct skips. For purposes of Form 706, a *direct skip* is a transfer that is:

- Subject to the estate tax,
- Of an interest in property, and
- To a skip person.

All three requirements must be met before the transfer is subject to the GST tax. A transfer is subject to the estate tax if you are required to list it on any of Schedules A through I of Form 706. To determine if a transfer is of an interest in property and to a skip person, you must first determine if the transferee is a natural person or a trust, as defined later.

Trust. For purposes of the GST tax, a *trust* includes not only an ordinary trust (as defined in *Special rule for trusts other than ordinary trusts,* later), but also any other arrangement (other than an estate) which, although not explicitly a trust, has substantially the same effect as a trust. For example, a trust includes life estates with remainders, terms for years, and insurance and annuity contracts.

Substantially separate and independent shares of different beneficiaries in a trust are treated as separate trusts.

Interest in property. If a transfer is made to a natural person, it is always considered a transfer of *an interest in property* for purposes of the GST tax.

If a transfer is made to a trust, a person will have an interest in the property transferred to the trust if that person either has a present right to receive income or corpus from the trust (such as an income interest for life) or is a permissible current recipient of income or

corpus from the trust (that is, may receive income or corpus at the discretion of the trustee).

Skip person. A transferee who is a natural person is a *skip person* if that transferee is assigned to a generation that is two or more generations below the generation assignment of the decedent. See *Determining the generation of a transferee,* later.

A transferee who is a trust is a skip person if all the interests in the property (as defined above) transferred to the trust are held by skip persons. Thus, whenever a non-skip person has an interest in a trust, the trust will not be a skip person even though a skip person also has an interest in the trust.

A trust will also be a skip person if there are no interests in the property transferred to the trust held by any person, and future distributions or terminations from the trust can be made only to skip persons.

Non-skip person. A *non-skip person* is any transferee who is not a skip person.

Determining the generation of a transferee. Generally, a generation is determined along family lines as follows.

1. Where the beneficiary is a lineal descendant of a grandparent of the decedent (that is, the decedent's cousin, niece, nephew, etc.), the number of generations between the decedent and the beneficiary is determined by subtracting the number of generations between the grandparent and the decedent from the number of generations between the grandparent and the beneficiary.

2. Where the beneficiary is a lineal descendant of a grandparent of a spouse (or former spouse) of the decedent, the number of generations between the decedent and the beneficiary is determined by

subtracting the number of generations between the grandparent and the spouse (or former spouse) from the number of generations between the grandparent and the beneficiary.

3. A person who at any time was married to a person described in (1) or (2) above is assigned to the generation of that person. A person who at any time was married to the decedent is assigned to the decedent's generation.

4. A relationship by adoption or half-blood is treated as a relationship by whole-blood.

5. A person who is not assigned to a generation according to (1), (2), (3), or (4) above is assigned to a generation based on the birth date, as follows.

    a. A person who was born not more than $12^{1}/2$ years after the

decedent is in the decedent's generation.

b. A person born more than $12\frac{1}{2}$ years, but not more than $37\frac{1}{2}$ years, after the decedent is in the first generation younger than the decedent.

c. A similar rule applies for a new generation every 25 years.

If more than one of the rules for assigning generations applies to a transferee, that transferee is generally assigned to the youngest of the generations that would apply.

If an estate, trust, partnership, corporation, or other entity (other than certain charitable organizations and trusts described in sections 511(a)(2) and 511(b)(2)) is a transferee, then each person who indirectly receives the property interests through the entity is treated as a transferee and is assigned to a generation, as explained in the above rules.

However, this look-through rule does not apply for the purpose of determining whether a transfer to a trust is a direct skip.

Generation assignment where intervening parent is deceased. A special rule may apply in the case of the death of a parent of the transferee. For terminations, distributions, and transfers after December 31, 1997, the existing rule that applied to grandchildren of the decedent has been extended to apply to other lineal descendants.