



DEPARTMENT OF THE TREASURY  
INTERNAL REVENUE SERVICE  
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SMALL BUSINESS/SELF-EMPLOYED DIVISION

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MEMORANDUM FOR CHIEF, ESTATE AND GIFT TAX

FROM: John H. Imhoff, Jr. */s/ John H. Imhoff, Jr.*  
Director, Specialty Programs

SUBJECT: Interim Guidance on Gift Tax Statute of Limitations in Estate and Gift Tax Examinations

The purpose of this memorandum is to provide interim guidance to all Group Managers and Examiners regarding actions to be taken when the inadequate disclosure provisions of IRC section 6501(c)(9) are applicable. The Estate and Gift Tax Program will modify IRM 4.25.1 to provide the following:

**4.25.1.1.6.5**

**Gift Tax Statute of Limitations in Estate and Gift Tax Examinations**

- (1) In general, IRC section 6501(a) requires the IRS to assess a gift tax liability within three years after the filing date (or due date, if later) of the gift tax return. However, IRC section 6501(c)(9) provides that if a gift is not shown on a gift tax return in a manner adequate to apprise the Secretary of the nature of the gift, then gift tax may be assessed at any time with respect to that gift.
- (2) A gift may be inadequately disclosed if it is:
  - (a) Omitted completely from the return or
  - (b) Shown on the return, but the manner in which it is shown is not adequate to apprise the Secretary of the nature of the gift.
- (3) If an examiner determines that a gift is inadequately disclosed on a gift tax return, and the three year statute of limitations has not expired on the return on which the gift should be shown, then the examiner must secure a consent to extend the statute of limitations on the entire return in order to protect the government's interest in all items shown on the return.

- Consent to extend the statute is requested with a Form 872. For guidance in the preparation and solicitation of consents, refer to IRM 25.6.22.

(5) If the examiner is unable to secure a consent, the examiner may allow the three year statute to expire on that gift tax return and rely on IRC 6501(c)(9). The examiner must then take the following actions:

- a. In cases in which a gift is omitted from a gift tax return:
  - Document the case file with adequate justification for permitting the assessment statute applicable to the entire return expire in reliance on IRC § 6501(c)(9) and
  - Obtain written approval from the Group Manager in advance of the normal three-year assessment statute expiration date.
- b. In cases in which a gift is disclosed on a gift tax return:
  - Document the case file with adequate justification for allowing the assessment statute applicable to the entire return expire in reliance on IRC § 6501(c)(9) and
  - Obtain written approval from the Territory Manager in advance of the normal three-year assessment statute expiration date.

(6) Following the receipt of appropriate managerial approval, the group manager should then ensure the statute date is updated on ERCS to reflect an ASSED date consistent with IRM Exhibit 25.6-23.3.

Please ensure that this information is distributed to all affected employees within your organization.

This change is effective with the issuance of this Interim Guidance SBSE-04-1211-101 which will be incorporated into Internal Revenue Manual 4.25.1 to reflect the above procedures by December 1, 2012.

If you have any questions, please contact Estate & Gift Tax Technical Advisor, Wesley Scott.

cc: [www.IRS.gov](http://www.IRS.gov)