Caution: *DRAFT—NOT FOR FILING*

This is an early release draft of an IRS tax form, instructions, or publication, which the IRS is providing for your information as a courtesy. **Do not file draft forms.** Also, do not rely on draft instructions and publications for filing. We generally do not release drafts of forms until we believe we have incorporated all changes. However, unexpected issues sometimes arise, or legislation is passed, necessitating a change to a draft form. In addition, forms generally are subject to OMB approval before they can be officially released. Drafts of instructions and publications usually have at least some changes before being officially released.

Early releases of draft forms and instructions are at IRS.gov/draftforms. Please note that drafts may remain on IRS.gov even after the final release is posted at IRS.gov/downloadforms, and thus may not be removed until there is a new draft for the subsequent revision. All information about all revisions of all forms, instructions, and publications is at IRS.gov/formspubs.

Almost every form and publication also has its own easily accessible information page on IRS.gov. For example, the Form 1040 page is at IRS.gov/form1040; the Form W-2 page is at IRS.gov/w2; the Publication 17 page is at IRS.gov/pub17; the Form W-4 page is at IRS.gov/w4; the Form 8863 page is at IRS.gov/form8863; and the Schedule A (Form 1040) page is at IRS.gov/schedulea. If typing in the links above instead of clicking on them: type the link into the address bar of your browser, not in a Search box; the text after the slash must be lowercase; and your browser may require the link to begin with “www.”. Note that these are shortcut links that will automatically go to the actual link for the page.

If you wish, you can submit comments about draft or final forms, instructions, or publications on the Comment on Tax Forms and Publications page on IRS.gov. We cannot respond to all comments due to the high volume we receive, but we will carefully consider each one. Please note that we may not be able to consider many suggestions until the subsequent revision of the product.

Instructions for Form 706

(Rev. August 2016)

Department of the Treasury
Internal Revenue Service

For decedents dying after December 31, 2015

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

DRAFT AS OF June 15, 2016

Section references are to the Internal Revenue Code unless otherwise noted.

Prior Revisions of Form 706

For Decedents Dying After	and Before	Use Revision of Form 706 Dated
December 31, 1998	January 1, 2001	July 1999
December 31, 2000	January 1, 2002	November 2001
December 31, 2001	January 1, 2003	August 2002
December 31, 2002	January 1, 2004	August 2003
December 31, 2003	January 1, 2005	August 2004
December 31, 2004	January 1, 2006	August 2005
December 31, 2005	January 1, 2007	October 2006
December 31, 2006	January 1, 2008	September 2007
December 31, 2007	January 1, 2009	August 2008
December 31, 2008	January 1, 2010	September 2009
December 31, 2009	January 1, 2011	July 2011
December 31, 2010	January 1, 2012	August 2011
December 31, 2011	January 1, 2013	August 2012
December 31, 2012	January 1, 2017	August 2013

Contents **Page**

Reminders 2
General Instructions 2
Purpose of Form 2
Which Estates Must File 2
Executor 3
When To File 3
Where To File 3
Paying the Tax 3
Signature and Verification 4
Amending Form 706 4
Supplemental Documents 4
Rounding Off to Whole Dollars 4
Penalties 4
Obtaining Forms and Publications To File or Use 5
Specific Instructions 5
Part 1—Decedent and Executor 5
Part 2—Tax Computation 5
Part 3—Elections by the Executor 10
Part 4—General Information 15
Part 5—Recapitulation 17
Part 6—Portability of Deceased Spousal Unused Exclusion (DSUE) 18
Schedule A—Real Estate 19
Schedule A-1—Section 2032A Valuation 20
Schedule B—Stocks and Bonds 22
Schedule C—Mortgages, Notes, and Cash 24
Schedule D—Insurance on the Decedent's Life 24
Schedule E—Jointly Owned Property 25
Schedule F—Other Miscellaneous Property 26
Decedent Who Was a Surviving Spouse 26
Schedule G—Transfers During Decedent's Life 27
Schedule H—Powers of Appointment 29
Schedule I—Annuities 29
Schedule J—Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims 32
Schedule K—Debts of the Decedent and Mortgages and Liens 33
Schedule L—Net Losses During Administration and Expenses Incurred in Administering Property Not Subject to Claims 34
Schedule M—Bequests, etc., to Surviving Spouse (Marital Deduction) 34
Schedule O—Charitable, Public, and Similar Gifts and Bequests 38
Schedule P—Credit for Foreign Death Taxes 39
Schedule Q—Credit for Tax on Prior Transfers 40
Schedules R and R-1 – Generation-Skipping Transfer Tax 43
Schedule U—Qualified Conservation Easement Exclusion 47
Schedule PC—Protective Claim for Refund 49
Continuation Schedule 50
Index 52
Checklist 53

Future Developments

For the latest information about developments related to Form 706 and its instructions, such as legislation enacted after they were published, go to *www.irs.gov/form706*.

What's New

Various dollar amounts and limitations in the Form 706 are indexed for inflation. For decedents dying in 2016, the following amounts are applicable:

- The basic exclusion amount is $5,450,000.
- The ceiling on special-use valuation is $1,110,000.
- The amount used in figuring the 2% portion of estate tax payable in installments is $1,480,000.

The IRS will publish amounts for future years in annual revenue procedures.

Same sex marriages. For federal tax purposes, marriages of couples of the same sex are treated the same as marriages of couples of the opposite sex. The term “spouse” includes an individual married to a person of the same sex. However, individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that isn’t considered a marriage under state law aren’t considered married for federal tax purposes. If you believe the new law may affect your estate or gift tax liability or filing requirement, please continue to monitor *IRS.gov* for additional guidance.

Final regulations on portability. Final regulations regarding portability of the deceased spousal unused exclusion (DSUE) amount were published in the Federal Register on Tuesday, June 16, 2015. The final regulations are effective for dates of death and gifts on or after June 12, 2015. See Treasury Decision 9725, available at *www.irs.gov/pub/irs-irbs/irb15-26.pdf.*

Consistent basis reporting. On July 31, 2015, the Surface Transportation

and Veterans Health Care Choice Improvement Act of 2015 (Public Law 114-41) was enacted. Section 2004 of the Act requires that certain estates report, both to the IRS and the recipient, the estate tax value of each asset included in the gross estate within 30 days of filing Form 706 or earlier if the return is filed late. It also requires that the basis of certain assets when sold or otherwise disposed of must be consistent with the basis (estate tax value) of the asset when it was received by the beneficiary. Any estate required to file Form 706 under 6018(a) or 6018(b) must also file Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent, to satisfy the new consistent basis reporting requirement. Additional guidance and other information regarding consistent basis reporting are being developed. If you believe the new requirements impact this estate or its beneficiaries, please check *www.irs.gov/form706* for additional information.

Closing letter procedure. Effective for all estate tax returns filed on or after June 1, 2015, closing letters will not be issued unless requested by the executor of the estate or the designated power of attorney. To allow time for processing, please wait at least four months after filing Form 706 to request a closing letter. For questions about estate tax closing letter requests, call (866) 699-4083 or see the *Frequently Asked Questions on Estate Tax* at IRS.gov.

Payments in excess of $99,999,999. Beginning January 1, 2016, the IRS will no longer accept checks in excess of $99,999,999. Any checks received in excess of this amount will be returned. For payments in excess of $99,999,999, two or more checks will be required, or the IRS recommends that taxpayers use Fedwire to make their payments.

Reminders

- Executors must provide documentation of their status.
- The credit for transfers made by lifetime gift has been reunified with the credit against transfers made at death. The applicable credit amount for 2016 is $2,125,800 (based on the basic exclusion amount of $5,450,000). This does not include any applicable credit resulting from DSUE amount received from a predeceased spouse.
- Portability of Deceased Spousal Unused Exclusion

1. Line 7 Worksheet in the instructions has been expanded to include the calculation for cumulative lifetime gifts on which tax was paid or payable. This amount is used in Section C of Part 6–Portability of Deceased Spousal Unused Exclusion (DSUE).

2. Part 6—Portability of Deceased Spousal Unused Exclusion (DSUE) was added to Form 706. The only action required to elect portability of the DSUE amount, if any, is to file a timely and complete Form 706. In this Part, taxpayers can opt out of electing to transfer any DSUE amount to a surviving spouse, calculate the amount of DSUE to be transferred in the event of an election, and/or account for any DSUE amount received from predeceased spouse(s).

3. Line 9 of Part 2—Tax Computation was replaced with lines 9a through 9d to calculate the applicable exclusion amount and applicable credit amount (formerly unified credit amount), factoring in any DSUE amount received from a predeceased spouse.

4. Executors of estates who are not required to file Form 706 under section 6018(a) but who are filing to elect portability of DSUE amount to the surviving spouse are not required to report the value of certain property eligible for the marital deduction under section 2056 or 2056A or the charitable deduction under section 2055 under the special rule of Regulations section 20.2010-2(a)(7)(ii). However, the value of those assets must be estimated and included in the total value of the gross estate. The special rule does not apply to assets whose valuation is required for eligibility under section 2032, 2032A, 2652(a)(3), 6166 or other provision of the Code or Regulations.

- A timely and complete Form 706 must be filed by the executor of any estate who intends to transfer the DSUE amount to the decedent's surviving spouse, regardless of the amount of the gross estate. See instructions for *Part 6—Portability of Deceased Spousal Unused Exclusion*, later.
- Filing a timely and complete Form 706 with a DSUE amount will be considered an election to transfer the DSUE amount to the surviving spouse. An executor of an estate who files a Form 706 that does not elect to transfer the DSUE amount to the surviving spouse must affirmatively opt out of portability. See *Part 6—Portability of Deceased Spousal Unused Exclusion, Section A*.

General Instructions

Purpose of Form

The executor of a decedent's estate uses Form 706 to figure the estate tax imposed by Chapter 11 of the Internal Revenue Code. This tax is levied on the entire taxable estate and not just on the share received by a particular beneficiary. Form 706 is also used to figure the generation-skipping transfer (GST) tax imposed by Chapter 13 on direct skips (transfers to skip persons of interests in property included in the decedent's gross estate).

Which Estates Must File

For decedents who died in 2016, Form 706 must be filed by the executor of the estate of every U.S. citizen or resident:

a. Whose gross estate, plus adjusted taxable gifts and specific exemption, is more than $5,450,000; or,
b. Whose executor elects to transfer the DSUE amount to the surviving spouse, regardless of the size of the decedent's gross estate. See instructions for *Part 6—Portability of Deceased Spousal Unused Exclusion* and sections 2010(c)(4) and (c)(5).

To determine whether you must file a return for the estate under test "a" above, add:

1. The adjusted taxable gifts (as defined in section 2503) made by the decedent after December 31, 1976;

2. The total specific exemption allowed under section 2521 (as in effect before its repeal by the Tax Reform Act of 1976) for gifts made by the decedent after September 8, 1976; and

3. The decedent's gross estate valued as of the date of death.

Gross Estate

The gross estate includes all property in which the decedent had an interest (including real property outside the United States). It also includes:

- Certain transfers made during the decedent's life without an adequate and full consideration in money or money's worth,
- Annuities,
- The includible portion of joint estates with right of survivorship (see instructions for Schedule E),
- The includible portion of tenancies by the entirety (see instructions for Schedule E),

DRAFT AS OF June 16, 2016

- Certain life insurance proceeds (even though payable to beneficiaries other than the estate) (see instructions for Schedule D),
- Property over which the decedent possessed a general power of appointment,
- Dower or curtesy (or statutory estate) of the surviving spouse, and
- Community property to the extent of the decedent's interest as defined by applicable law.

DRAFT AS OF June 16, 2016

Note. Under the special rule of Regulations section 20.2010-2(a)(7)(ii), executors of estates who are not required to file Form 706 under section 6018(a), but who are filing to elect portability of DSUE amount to the surviving spouse, are not required to report the value of certain property eligible for the marital deduction under section 2056 or 2056A or the charitable deduction under section 2055. However, the value of those assets must be estimated and included in the total value of the gross estate. See instructions for *Part 5—Recapitulation, lines 10 and 23*, for more information.

For more specific information, see the instructions for Schedules A through I.

U.S. Citizens or Residents; Nonresident Noncitizens

File Form 706 for the estates of decedents who were either U.S. citizens or U.S. residents at the time of death. For estate tax purposes, a resident is someone who had a domicile in the United States at the time of death. A person acquires a domicile by living in a place for even a brief period of time, as long as the person had no intention of moving from that place.

Decedents who were neither U.S. citizens nor U.S. residents at the time of death, file Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, for the estate of nonresident not a citizen of the United States.

Residents of U.S. Possessions

All references to citizens of the United States are subject to the provisions of sections 2208 and 2209, relating to decedents who were U.S. citizens and residents of a U.S. possession on the date of death. If such a decedent became a U.S. citizen only because of his or her connection with a possession, then the decedent is considered a nonresident not a citizen of the United States for estate tax purposes, and you should file Form 706-NA. If such a decedent became a U.S. citizen wholly independently of his or her connection with a possession, then the decedent is considered a U.S. citizen for estate tax purposes, and you should file Form 706.

Executor

The term *executor* includes the executor, personal representative, or administrator of the decedent's estate. If none of these is appointed, qualified, and acting in the United States, every person in actual or constructive possession of any property of the decedent is considered an executor and must file a return.

Executors must provide documentation proving their status. Documentation will vary, but may include documents such as a certified copy of the will or a court order designating the executor(s). A statement by the executor attesting to their status is insufficient.

When To File

You must file Form 706 to report estate and/or GST tax within 9 months after the date of the decedent's death. If you are unable to file Form 706 by the due date, you may receive an extension of time to file. Use Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes, to apply for an automatic 6-month extension of time to file.

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

Note. Any estate that is filing an estate tax return only to elect portability and does not file timely may seek relief under Regulations section 301.9100-3 to make the portability election.

Private delivery services. You can use certain private delivery services designated by the IRS to meet the "timely mailing as timely filing/paying" rule for tax returns and payments. These private delivery services include only the following:

- Federal Express (FedEx): FedEx Priority Overnight, FedEx Standard Overnight, FedEx 2Day, FedEx International Priority, FedEx International First, FedEx First Overnight, FedEx International First Next Flight Out, and FedEx International Economy.
- United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air, UPS 2nd Day Air A.M., UPS Worldwide Express Plus, UPS Worldwide Express, and UPS Next Day Air Early AM.
- DHL Express 9:00, DHL Express 10:30, DHL Express 12:00, DHL Express Worldwide, DHL Express Envelope, DHL Import Express 10:30, DHL Import Express 12:00, and DHL Import Express Worldwide.

The private delivery service can tell you how to get written proof of the mailing date.

Where To File

File Form 706 at the following address:

Department of the Treasury
Internal Revenue Service Center
Cincinnati, OH 45999

Paying the Tax

The estate and GST taxes are due within 9 months of the date of the decedent's death. You may request an extension of time for payment by filing Form 4768. You may also elect under section 6166 to pay in installments or under section 6163 to postpone the part of the tax attributable to a reversionary or remainder interest. These elections are made by checking lines 3 and 4 (respectively) of Part 3—Elections by the Executor, and attaching the required statements.

If the tax paid with the return is different from the balance due as figured on the return, explain the difference in an attached statement. If you have made prior payments to the IRS, attach a statement to Form 706 including these facts.

Paying by check. Make the check payable to the "United States Treasury." Please write the decedent's name, social security number (SSN), and "Form 706" on the check to assist us in posting it to the proper account.

Paying Electronically. Payment of the tax due shown on Form 706 may be submitted electronically through the Electronic Federal Tax Payment System (EFTPS). EFTPS is a free service of the Department of Treasury.

To be considered timely, payments made through EFTPS must be completed no later than 8 p.m. Eastern time the day before the due date. All EFTPS payments must be scheduled in advance of the due date and, if

necessary, may be changed or cancelled up to two business days before the scheduled payment date.

To get more information about EFTPS or to enroll, visit www.eftps.gov or call 1-800-555-4477. Additional information about EFTPS is available in Publication 966, Electronic Federal Tax Payment System: A Guide to Getting Started.

DRAFT AS OF June 16, 2016

Signature and Verification

CAUTION *If there is more than one executor, all listed executors are responsible for the return. However, it is sufficient for only one of the co-executors to sign the return.*

All executors are responsible for the return as filed and are liable for penalties imposed for erroneous or false returns.

If two or more persons are liable for filing the return, they should all join together in filing one complete return. However, if they are unable to join in making one complete return, each is required to file a return disclosing all the information the person has about the estate, including the name of every person holding an interest in the property and a full description of the property. If the appointed, qualified, and acting executor is unable to make a complete return, then every person holding an interest in the property must, on notice from the IRS, make a return regarding that interest.

The executor who files the return must, in every case, sign the declaration on page 1 under penalties of perjury.

Generally, anyone who is paid to prepare the return must sign the return in the space provided and fill in the Paid Preparer Use Only area. See section 7701(a)(36)(B) for exceptions.

In addition to signing and completing the required information, the paid preparer must give a copy of the completed return to the executor.

Note. A paid preparer may sign original or amended returns by rubber stamp, mechanical device, or computer software program.

Amending Form 706

If you find that you must change something on a return that has already been filed, you should:

- File another Form 706;
- Enter "Supplemental Information" across the top of page 1 of the form; and
- Attach a copy of pages 1, 2, 3, and 4 of the original Form 706 that has already been filed.

If you have already been notified that the return has been selected for examination, you should provide the additional information directly to the office conducting the examination.

Supplemental Documents

Note. You must attach the death certificate to the return.

If the decedent was a citizen or resident of the United States and died testate (leaving a valid will), attach a certified copy of the will to the return. If you cannot obtain a certified copy, attach a copy of the will and an explanation of why it is not certified. Other supplemental documents may be required as explained later. Examples include Forms 712, Life Insurance Statement; 709, United States Gift (and Generation-Skipping Transfer) Tax Return; and 706-CE, Certificate of Payment of Foreign Death Tax; trust and power of appointment instruments; and state certification of payment of death taxes. If you do not file these documents with the return, the processing of the return will be delayed.

If the decedent was a U.S. citizen but not a resident of the United States, you must attach the following documents to the return:

1. A copy of the inventory of property and the schedule of liabilities, claims against the estate, and expenses of administration filed with the foreign court of probate jurisdiction, certified by a proper official of the court;

2. A copy of the return filed under the foreign inheritance, estate, legacy, succession tax, or other death tax act, certified by a proper official of the foreign tax department, if the estate is subject to such a foreign tax; and

3. If the decedent died testate, a certified copy of the will.

Rounding Off to Whole Dollars

You may show the money items on the return and accompanying schedules as whole-dollar amounts. To do so, drop the cents from any amount with less than 50 cents and increase any amount with 50 to 99 cents to the next dollar. For example, $1.39 becomes $1 and $2.55 becomes $3. If you have to add two or more amounts to compute an item's value, include the cents when adding the amounts and round off only the total.

Penalties

Late filing and late payment. Section 6651 provides for penalties for both late filing and for late payment unless there is reasonable cause for the delay. The law also provides for penalties for willful attempts to evade payment of tax. The late filing penalty will not be imposed if the taxpayer can show that the failure to file a timely return is due to reasonable cause.

Reasonable cause determinations. If you receive a notice about penalties after you file Form 706, send an explanation and we will determine if you meet reasonable cause criteria. Do not attach an explanation when you file Form 706. Explanations attached to the return at the time of filing will not be considered.

Valuation understatement. Section 6662 provides a 20% penalty for the underpayment of estate tax that exceeds $5,000 when the underpayment is attributable to valuation understatements. A valuation understatement occurs when the value of property reported on Form 706 is 65% or less of the actual value of the property.

This penalty increases to 40% if there is a gross valuation understatement. A gross valuation understatement occurs if any property on the return is valued at 40% or less of the value determined to be correct.

Penalties also apply to late filing, late payment, and underpayment of GST taxes.

Return preparer. Estate tax return preparers who prepare any return or claim for refund which reflects an understatement of tax liability due to an unreasonable position are subject to a penalty equal to the greater of $1,000 or 50% of the income earned (or to be earned) for the preparation of each such return. Estate tax return preparers who prepare a return or claim for refund which reflects an understatement of tax liability due to willful or reckless conduct, are subject to a penalty of $5,000 or 50% of the income earned (or income to be earned), whichever is greater, for the preparation of each such return. See sections 6694(a) and 6694(b), the related regulations, and Ann. 2009-15, 2009-11 I.R.B. 687 (available at www.irs.gov/pub/irs-irbs/irb09-11.pdf) for more information.

Obtaining Forms and Publications To File or Use

Internet. You can access the IRS website 24 hours a day, 7 days a week at *IRS.gov* to:

- Download forms, instructions, and publications;
- Order IRS products online;
- Research your tax questions online;
- Search publications online by topic or keyword; and
- Sign up to receive local and national tax news by email.

Other forms that may be required.

- Form SS-5, Application for a Social Security Card.
- Form 706-CE, Certificate of Payment of Foreign Death Tax.
- Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States.
- Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return.
- Form 712, Life Insurance Statement.
- Form 2848, Power of Attorney and Declaration of Representative.
- Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes.
- Form 4808, Computation of Credit for Gift Tax.
- Form 8821, Tax Information Authorization.
- Form 8822, Change of Address.
- Form 8971, Information Regarding Beneficiaries Acquiring Property From a Decedent.

Additional Information. The following publications may assist you in learning about and preparing Form 706:

- Publication 559, Survivors, Executors, and Administrators.
- Publication 910, IRS Guide to Free Tax Services.

Note. For information about release of nonresident U.S. citizen decedents' assets using transfer certificates under Regulations section 20.6325-1, write to:

Internal Revenue Service
Cincinnati, OH 45999
Stop 824G

Specific Instructions

You must file the first four pages of Form 706 and all required schedules. File Schedules A through I, as appropriate, to support the entries in items 1 through 9 of Part 5—Recapitulation.

CAUTION *Make sure to complete the required pages and schedules in their entirety. Returns filed without entries in each field will not be processed.*

IF . . .	THEN . . .
you enter zero on any item of the Recapitulation,	you need not file the schedule (except for Schedule F) referred to on that item.
you are estimating the value of one or more assets pursuant to the special rule of Regulations section 20.2010-2(a)(7)(ii),	you must report the asset on the appropriate schedule, but you are not required to enter a value for the asset. Include the estimated value of the asset in the totals entered on lines 10 and 23 of Part 5—Recapitulation.
you claim an exclusion on item 12,	complete and attach Schedule U.
you claim any deductions on items 14 through 22 of the Recapitulation,	complete and attach the appropriate schedules to support the claimed deductions.
you claim credits for foreign death taxes or tax on prior transfers,	complete and attach Schedule P or Q.
there is not enough space on a schedule to list all the items,	attach a Continuation Schedule (or additional sheets of the same size) to the back of the schedule (see the Continuation Schedule at the end of Form 706); photocopy the blank schedule before completing it, if you will need more than one copy.

Also consider the following:

- Form 706 has 31 numbered pages.
- Number the items you list on each schedule, beginning with the number "1" each time, or using the numbering convention as indicated on the schedule (for example, Schedule M).
- Total the items listed on the schedule and its attachments, Continuation Schedules, etc.
- Enter the total of all attachments, Continuation Schedules, etc., at the bottom of the printed schedule, but do not carry the totals forward from one schedule to the next.
- Enter the total, or totals, for each schedule on page 3, Part 5—Recapitulation.
- Do not complete the "Alternate valuation date" or "Alternate value" columns of any schedule unless you elected alternate valuation on line 1 of Part 3—Elections by the Executor.
- When you complete the return, staple all the required pages together in the proper order.

Part 1—Decedent and Executor

Line 2

Enter the social security number (SSN) assigned specifically to the decedent. You cannot use the SSN assigned to the decedent's spouse. If the decedent did not have an SSN, the executor should obtain one for the decedent by filing Form SS-5, with a local Social Security Administration office.

Line 6a. Name of Executor

If there is more than one executor, enter the name of the executor to be contacted by the IRS and see line 6d.

Line 6b. Executor's Address

Use Form 8822 to report a change of the executor's address.

Line 6c. Executor's Social Security Number

Only one executor should complete this line. If there is more than one executor, see line 6d.

Line 6d. Multiple Executors

Check here if there is more than one executor. On an attached statement, provide the names, addresses, telephone numbers, and SSNs of any executor other than the one named on line 6a.

Line 11. Special Rule

If the estate is estimating the value of assets under the special rule of Regulations section 20.2010-2(a)(7)(ii), check here and see the instructions for lines 10 and 23 of Part 5—Recapitulation.

Part 2—Tax Computation

In general, the estate tax is figured by applying the unified rates shown in Table A to the total of transfers both during life and at death, and then subtracting the gift taxes, as refigured based on the date of death rates. See *Worksheet TG, Line 4 Worksheet, and Line 7 Worksheet.*

DRAFT AS OF June 16, 2016

Note. You must complete Part 2—Tax Computation.

Line 1

If you elected alternate valuation on line 1, Part 3—Elections by the Executor, enter the amount you entered in the "Alternate value" column of item 13 of Part 5—Recapitulation. Otherwise, enter the amount from the "Value at date of death" column.

Line 3b. State Death Tax Deduction

You may take a deduction on line 3b for estate, inheritance, legacy, or succession taxes paid on any property included in the gross estate as the result of the decedent's death to any state or the District of Columbia.

You may claim an anticipated amount of deduction and figure the federal estate tax on the return before the state death taxes have been paid. However, the deduction cannot be finally allowed unless you pay the state death taxes and claim the deduction within 4 years after the return is filed, or later (see section 2058(b)) if:

- A petition is filed with the Tax Court of the United States,
- You have an extension of time to pay, or
- You file a claim for refund or credit of an overpayment which extends the deadline for claiming the deduction.

Note. The deduction is not subject to dollar limits.

If you make a section 6166 election to pay the federal estate tax in installments and make a similar election to pay the state death tax in installments, see section 2058(b) for exceptions and periods of limitation.

If you transfer property other than cash to the state in payment of state inheritance taxes, the amount you may claim as a deduction is the lesser of the state inheritance tax liability discharged or the fair market value (FMV) of the property on the date of the transfer. For more information on the application of such transfers, see the principles discussed in Rev. Rul. 86-117, 1986-2 C.B. 157, prior to the repeal of section 2011.

Send the following evidence to the IRS:

1. Certificate of the proper officer of the taxing state, or the District of Columbia, showing the:

a. Total amount of tax imposed (before adding interest and penalties and before allowing discount),

b. Amount of discount allowed,

c. Amount of penalties and interest imposed or charged,

d. Total amount actually paid in cash, and

e. Date of payment.

2. Any additional proof the IRS specifically requests.

File the evidence requested above with the return, if possible. Otherwise, send it as soon as possible after the return is filed.

Line 6

To figure the tentative tax on the amount on line 5, use Table A—Unified Rate Schedule, above, and put the result on this line.

Table A — Unified Rate Schedule

Column A Taxable amount over	Column B Taxable amount not over	Column C Tax on amount in Column A	Column D Rate of tax on excess over amount in Column A
$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	----	345,800	40%

Lines 4 and 7

Three worksheets are provided to help you figure the entries for these lines. Worksheet TG—Taxable Gifts Reconciliation allows you to reconcile the decedent's lifetime taxable gifts to figure totals that will be used for the Line 4 Worksheet and the Line 7 Worksheet.

You must have all of the decedent's gift tax returns (Forms 709) before completing Worksheet TG—Taxable Gifts Reconciliation. The amounts needed for Worksheet TG can usually be found on the filed returns that were subject to tax. However, if any of the returns were audited by the IRS, use the amounts that were finally determined as a result of the audits.

In addition, you must make a reasonable effort to discover any gifts in excess of the annual exclusion made by the decedent (or on behalf of the decedent under a power of attorney) for which no Forms 709 were filed. Include the value of such gifts in column b of Worksheet TG. The annual exclusion per donee was $3,000 for 1977 through 1981, $10,000 for 1981 through 2001, $11,000 for 2002 through 2005, $12,000 for 2006 through 2008, and $13,000 for 2009 through 2012. For 2013 through 2016, the annual exclusion for gifts of present interest is $14,000 per donee.

DRAFT AS OF June 16, 2016

Worksheet TG—Taxable Gifts Reconciliation

(To be used for lines 4 and 7 of the Tax Computation)

Note. For the definition of a taxable gift, see section 2503. Follow Form 709. That is, include only the decedent's one-half of split gifts, whether the gifts were made by the decedent or the decedent's spouse. In addition to gifts reported on Form 709, you must include any taxable gifts in excess of the annual exclusion that were not reported on Form 709.

	a. Calendar year or calendar quarter	b. Total taxable gifts for period (see Note)	c. Taxable amount included in col. b for gifts included in the gross estate	d. Taxable amount included in col. b for gifts that qualify for "special treatment of split gifts" described below	e. Gift tax paid by decedent on gifts in col. d	f. Gift tax paid by decedent's spouse on gifts in col. c
Gifts made after June 6, 1932, and before 1977	1. Total taxable gifts made before 1977					
Gifts made after 1976						
2. Totals for gifts made after 1976						

DRAFT AS OF June 16, 2016

Line 4 Worksheet—Adjusted Taxable Gifts Made After 1976

1. Taxable gifts made after 1976. Enter the amount from Worksheet TG, line 2, column b		1	
2. Taxable gifts made after 1976 reportable on Schedule G. Enter the amount from Worksheet TG, line 2, column c	2		
3. Taxable gifts made after 1976 that qualify for "special treatment." Enter the amount from Worksheet TG, line 2, column d	3		
4. Add lines 2 and 3		4	
5. Adjusted taxable gifts. Subtract line 4 from line 1. Enter here and on Part 2—Tax Computation, line 4.		5	

How to complete line 7 worksheet.
Row (a). Beginning with the earliest year in which the taxable gifts were made, enter the tax period of prior gifts. If you filed returns for gifts made after 1981, enter the calendar year in Row (a) as (YYYY). If you filed returns for gifts made after 1976 and before 1982, enter the calendar quarters in Row (a) as (YYYY-Q).
Row (b). Enter all taxable gifts made in the specified year. Enter all pre-1977 gifts on the pre-1977 column.
Row (c). Enter the amount from Row (d) of the ***previous*** column.
Row (d). Enter the sum of Row (b) and Row (c) from the current column.
Row (e). Enter the amount from Row (f) of the ***previous*** column.
Row (f). Enter the tax based on the amount in Row (d) of the current column using Table A — Unified Rate Schedule, earlier.
Row (g). Subtract the amount in Row (e) from the amount in Row (f) for the current column.
Row (h). Complete this row only if a DSUE amount was received from predeceased spouse(s) and was applied to lifetime gifts. See line 2 of Schedule C on the Form 709 filed for the year listed in Row (a) for the amount to be entered in this row.
Row (i). Enter the applicable amount from the Table of Basic Exclusion Amounts.
Row (j). Enter the sum of Rows (h) and Row (i).
Row (k). Calculate the applicable credit on the amount in Row (j) using Table A — Unified Rate Schedule, and enter here.
Note. The entries in each column of Row (k) must be reduced by 20 percent of the amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977 (but no more than $6,000).
Row (l). Add the amounts in Row (l) and Row (n) from the ***previous*** column.
Row (m). Subtract the amount in Row (l) from the amount in Row (k) to determine the amount of any available credit. Enter result in Row (m).
Row (n). Enter the lesser of the amounts in Row (g) or Row (m).
Row (o). Subtract the amount in Row (n) from the amount in Row (g) for the current column.
Row (p). Subtract the amount in Row (o) from the amount in Row (f) for the current column.
Row (q). Enter the Cumulative Taxable Gift amount based on the amount in Row (p) using the Taxable Gift Amount Table.
Row (r). If Row (o) is greater than zero in the applicable period, subtract Row (q) from Row (d). If Row (o) is not greater than zero, enter -0-.
Repeat for each year in which taxable gifts were made.

CAUTION *Remember to submit a copy of the Line 7 Worksheet when you file Form 706. If additional space is needed to report prior gifts, please attach additional sheets.*

Line 7 Worksheet – Submit a copy with Form 706

Line 7 Worksheet Part A- Used to determine Applicable Credit Allowable for Prior Periods after 1976					
(a)	Tax Period[1]	Pre-1977			
(b)	Taxable Gifts for Applicable Period				
(c)	Taxable Gifts for Prior Periods [2]				
(d)	Cumulative Taxable Gifts Including Applicable Period (add Row (b) and Row (c))				
(e)	Tax at Date of Death Rates for Prior Gifts (from Row (c))[3]				
(f)	Tax at Date of Death Rates for Cumulative Gifts including Applicable Period (from Row (d))				
(g)	Tax at Date of Death Rates for Gifts in Applicable Period (subtract Row (e) from Row (f))				
(h)	Total DSUE applied from Prior Periods and Applicable Period (from Line 2 of Schedule C of Applicable Period Form 709)				
(i)	Basic Exclusion for Applicable Period (Enter the amount from the Table of Basic Exclusion Amounts)				
(j)	Basic Exclusion amount plus Total DSUE applied in prior periods and applicable period (add Row (h) and Row (i))				
(k)	Maximum Applicable Credit amount based on Row (j) (Using Table A—Unified Rate Schedule)[4]				
(l)	Applicable Credit amount used in Prior Periods (add Row (l) and Row (n) from prior period)				
(m)	Available Credit in Applicable Period (subtract Row (l) from Row (k))				
(n)	Credit Allowable (lesser of Row (g) or Row (m))				
(o)	Tax paid or payable at Date of Death rates for Applicable Period (subtract Row (n) from Row (g))				
(p)	Tax on Cumulative Gifts less tax paid or payable for Applicable Period (subtract Row (o) from Row (f))				
(q)	Cumulative Taxable Gifts less Gifts in the Applicable Period on which tax was paid or payable based on Row (p) (Using the Taxable Gift Amount Table)				
(r)	Gifts in the Applicable Period on which tax was payable (subtract Row (q) from Row (d))				

Line 7 Worksheet Part B		
1	Total gift taxes payable on gifts after 1976 (sum of amounts in Row (o)).	
2	Gift taxes paid by the decedent on gifts that qualify for "special treatment." Enter the amount from Worksheet TG, line 2, col. (e).	
3	Subtract line 2 from line 1.	
4	Gift tax paid by decedent's spouse on split gifts included on Schedule G. Enter amount from Worksheet TG, line 2, col. (f).	
5	Add lines 3 and 4. Enter here and on Part 2—Tax Computation, line 7.	
6	Cumulative lifetime gifts on which tax was paid or payable. Enter this amount on line 3, Section C, Part 6 of Form 706 (sum of amounts in Row (r)).	

Footnotes:
[1]Row (a): For annual returns, enter the tax period as (YYYY). For quarterly returns enter tax period as (YYYY–Q).
[2]Row (c): Enter amount from Row (d) of the previous column.
[3]Row (e): Enter amount from Row (f) of the previous column.
[4]Row (k): Calculate the applicable credit on the amount in row (j), using Table A — Unified Rate Schedule, and enter here. (For each column in row (k), subtract 20 percent of any amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977.)

DRAFT AS OF June 6, 2016

Taxable Gift Amount Table

Column A	Column B	Column C	Column D
Amount in Row (p) Line 7 Worksheet over...	Amount in Row (p) Line 7 Worksheet not over...	Property Value on Amount in Column A	Rate (Divisor) on excess of amount in Column A
0	1,800	0	18%
1,800	3,800	10,000	20%
3,800	8,200	20,000	22%
8,200	13,000	40,000	24%
13,000	18,200	60,000	26%
18,200	23,800	80,000	28%
23,800	38,800	100,000	30%
38,800	70,800	150,000	32%
70,800	155,800	250,000	34%
155,800	248,300	500,000	37%
248,300	345,800	750,000	39%
345,800	------	1,000,000	40%

DRAFT AS OF June 16, 2016

Table of Basic Exclusion Amounts		
Period	Basic Exclusion Amount	Credit Equivalent at 2016 rates
1977 (Quarters 1 and 2)	$30,000	$6,000
1977 (Quarters 3 and 4)	$120,667	$30,000
1978	$134,000	$34,000
1979	$147,333	$38,000
1980	$161,563	$42,500
1981	$175,625	$47,000
1982	$225,000	$62,800
1983	$275,000	$79,300
1984	$325,000	$96,300
1985	$400,000	$121,800
1986	$500,000	$155,800
1987 through 1997	$600,000	$192,800
1998	$625,000	$202,050
1999	$650,000	$211,300
2000 and 2001	$675,000	$220,550
2002 through 2010	$1,000,000	$345,800
2011	$5,000,000	$1,945,800
2012	$5,120,000	$1,993,800
2013	$5,250,000	$2,045,800
2014	$5,340,000	$2,081,800
2015	$5,430,000	$2,117,800
2016	$5,450,000	$2,125,800

Note. In figuring the line 7 amount, do not include any tax paid or payable on gifts made before 1977. The line 7 amount is a hypothetical figure used to calculate the estate tax.

Special treatment of split gifts. These special rules apply only if:

- The decedent's spouse predeceased the decedent;
- The decedent's spouse made gifts that were "split" with the decedent under the rules of section 2513;
- The decedent was the "consenting spouse" for those split gifts, as that term is used on Form 709; and
- The split gifts were included in the decedent's spouse's gross estate under section 2035.

If all four conditions above are met, do not include these gifts on line 4 of the Tax Computation and do not include the gift taxes payable on these gifts on line 7 of the Tax Computation. These adjustments are incorporated into the worksheets.

Lines 9a through 9d. Applicable Credit Amount (formerly Unified Credit Amount)

The *applicable credit amount* is allowable credit against estate and gift taxes. It is calculated by determining the tentative tax on the *applicable exclusion amount*, which is the amount that can be transferred before an estate tax liability will be incurred.

The applicable exclusion amount equals the total of:

- Line 9a: The basic exclusion amount. In 2016, the basic exclusion amount, as adjusted for inflation under 2010(c)(3), is $5,450,000.
- Line 9b: The deceased spousal unused exclusion amount (DSUE). If the decedent had a spouse who died after December 31, 2010, whose estate did not use all of its applicable exclusion against gift or estate tax liability, a DSUE amount may be available for use by the decedent's estate. If the predeceased spouse died in 2011, the DSUE amount was calculated and attached to his or her Form 706. If the predeceased spouse died in 2012 or after, this amount is found in Part 6, Section C of the Form 706 filed by the estate of the decedent's predeceased spouse. The amount to be entered on line 9b is calculated in Part 6, Section D.

Line 10. Adjustment to Applicable Credit

If the decedent made gifts (including gifts made by the decedent's spouse and treated as made by the decedent by reason of gift splitting) after September 8, 1976, and before January 1, 1977, for which the decedent claimed a specific exemption, the applicable credit amount on this estate tax return must be reduced. The reduction is figured by entering 20% of the specific exemption claimed for these gifts.

Note. The specific exemption was allowed by section 2521 for gifts made before January 1, 1977.

If the decedent did not make any gifts between September 8, 1976, and January 1, 1977, or if the decedent made gifts during that period but did not claim the specific exemption, enter zero.

Line 15. Total Credits

Generally, line 15 is used to report the total of credit for foreign death taxes (line 13) and credit for tax on prior transfers (line 14).

However, you may also use line 15 to report credit taken for federal gift taxes imposed by Chapter 12 of the Code, and the corresponding provisions of prior laws, on certain transfers the decedent made before January 1, 1977, that are included in the gross estate. The credit cannot be more than the amount figured by the following formula:

$$\frac{\text{Gross estate tax minus (the sum of the state death taxes and unified credit)}}{\text{Value of gross estate minus (the sum of the deductions for charitable, public, and similar gifts and bequests and marital deduction)}} \times \text{Value of included gift}$$

DRAFT AS OF June 16, 2016

When taking the credit for pre-1977 federal gift taxes:

- Include the credit in the amount on line 15 and
- Identify and enter the amount of the credit you are taking on the dotted line to the left of the entry space for line 15 on page 1 of Form 706 with a notation, "section 2012 credit."

For more information, see the regulations under section 2012. This computation may be made using Form 4808. Attach a copy of a completed Form 4808 or the computation of the credit. Also, attach all available copies of Forms 709 filed by the decedent to help verify the amounts entered on lines 4 and 7, and the amount of credit taken (on line 15) for pre-1977 federal gift taxes.

Canadian marital credit. In addition to using line 15 to report credit for federal gift taxes on pre-1977 gifts, you may also use line 15 to claim the Canadian marital credit, where applicable.

When taking the marital credit under the 1995 Canadian Protocol:

- Include the credit in the amount on line 15 and
- Identify and enter the amount of the credit you are taking on the dotted line to the left of the entry space for line 15 on page 1 of Form 706 with a notation, "Canadian marital credit."

Also, attach a statement to the return that refers to the treaty, waives QDOT rights, and shows the computation of the marital credit. See the 1995 Canadian income tax treaty protocol for details on figuring the credit.

Part 3—Elections by the Executor

Note. The election to allow the decedent's surviving spouse to use the decedent's unused exclusion amount is made by filing a timely and complete Form 706. See instructions for *Part 6—Portability of Deceased Spousal Unused Exclusion*, later, and sections 2010(c)(4) and (c)(5).

Line 1. Alternate Valuation

TIP *See the example showing the use of Schedule B where the alternate valuation is adopted.*

Unless you elect at the time the return is filed to adopt alternate valuation as authorized by section 2032, value all property included in the gross estate as of the date of the decedent's death. Alternate valuation cannot be applied to only a part of the property.

You may elect special-use valuation (line 2) in addition to alternate valuation.

You may not elect alternate valuation unless the election will decrease both the value of the gross estate and the sum (reduced by allowable credits) of the estate and GST taxes payable by reason of the decedent's death for the property includible in the decedent's gross estate.

Elect alternate valuation by checking "Yes," on line 1 and filing Form 706. You may make a protective alternate valuation election by checking "Yes," on line 1, writing the word "protective," and filing Form 706 using regular values.

Once made, the election may not be revoked. The election may be made on a late-filed Form 706 provided it is not filed later than 1 year after the due date (including extensions actually granted). Relief under Regulations sections 301.9100-1 and 301.9100-3 may be available to make an alternate valuation election or a protective alternate valuation election, provided a Form 706 is filed no later than 1 year after the due date of the return (including extensions actually granted).

If alternate valuation is elected, value the property included in the gross estate as of the following dates as applicable:

- Any property distributed, sold, exchanged, or otherwise disposed of or separated or passed from the gross estate by any method within 6 months after the decedent's death is valued on the date of distribution, sale, exchange, or other disposition. Value this property on the date it ceases to be a part of the gross estate; for example, on the date the title passes as the result of its sale, exchange, or other disposition.
- Any property not distributed, sold, exchanged, or otherwise disposed of within the 6-month period is valued as of 6 months after the date of the decedent's death.
- Any property, interest, or estate that is *affected by mere lapse of time* is valued as of the date of decedent's death or on the date of its distribution, sale, exchange, or other disposition, whichever occurs first. However, you may change the date of death value to account for any change in value that is not due to a "mere lapse of time" on the date of its distribution, sale, exchange, or other disposition.

The property included in the alternate valuation and valued as of 6 months after the date of the decedent's death, or as of some intermediate date (as described above) is the property included in the gross estate on the date of the decedent's death. Therefore, you must first determine what property was part of the gross estate at the decedent's death.

Interest. Interest accrued to the date of the decedent's death on bonds, notes, and other interest-bearing obligations is property of the gross estate on the date of death and is included in the alternate valuation.

Rent. Rent accrued to the date of the decedent's death on leased real or personal property is property of the gross estate on the date of death and is included in the alternate valuation.

Dividends. Outstanding dividends that were declared to stockholders of record on or before the date of the decedent's death are considered property of the gross estate on the date of death, and are included in the alternate valuation. Ordinary dividends declared to stockholders of record after the date of the decedent's death are not included in the gross estate on the date of death and are not eligible for alternate valuation. However, if dividends are declared to stockholders of record after the date of the decedent's death so that the shares of stock at the later valuation date do not reasonably represent the same property at the date of the decedent's death, include those dividends (except dividends paid from earnings of the corporation after the date of the decedent's death) in the alternate valuation.

On Schedules A through I, you must show:

1. What property is included in the gross estate on the date of the decedent's death;

2. What property was distributed, sold, exchanged, or otherwise disposed of within the 6-month period after the decedent's death, and the dates of these distributions, etc. (These two items should be entered in the "Description" column of each schedule. Briefly explain the status or disposition governing the alternate valuation date,

such as: “Not disposed of within 6 months following death, ”“Distributed,” “Sold,” “Bond paid on maturity,” etc. In this same column, describe each item of principal and includible income);

3. The date of death value, entered in the appropriate value column with items of principal and includible income shown separately; and

4. The alternate value, entered in the appropriate value column with items of principal and includible income shown separately. (In the case of any interest or estate, the value of which is affected by lapse of time, such as patents, leaseholds, estates for the life of another, or remainder interests, the value shown under the heading “Alternate value” must be the adjusted value; for example, the value as of the date of death with an adjustment reflecting any difference in its value as of the later date not due to lapse of time.)

Note. If any property on Schedules A through I is being valued pursuant to the special rule of Regulations section 20.2010-2(a)(7)(ii), values for those assets are not required to be reported on the Schedule. See *Part 5—Recapitulation, line 10.*

Distributions, sales, exchanges, and other dispositions of the property within the 6-month period after the decedent's death must be supported by evidence. If the court issued an order of distribution during that period, you must submit a certified copy of the order as part of the evidence. The IRS may require you to submit additional evidence, if necessary.

If the alternate valuation method is used, the values of life estates, remainders, and similar interests are figured using the age of the recipient on the date of the decedent's death and the value of the property on the alternate valuation date.

Line 2. Special-Use Valuation of Section 2032A

In general. Under section 2032A, you may elect to value certain farm and closely held business real property at its farm or business use value rather than its FMV. Both special-use valuation and alternate valuation may be elected.

To elect special-use valuation, check “Yes,” on line 2 and complete and attach Schedule A-1 and its required additional statements. You must file Schedule A-1 and its required attachments with Form 706 for this election to be valid. You may make the election on a late-filed return so long as it is the first return filed.

The total value of the property valued under section 2032A may not be decreased from FMV by more than $1,110,000 for decedents dying in 2016.

Real property may qualify for the section 2032A election if:

1. The decedent was a U.S. citizen or resident at the time of death;

2. The real property is located in the United States;

3. At the decedent's death, the real property was used by the decedent or a family member for farming or in a trade or business, or was rented for such use by either the surviving spouse or a lineal descendant of the decedent to a family member on a net cash basis;

4. The real property was acquired from or passed from the decedent to a qualified heir of the decedent;

5. The real property was owned and used in a qualified manner by the decedent or a member of the decedent's family during 5 of the 8 years before the decedent's death;

6. There was material participation by the decedent or a member of the decedent's family during 5 of the 8 years before the decedent's death; and

7. The property meets the following percentage requirements:

a. At least 50% of the adjusted value of the gross estate must consist of the adjusted value of real or personal property that was being used as a farm or in a closely-held business and that was acquired from, or passed from, the decedent to a qualified heir of the decedent, and

b. At least 25% of the adjusted value of the gross estate must consist of the adjusted value of qualified farm or closely-held business real property.

For this purpose, adjusted value is the value of property determined without regard to its special-use value. The value is reduced for unpaid mortgages on the property or any indebtedness against the property, if the full value of the decedent's interest in the property (not reduced by such mortgage or indebtedness) is included in the value of the gross estate. The adjusted value of the qualified real and personal property used in different businesses may be combined to meet the 50% and 25% requirements.

Qualified Real Property

Qualified use. *Qualified use* means use of the property as a farm for farming purposes or in a trade or business other than farming. Trade or business applies only to the active conduct of a business. It does not apply to passive investment activities or the mere passive rental of property to a person other than a member of the decedent's family. Also, no trade or business is present in the case of activities not engaged in for profit.

Ownership. To qualify as special-use property, the decedent or a member of the decedent's family must have owned and used the property in a qualified use for 5 of the last 8 years before the decedent's death. Ownership may be direct or indirect through a corporation, a partnership, or a trust.

If the ownership is indirect, the business must qualify as a closely-held business under section 6166. The indirect ownership, when combined with periods of direct ownership, must meet the requirements of section 6166 on the date of the decedent's death and for a period of time that equals at least 5 of the 8 years preceding death.

Directly owned property leased by the decedent to a separate closely-held business, is considered qualified real property if the business entity to which it was rented was a closely-held business (as defined by section 6166) for the decedent on the date of the decedent's death and for sufficient time to meet the “5 in 8 years” test explained above.

Structures and other real property improvements. Qualified real property includes residential buildings and other structures and real property improvements regularly occupied or used by the owner or lessee of real property (or by the employees of the owner or lessee) to operate a farm or other closely-held business. A farm residence which the decedent occupied is considered to have been occupied for the purpose of operating the farm even when a family member and not the decedent was the person materially participating in the operation of the farm.

Qualified real property also includes roads, buildings, and other structures and improvements functionally related to the qualified use.

Elements of value such as mineral rights that are not related to the farm or business use are not eligible for special-use valuation.

DRAFT AS OF June 13, 2016

Property acquired from the decedent. Property is considered to have been acquired from or to have passed from the decedent if one of the following applies:

- The property is considered to have been acquired from or to have passed from the decedent under section 1014(b) (relating to basis of property acquired from a decedent);
- The property is acquired by any person from the estate; or
- The property is acquired by any person from a trust, to the extent the property is includible in the gross estate.

Qualified heir. A person is a *qualified heir* of property if he or she is a member of the decedent's family and acquired or received the property from the decedent. If a qualified heir disposes of any interest in qualified real property to any member of his or her family, that person will then be treated as the qualified heir for that interest.

A *member of the family* includes only:

- An ancestor (parent, grandparent, etc.) of the individual;
- The spouse of the individual;
- The lineal descendant (child, stepchild, grandchild, etc.) of the individual, the individual's spouse, or a parent of the individual; or
- The spouse, widow, or widower of any lineal descendant described above.

A legally adopted child of an individual is treated as a child of that individual by blood.

Material Participation

To elect special-use valuation, either the decedent or a member of his or her family must have materially participated in the operation of the farm or other business for at least 5 of the 8 years ending on the date of the decedent's death. The existence of *material participation* is a factual determination. Passively collecting rents, salaries, draws, dividends, or other income from the farm or other business is not sufficient for material participation, nor is merely advancing capital and reviewing a crop plan and financial reports each season or business year.

In determining whether the required participation has occurred, disregard brief periods (that is, 30 days or less) during which there was no material participation, as long as such periods were both preceded and followed by substantial periods (more than 120 days) during which there was uninterrupted material participation.

Retirement or disability. If, on the date of death, the time period for material participation could not be met because the decedent was retired or disabled, a substitute period may apply. The decedent must have retired on social security or been disabled for a continuous period ending with death. A person is disabled for this purpose if he or she was mentally or physically unable to materially participate in the operation of the farm or other business.

The substitute time period for material participation for these decedents is a period totaling at least 5 years out of the 8-year period that ended on the earlier of:

- The date the decedent began receiving social security benefits or
- The date the decedent became disabled.

Surviving spouse. A surviving spouse who received qualified real property from the predeceased spouse is considered to have materially participated if he or she was engaged in the active management of the farm or other business. If the surviving spouse died within 8 years of the first spouse's death, you may add the period of material participation of the predeceased spouse to the period of active management by the surviving spouse to determine if the surviving spouse's estate qualifies for special-use valuation. To qualify for this, the property must have been eligible for special-use valuation in the predeceased spouse's estate, though it does not have to have been elected by that estate.

For additional details regarding material participation, see Regulations section 20.2032A-3(e).

Valuation Methods

The primary method of valuing special-use property that is used for farming purposes is the annual gross cash rental method. If comparable gross cash rentals are not available, you can substitute comparable average annual net share rentals. If neither of these is available, or if you so elect, you can use the method for valuing real property in a closely-held business.

Average annual gross cash rental. Generally, the special-use value of property that is used for farming purposes is determined as follows:

1. Subtract the average annual state and local real estate taxes on actual tracts of comparable real property from the average annual gross cash rental for that same comparable property and

2. Divide the result in (1) by the average annual effective interest rate charged for all new Federal Land Bank loans. See *Effective interest rate,* later.

The computation of each average annual amount is based on the 5 most recent calendar years ending before the date of the decedent's death.

Gross cash rental. Generally, gross cash rental is the total amount of cash received in a calendar year for the use of actual tracts of comparable farm real property in the same locality as the property being specially valued. You may not use:

- Appraisals or other statements regarding rental value or areawide averages of rentals, or
- Rents paid wholly or partly in-kind, or
- Property for which the amount of rent is based on production.

The rental must have resulted from an arm's-length transaction and the amount of rent may not be reduced by the amount of any expenses or liabilities associated with the farm operation or the lease.

Comparable property. Comparable property must be situated in the same locality as the qualified real property as determined by generally accepted real property valuation rules. The determination of comparability is based on a number of factors, none of which carries more weight than the others. It is often necessary to value land in segments where there are different uses or land characteristics included in the specially valued land.

The following list contains some of the factors considered in determining comparability:

- Similarity of soil;
- Whether the crops grown would deplete the soil in a similar manner;
- Types of soil conservation techniques that have been practiced on the two properties;
- Whether the two properties are subject to flooding;
- Slope of the land;
- For livestock operations, the carrying capacity of the land;
- For timbered land, whether the timber is comparable;
- Whether the property as a whole is unified or segmented. If segmented, the availability of the means necessary for movement among the different sections;
- Number, types, and conditions of all buildings and other fixed improvements

DRAFT AS OF June 16, 2016

located on the properties and their location as it affects efficient management, use, and value of the property; and

- Availability and type of transportation facilities in terms of costs and of proximity of the properties to local markets.

You must specifically identify on the return the property being used as comparable property. Use the type of descriptions used to list real property on Schedule A.

Effective interest rate. See Tables 1 and 2 of Rev. Rul. 2015–18, 2015–34 I.R.B. 209, available at www.irs.gov/pub/irs-irbs/irb15-34.pdf, for the average annual effective interest rates in effect for 2016.

Net share rental. You may use average annual net share rental from comparable land only if there is no comparable land from which average annual gross cash rental can be determined. Net share rental is the difference between the gross value of produce received by the lessor from the comparable land and the cash operating expenses (other than real estate taxes) of growing the produce that, under the lease, are paid by the lessor. The production of the produce must be the business purpose of the farming operation. For this purpose, produce includes livestock.

The gross value of the produce is generally the gross amount received if the produce was disposed of in an arm's-length transaction within the period established by the Department of Agriculture for its price support program. Otherwise, the value is the weighted average price for which the produce sold on the closest national or regional commodities market. The value is figured for the date or dates on which the lessor received (or constructively received) the produce.

Valuing a real property interest in closely held business. Use this method to determine the special-use valuation for qualifying real property used in a trade or business other than farming. You may also use this method for qualifying farm property if there is no comparable land or if you elect to use it. Under this method, the following factors are considered:

- The capitalization of income that the property can be expected to yield for farming or for closely-held business purposes over a reasonable period of time with prudent management and traditional cropping patterns for the area, taking into account soil capacity, terrain configuration, and similar factors;
- The capitalization of the fair rental value of the land for farming or for closely-held business purposes;
- The assessed land values in a state that provides a differential or use value assessment law for farmland or closely-held business;
- Comparable sales of other farm or closely-held business land in the same geographical area far enough removed from a metropolitan or resort area so that nonagricultural use is not a significant factor in the sales price; and
- Any other factor that fairly values the farm or closely-held business value of the property.

DRAFT AS OF June 16, 2016

Making the Election

Include the words "section 2032A valuation" in the "Description" column of any Form 706 schedule if section 2032A property is included in the decedent's gross estate.

An election under section 2032A need not include all the property in an estate that is eligible for special-use valuation, but sufficient property to satisfy the threshold requirements of section 2032A(b)(1)(B) must be specially valued under the election.

If joint or undivided interests (that is, interests as joint tenants or tenants in common) in the same property are received from a decedent by qualified heirs, an election for one heir's joint or undivided interest need not include any other heir's interest in the same property if the electing heir's interest plus other property to be specially valued satisfies the requirements of section 2032A(b)(1)(B).

If successive interests (that is, life estates and remainder interests) are created by a decedent in otherwise qualified property, an election under section 2032A is available only for that property (or part) in which qualified heirs of the decedent receive all of the successive interests, and such an election must include the interests of all of those heirs.

For example, if a surviving spouse receives a life estate in otherwise qualified property and the spouse's brother receives a remainder interest in fee, no part of the property may be valued under a section 2032A election.

Where successive interests in specially valued property are created, remainder interests are treated as being received by qualified heirs only if the remainder interests are not contingent on surviving a nonfamily member or are not subject to divestment in favor of a nonfamily member.

Protective Election

You may make a protective election to specially value qualified real property. Under this election, whether or not you may ultimately use special-use valuation depends upon final values (as shown on the return determined following examination of the return) meeting the requirements of section 2032A.

To make a protective election, check "Yes," on line 2 and complete Schedule A-1 according to the instructions for Protective Election.

If you make a protective election, complete the initial Form 706 by valuing all property at its FMV. Do not use special-use valuation. Usually, this will result in higher estate and GST tax liabilities than will be ultimately determined if special-use valuation is allowed. The protective election does not extend the time to pay the taxes shown on the return. If you wish to extend the time to pay the taxes, file Form 4768 in adequate time before the due date of the return. See the instructions for Form 4768.

If the estate qualifies for special-use valuation based on the values as finally determined, you must file an amended Form 706 (with a complete section 2032A election) within 60 days after the date of this determination. Prepare the amended return using special-use values under the rules of section 2032A, complete Schedule A-1, and attach all of the required statements.

Additional information

For definitions and additional information, see section 2032A and the related regulations.

Line 3. Section 6166 Installment Payments

If the gross estate includes an interest in a closely-held business, you may be able to elect to pay part of the estate tax in installments under section 6166.

The maximum amount that can be paid in installments is that part of the estate tax that is attributable to the closely-held business; see *Determine how much of the estate tax may be paid in installments under section 6166*, later.

In general, that amount is the amount of tax that bears the same ratio to the total estate tax that the value of the closely-held business included in the gross estate bears to the adjusted gross estate.

Bond or lien. The IRS may require that an estate furnish a surety bond when granting the installment payment election. In the alternative, the executor may consent to elect the special lien provisions of section 6324A, in lieu of the bond. The IRS will contact you regarding the specifics of furnishing the bond or electing the special lien. The IRS will make this determination on a case-by-case basis, and you may be asked to provide additional information.

If you elect the lien provisions, section 6324A requires that the lien be placed on property having a value equal to the total deferred tax plus 4 years of interest. The property must be expected to survive the deferral period, and does not necessarily have to be property of the estate. In addition, all people with an interest in the designated property must consent to the creation of this lien.

Percentage requirements. To qualify for installment payments, the value of the interest in the closely-held business that is included in the gross estate must be more than 35% of the adjusted gross estate (the gross estate less expenses, indebtedness, taxes, and losses – Schedules J, K, and L of Form 706 (do not include any portion of the state death tax deduction)).

Interests in two or more closely-held businesses are treated as an interest in a single business if at least 20% of the total value of each business is included in the gross estate. For this purpose, include any interest held by the surviving spouse that represents the surviving spouse's interest in a business held jointly with the decedent as community property or as joint tenants, tenants by the entirety, or tenants in common.

Value. The value used for meeting the percentage requirements is the same value used for determining the gross estate. Therefore, if the estate is valued under alternate valuation or special-use valuation, you must use those values to meet the percentage requirements.

Transfers before death. Generally, gifts made before death are not included in the gross estate. However, the estate must meet the 35% requirement by both including in and excluding from the gross estate any gifts made by the decedent in the 3-year period ending on the date of death.

Passive assets. In determining the value of a closely-held business and whether the 35% requirement is met, do not include the value of any passive assets held by the business. A passive asset is any asset not used in carrying on a trade or business. Any asset used in a qualifying lending and financing business is treated as an asset used in carrying on a trade or business; see section 6166(b)(10) for details. Stock in another corporation is a passive asset unless the stock is treated as held by the decedent because of the election to treat holding company stock as business company stock; see *Holding company stock*, later.

If a corporation owns at least 20% in value of the voting stock of another corporation, or the other corporation had no more than 45 shareholders and at least 80% of the value of the assets of each corporation is attributable to assets used in carrying on a trade or business, then these corporations will be treated as a single corporation, and the stock will not be treated as a passive asset. Stock held in the other corporation is not taken into account in determining the 80% requirement.

Interest in closely held business. For purposes of the installment payment election, an *interest in a closely-held business* means:

- Ownership of a trade or business carried on as a proprietorship,
- An interest as a partner in a partnership carrying on a trade or business if 20% or more of the total capital interest was included in the gross estate of the decedent or the partnership had no more than 45 partners, or
- Stock in a corporation carrying on a trade or business if 20% or more in value of the voting stock of the corporation is included in the gross estate of the decedent or the corporation had no more than 45 shareholders.

The partnership or corporation must be carrying on a trade or business at the time of the decedent's death. For further information on whether certain partnerships or corporations owning real property interests constitute a closely-held business, see Rev. Rul. 2006-34, 2006-26 I.R.B. 1171, available at www.irs.gov/pub/irs-irbs/irb06-26.pdf.

In determining the number of partners or shareholders, a partnership or stock interest is treated as owned by one partner or shareholder if it is community property or held by a husband and wife as joint tenants, tenants in common, or as tenants by the entirety.

Property owned directly or indirectly by or for a corporation, partnership, estate, or trust is treated as owned proportionately by or for its shareholders, partners, or beneficiaries. For trusts, only beneficiaries with present interests are considered.

The interest in a closely-held farm business includes the interest in the residential buildings and related improvements occupied regularly by the owners, lessees, and employees operating the farm.

Holding company stock. The executor may elect to treat as business company stock the portion of any holding company stock that represents direct ownership (or indirect ownership through one or more other holding companies) in a business company. A *holding company* is a corporation holding stock in another corporation. A *business company* is a corporation carrying on a trade or business.

In general, this election applies only to stock that is not readily tradable. However, the election can be made if the business company stock is readily tradable, as long as all of the stock of each holding company is not readily tradable.

For purposes of the 20% voting stock requirement, stock is treated as voting stock to the extent the holding company owns voting stock in the business company.

If the executor makes this election, the first installment payment is due when the estate tax return is filed. The 5-year deferral for payment of the tax, as discussed later under *Time for payment,* does not apply. In addition, the 2% interest rate, discussed later under *Interest computation,* will not apply. Also, if the business company stock is readily tradable, as explained above, the tax must be paid in five installments.

Determine how much of the estate tax may be paid in installments under section 6166. To determine whether the election may be made, you must calculate the adjusted gross estate. (See, *Line 3 Worksheet —Adjusted Gross Estate,* later.) To determine the value of the adjusted gross estate, subtract the deductions (Schedules J, K, and L) from the value of the gross estate.

DRAFT AS OF June 16, 2016

To determine over how many installments the estate tax may be paid, please refer to sections 6166(a), (b)(7), (b)(8), and (b)(10).

Time for payment. Under the installment method, the executor may elect to defer payment of the qualified estate tax, but not interest, for up to 5 years from the original payment due date. After the first installment of tax is paid, you must pay the remaining installments annually by the date 1 year after the due date of the preceding installment. There can be no more than 10 installment payments.

Interest on the unpaid portion of the tax is not deferred and must be paid annually. Interest must be paid at the same time as and as a part of each installment payment of the tax.

Acceleration of payments. If the estate fails to make payments of tax or interest within 6 months of the due date, the IRS may terminate the right to make installment payments and force an acceleration of payment of the tax upon notice and demand.

Generally, if any portion of the interest in the closely-held business which qualifies for installment payments is distributed, sold, exchanged, or otherwise disposed of, or money and other property attributable to such an interest is withdrawn, and the aggregate of those events equals or exceeds 50% of the value of the interest, then the right to make installment payments will be terminated, and the unpaid portion of the tax will be due upon notice and demand. See section 6166(g)(1)(A).

Interest computation. A special interest rate applies to installment payments. For decedents dying in 2016, the interest rate is 2% on the lesser of:

- $592,000 or
- The amount of the estate tax that is attributable to the closely-held business and that is payable in installments.

2% portion. The *2% portion* is an amount equal to the amount of the tentative estate tax (on $1,000,000 plus the applicable exclusion amount in effect) minus the applicable credit amount in effect. However, if the amount of estate tax extended under section 6166 is less than the amount figured above, the 2% portion is the lesser amount.

Inflation adjustment. The $1,000,000 amount used to calculate the 2% portion is indexed for inflation for the estates of decedents who died in a calendar year after 1998. For an estate of a decedent who died in 2016, the dollar amount used to determine the "2% portion" of the estate tax payable in installments under section 6166 is $1,480,000.

Computation. Interest on the portion of the tax in excess of the 2% portion is figured at 45% of the annual rate of interest on underpayments. This rate is based on the federal short-term rate and is announced quarterly by the IRS in the Internal Revenue Bulletin.

If you elect installment payments and the estate tax due is more than the maximum amount to which the 2% interest rate applies, each installment payment is deemed to comprise both tax subject to the 2% interest rate and tax subject to 45% of the regular underpayment rate. The amount of each installment that is subject to the 2% rate is the same as the percentage of total tax payable in installments that is subject to the 2% rate.

CAUTION *The interest paid on installment payments is not deductible as an administrative expense of the estate.*

Making the election. If you check this line to make a final election, you must attach the notice of election described in Regulations section 20.6166-1(b). If you check this line to make a protective election, you must attach a notice of protective election as described in Regulations section 20.6166-1(d). Regulations section 20.6166-1(b) requires that the notice of election is made by attaching to a timely filed estate tax return the following information:

- The decedent's name and taxpayer identification number as they appear on the estate tax return;
- The amount of tax that is to be paid in installments;
- The date selected for payment of the first installment;
- The number of annual installments, including first installment, in which the tax is to be paid;
- The properties shown on the estate tax return that are the closely-held business interest (identified by schedule and item number); and
- The facts that formed the basis for the executor's conclusion that the estate qualifies for payment of the estate tax in installments.

You may also elect to pay certain GST taxes in installments. See section 6166(i).

Line 4. Reversionary or Remainder Interests

For details of this election, see section 6163 and the related regulations.

Line 3 Worksheet—Adjusted Gross Estate

1	What is the value of the decedent's interest in closely-held business(es) included in the gross estate (less value of passive assets, as mentioned in section 6166(b)(9))?	
2	What is the value of the gross estate (Form 706, page 3, Part 5, line 13)?	
3	Add lines 18, 19, and 20 from Form 706, page 3, Part 5.	
4	Subtract line 3 from line 2 to calculate the adjusted gross estate.	
5	Divide line 1 by line 4 to calculate the value the business interest bears to the value of the adjusted gross estate. For purposes of this calculation, carry the decimal to the sixth place; the IRS will make this adjustment for purposes of determining the correct amount. If this amount is less than 0.350000, the estate does not qualify to make the election under section 6166.	
6	Multiply line 5 by the amount on line 16 of Form 706, page 1, Part 2. This is the maximum amount of estate tax that may be paid in installments under section 6166. (Certain GST taxes may be deferred as well; see section 6166(i) for more information.)	

Part 4—General Information

Authorization

Completing the authorization will authorize one attorney, accountant, or enrolled agent to represent the estate and receive confidential tax information, but will not authorize the representative to enter into closing agreements for the estate. If you would like to authorize your representative to enter into agreements or perform other designated acts on behalf of the estate, you must file Form 2848 with Form 706.

Note. If you intend for the representative to represent the estate before the IRS, he or she must complete and sign this authorization.

DRAFT AS OF June 16, 2016

Complete and attach Form 2848 if you would like to authorize:

- Persons other than attorneys, accountants, or enrolled agents to represent the estate, or
- More than one person to receive confidential information or represent the estate, or
- Someone to sign agreements, consents, waivers or other documents for the estate.

Filing a completed Form 2848 with this return may expedite processing of the Form 706.

If you wish only to authorize someone to inspect and/or receive confidential tax information (but not to represent you before the IRS), complete and file Form 8821.

DRAFT AS OF June 16, 2016

Line 3

Enter the marital status of the decedent at the time of death by checking the appropriate box on line 3a. If the decedent was married at the time of death, complete line 4. If the decedent had one or more prior marriages, complete line 3b by providing the name and SSN of each former spouse, the date(s) the marriage ended, and specify whether the marriage ended by annulment, divorce decree, or death of spouse. If the prior marriage ended in death and the predeceased spouse died after December 31, 2010, complete Part 6 — Portability of Deceased Spousal Unused Exclusion, Section D if the estate of the predeceased spouse elected to allow the decedent to use any unused exclusion amount. For more information, see section 2010(c)(4) and related regulations.

Line 4

Complete line 4 whether or not there is a surviving spouse and whether or not the surviving spouse received any benefits from the estate. If there was no surviving spouse on the date of decedent's death, enter "None" in line 4a and leave lines 4b and 4c blank. The value entered in line 4c need not be exact. See the instructions for "Amount" under line 5 later.

Note. Do not include any DSUE amount transferred to the surviving spouse in the total entered on line 4c.

Line 5

Name. Enter the name of each individual, trust, or estate that received (or will receive) benefits of $5,000 or more from the estate directly as an heir, next-of-kin, devisee, or legatee; or indirectly (for example, as beneficiary of an annuity or insurance policy, shareholder of a corporation, or partner of a partnership that is an heir, etc.).

Identifying number. Enter the SSN of each individual beneficiary listed. If the number is unknown, or the individual has no number, please indicate "unknown" or "none." For trusts and other estates, enter the Employer Identification Number (EIN).

Relationship. For each individual beneficiary, enter the relationship (if known) to the decedent by reason of blood, marriage, or adoption. For trust or estate beneficiaries, indicate "TRUST" or "ESTATE."

Amount. Enter the amount actually distributed (or to be distributed) to each beneficiary including transfers during the decedent's life from Schedule G required to be included in the gross estate. The value to be entered need not be exact. A reasonable estimate is sufficient. For example, where precise values cannot readily be determined, as with certain future interests, a reasonable approximation should be entered. The total of these distributions should approximate the amount of gross estate reduced by funeral and administrative expenses, debts and mortgages, bequests to surviving spouse, charitable bequests, and any federal and state estate and GST taxes paid (or payable) relating to the benefits received by the beneficiaries listed on lines 4 and 5.

All distributions of less than $5,000 to specific beneficiaries may be included with distributions to unascertainable beneficiaries on the line provided.

Line 6. Protective Claim for Refund

If you answered "Yes," complete Schedule PC for each claim. Two copies of each Schedule PC must be filed with the return.

A protective claim for refund may be filed when there is an unresolved claim or expense that will not be deductible under section 2053 before the expiration of the period of limitation under section 6511(a). To preserve the estate's right to a refund once the claim or expense has been finally determined, the protective claim must be filed before the end of the limitations period. For more information on how to file a protective claim for refund with this Form 706, see the instructions for *Schedule PC,* later.

Line 7. Section 2044 Property

If you answered "Yes," these assets must be shown on Schedule F.

Section 2044 property is property for which a previous section 2056(b)(7) election (QTIP election) has been made, or for which a similar gift tax election (section 2523) has been made. For more information, see the instructions for Schedule F, later.

Line 9. Insurance Not Included in the Gross Estate

If you answered "Yes," to either line 9a or 9b, for each policy you must complete and attach Schedule D, Form 712, and an explanation of why the policy or its proceeds are not includible in the gross estate.

Line 11. Partnership Interests and Stock in Close Corporations

If you answered "Yes," on line 11a, you must include full details for partnerships (including family limited partnerships), unincorporated businesses, and limited liability companies on Schedule F (Schedule E if the partnership interest is jointly owned). Also include full details for fractional interests in real estate on Schedule A and for stock of inactive or close corporations on Schedule B.

Value these interests using the rules of Regulations section 20.2031-2 (stocks) or 20.2031-3 (other business interests).

A *close corporation* is a corporation whose shares are owned by a limited number of shareholders. Often, one family holds the entire stock issue. As a result, little, if any, trading of the stock takes place. There is, therefore, no established market for the stock, and those sales that do occur are at irregular intervals and seldom reflect all the elements of a representative transaction as defined by FMV.

Line 13. Trusts

If you answered "Yes," on either line 13a or line 13b, attach a copy of the trust instrument for each trust.

Complete Schedule G if you answered "Yes," on line 13a and Schedule F if you answered "Yes," on line 13b.

Line 15. Foreign Accounts

Check "Yes," on line 15 if the decedent at the time of death had an interest in or signature or other authority over a financial account in a foreign country, such as a bank account, securities

Table of Estimated Values

If the total estimated value of the assets eligible for the special rule under Reg. section 20.2010-2(a)(7)(ii) is more than	But less than or equal to	Include this amount on lines 10 and 23:
$0	$250,000	$250,000
$250,000	$500,000	$500,000
$500,000	$750,000	$750,000
$750,000	$1,000,000	$1,000,000
$1,000,000	$1,250,000	$1,250,000
$1,250,000	$1,500,000	$1,500,000
$1,500,000	$1,750,000	$1,750,000
$1,750,000	$2,000,000	$2,000,000
$2,000,000	$2,250,000	$2,250,000
$2,250,000	$2,500,000	$2,500,000
$2,500,000	$2,750,000	$2,750,000
$2,750,000	$3,000,000	$3,000,000
$3,000,000	$3,250,000	$3,250,000
$3,250,000	$3,500,000	$3,500,000
$3,500,000	$3,750,000	$3,750,000
$3,750,000	$4,000,000	$4,000,000
$4,000,000	$4,250,000	$4,250,000
$4,250,000	$4,500,000	$4,500,000
$4,500,000	$4,750,000	$4,750,000
$4,750,000	$5,000,000	$5,000,000
$5,000,000	$5,250,000	$5,250,000
$5,250,000	$5,450,000	$5,450,000

DRAFT AS OF June 16, 2016

account, an offshore trust, or other financial account.

Part 5—Recapitulation

Gross Estate—Items 1 through 11

Items 1 through 9. You must make an entry in each of items 1 through 9.

If the gross estate does not contain any assets of the type specified by a given item, enter zero for that item. Entering zero for any of items 1 through 9 is a statement by the executor, made under penalties of perjury, that the gross estate does not contain any includible assets covered by that item.

Do not enter any amounts in the "Alternate value" column unless you elected alternate valuation on line 1 of Part 3—Elections by the Executor.

Note. If estimating the value of one or more assets pursuant to the special rule of Regulations section 20.2010-2(a)(7)(ii), do not enter values for those assets in items 1 through 9. Total the estimated values for those assets and follow the instructions for item 10.

Which schedules to attach for items 1 through 9. You must attach:

- Schedule F. Answer its questions even if you report no assets on it;
- Schedules A, B, and C, if the gross estate includes any (1) Real Estate, (2) Stocks and Bonds, or (3) Mortgages, Notes, and Cash, respectively;
- Schedule D, if the gross estate includes any life insurance or if you answered "Yes," to question 9a of Part 4—General Information;
- Schedule E, if the gross estate contains any jointly-owned property or if you answered "Yes," to question 10 of Part 4;
- Schedule G, if the decedent made any of the lifetime transfers to be listed on that schedule or if you answered "Yes," to question 12 or 13a of Part 4;
- Schedule H, if you answered "Yes," to question 14 of Part 4; and
- Schedule I, if you answered "Yes," to question 16 of Part 4.

Item 10. Under Regulations section 20.2010-2(a)(7)(ii), if the total value of the gross estate and adjusted taxable gifts is less than the basic exclusion amount (see section 6018(a)) and Form 706 is being filed only to elect portability of the DSUE amount, the estate is not required to report the value of certain property eligible for the marital or charitable deduction. For this property being reported on Schedules A, B, C, D, E, F, G, H, and I, the executor must calculate his or her best estimate of the value. Do not include the estimated value on the line corresponding to the schedule on which the property was reported. Instead, total the estimated value of the assets subject to the special rule and enter on line 10 the amount from the Table of Estimated Values, later, that corresponds to that total.

Note. The special rule does not apply if the valuation of the asset is needed to determine the estate's eligibility for the provisions of sections 2032, 2032A, 2652(a)(3), 6166, or any other provision of the Code or Regulations.

Note. As applies to all other values reported on Form 706, estimates of the value of property subject to the special rule of Regulations section 20.2010-2(a)(7)(ii) must result from the executor's exercise of due diligence and are subject to penalties of perjury.

Exclusion — Item 12

Item 12. Conservation easement exclusion. Complete and attach Schedule U (along with any required attachments) to claim the exclusion on this line.

Deductions — Items 14 through 23

Items 14 through 22. Attach the appropriate schedules for the deductions claimed.

Item 18. If item 17 is less than or equal to the value (at the time of the decedent's death) of the property subject to claims, enter the amount from item 17 on item 18.

If the amount on item 17 is more than the value of the property subject to claims, enter the greater of:

- The value of the property subject to claims or
- The amount actually paid at the time the return is filed.

In no event should you enter more on item 18 than the amount on item 17.

See section 2053 and the related regulations for more information.

Item 23. Under Regulations section 20.2010-2(a)(7)(ii), if the total value of the gross estate and adjusted taxable gifts is less than the basic exclusion amount (see section 6018(a)) and Form 706 is being filed only to elect portability of the DSUE amount, the estate is not required to report the value of certain property eligible for the marital or charitable deduction. For this property being reported on Schedule M or O, enter on line 23 the amount from line 10.

Part 6—Portability of Deceased Spousal Unused Exclusion (DSUE)

Section 303 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 authorized estates of decedents dying after December 31, 2010, to elect to transfer any unused exclusion to the surviving spouse. The amount received by the surviving spouse is called the *deceased spousal unused exclusion*, or DSUE, amount. If the executor of the decedent's estate elects transfer, or portability, of the DSUE amount, the surviving spouse can apply the DSUE amount received from the estate of his or her last deceased spouse (defined later) against any tax liability arising from subsequent lifetime gifts and transfers at death.

Note. A nonresident surviving spouse who is not a citizen of the United States may not take into account the DSUE amount of a deceased spouse, except to the extent allowed by treaty with his or her country of citizenship.

Last Deceased Spouse Limitation

The *last deceased spouse* is the most recently deceased person who was married to the surviving spouse at the time of that person's death. The identity of the last deceased spouse is determined as of the day a taxable gift is made, or in the case of a transfer at death, the date of the surviving spouse's death. The identity of the last deceased spouse is not impacted by whether the decedent's estate elected portability or whether the last deceased spouse had any DSUE amount available. Remarriage also does not affect the designation of the last deceased spouse and does not prevent the surviving spouse from applying the DSUE amount to taxable transfers.

When a taxable gift is made, the DSUE amount received from the last deceased spouse is applied before the surviving spouse's basic exclusion amount. A surviving spouse may use the DSUE amount of the last deceased spouse to offset the tax on any taxable transfer made after the deceased spouse's death. A surviving spouse who has more than one predeceased spouse is not precluded from using the DSUE amount of each spouse in succession. A surviving spouse may not use the sum of DSUE amounts from multiple predeceased spouses at one time nor may the DSUE amount of a predeceased spouse be applied after the death of a subsequent spouse.

Making the Election

A timely-filed and complete Form 706 is required to elect portability of the DSUE amount to a surviving spouse. The filing requirement applies to all estates of decedents choosing to elect portability of the DSUE amount, regardless of the size of the estate. A timely-filed return is one that is filed on or before the due date of the return, including extensions.

The timely filing of a complete Form 706 with DSUE will be deemed a portability election if there is a surviving spouse. The election is effective as of the decedent's date of death, so the DSUE amount received by a surviving spouse may be applied to any transfer occurring after the decedent's death. A portability election is irrevocable, unless an adjustment or amendment to the election is made on a subsequent return filed on or before the due date.

Note. Under Regulations section 20.2010-2(a)(5), the executor of an estate of a nonresident decedent who was not a citizen of the United States at the time of death cannot make a portability election.

If an executor is appointed, qualified, and acting with the United States on behalf of the decedent's estate, only that executor may make or opt out of a portability election. If there is no executor, see Regulations section 20.2010-2(a)(6)(ii).

Opting Out

If an estate files a Form 706 but does not wish to make the portability election, the executor can opt out of the portability election by checking the box indicated in Section A of this Part. If no return is required under section 6018(a), not filing Form 706 will avoid making the election.

Computing the DSUE Amount

Regulations section 20.2010-2(b)(1) requires that a decedent's DSUE be computed on the estate tax return. The DSUE amount is the lesser of (A) the basic exclusion amount in effect on the date of death of the decedent whose DSUE is being computed, or (B) the decedent's applicable exclusion amount less the amount on line 5 of Part 2–Tax Computation on the Form 706 for the estate of the decedent. Amounts on which gift taxes were paid are excluded from adjusted taxable gifts for the purpose of this computation.

When a surviving spouse applies the DSUE amount to a lifetime gift or bequest at death, the IRS may examine any return of a predeceased spouse whose executor elected portability to verify the allowable DSUE amount. The DSUE amount may be adjusted or eliminated as a result of the examination; however, the IRS may only make an assessment of additional tax on the return of the predeceased spouse within the applicable limitations period under section 6501.

Special Rule Where Value of Certain Property Not Required to Be Reported on Form 706

The regulations provide that executors of estates who are not otherwise required to file Form 706 under section 6018(a) do not have to report the value of certain property qualifying for the marital or charitable deduction. For such property, the executor may estimate the value in good faith and with the due diligence to be afforded all assets includible in the gross estate. The amount reported on Form 706 will correspond to a range of dollar values and will be included in the value of the gross estate shown on line 1 of Part 2-Tax Computation. See instructions for lines 10 and 23 of *Part 5-Recapitulation*, above, for more details.

Specific Instructions

Portability Election. If you intend to elect portability of the DSUE amount, timely filing a complete Form 706 is all that is required. Complete section B if any assets of the estate are being transferred to a qualified domestic trust and complete section C of this Part to calculate the DSUE amount that will be transferred to the surviving spouse.

Section A. Opting Out of Portability. If you are filing Form 706 and do not wish to elect portability, then check the box indicated. Do not complete sections B or C.

DRAFT AS OF June 16, 2016

Schedule A–Example 1

In this example, alternate valuation is not adopted; the date of death is January 1, 2016.				
Item number	**Description**	**Alternate valuation date**	**Alternate value**	**Value at date of death**
1	House and lot, 1921 William Street, NW, Washington, DC (lot 6, square 481). Rent of $8,100 due at the end of each quarter, February 1, May 1, August 1, and November 1. Value based on appraisal, copy of which is attached			$550,000
	Rent due on item 1 for quarter ending November 1, 2015, but not collected at date of death			8,100
	Rent accrued on Item 1 for November and December 2015			5,400
2	House and lot, 304 Jefferson Street, Alexandria, VA (lot 18, square 40). Rent of $1,800 payable monthly. Value based on appraisal, copy of which is attached			375,000
	Rent due on Item 2 for December 2015, but not collected at death			1,800

DRAFT AS OF June 16, 2016

Section B. Portability and Qualified Domestic Trusts. A *qualified domestic trust* (QDOT) allows the estate of a decedent to bequeath property to surviving spouse who is not a citizen of the United States and still receive a marital deduction. When property passes to a QDOT, estate tax is imposed under section 2056A as distributions are made from the trust. When a QDOT is established and there is a DSUE amount, the executor of the decedent's estate will determine a preliminary DSUE amount for the purpose of electing portability. This amount will decrease as section 2056A distributions are made. In estates with a QDOT, the DSUE amount generally may not be applied against tax arising from lifetime gifts because it will not be available to the surviving spouse until it is finally determined, usually upon the death of the surviving spouse or when the QDOT is terminated.

Note. If a surviving spouse who is not a citizen of the United States becomes a citizen and the section 2056A tax no longer applies to the assets of the QDOT, as of the date the surviving spouse becomes a U.S. citizen, the DSUE amount is considered final and is available for application by the surviving spouse. See Regulations sections 20.2010-2(c)(4), 20.2010-3(c)(3), and 25.2505-2(d)(3).

Check the appropriate box in this section and see the instructions for Schedule M if more information is needed about qualified domestic trusts.

Section C. DSUE Amount Portable to Decedent's Surviving Spouse. Complete section C only if electing portability of the DSUE amount to the surviving spouse.

On line 1, enter the decedent's applicable exclusion amount from Part 2—Tax Computation, line 9c. Under section 2010(c)(2), the *applicable exclusion amount* is the sum of the basic exclusion amount for the year of death and any DSUE amount received from a predeceased spouse, if applicable.

Line 2 is reserved.

On line 3, enter the value of the cumulative lifetime gifts on which gift tax was paid or payable. This amount is figured on line 6 of the Line 7 Worksheet Part B as the total of Row (r) from Line 7 Worksheet Part A. Enter the amount as it appears on line 6 of the Line 7 Worksheet Part B

Figure the unused exclusion amount on line 9. The DSUE amount available to the surviving spouse will be the lesser of this amount or the basic exclusion amount shown on line 9a of Part 2—Tax Computation. Enter the DSUE amount as determined on line 10.

Section D. DSUE Amount Received from Predeceased Spouse(s). Complete section D if the decedent was a surviving spouse who received a DSUE amount from one or more predeceased spouse(s).

Section D requests information on all DSUE amounts received from the decedent's last deceased spouse and any previously deceased spouses. Each line in the chart should reflect a different predeceased spouse; enter the calendar year(s) in column F. In Part 1, provide information on the decedent's last deceased spouse. In Part 2, provide information as requested if the decedent had any other predeceased spouse whose executor made the portability election. Any remaining DSUE amount which was not used prior to the death of a subsequent spouse is not considered in this calculation and cannot be applied against any taxable transfer. In column E, total only the amounts of DSUE received and used from spouses who died before the decedent's last deceased spouse. Add this amount to the amount from Part 1, column D, if any, to determine the decedent's total DSUE amount.

Schedule A—Real Estate

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

If the total gross estate contains any real estate, complete Schedule A and file it with the return. On Schedule A, list real estate the decedent owned or had contracted to purchase. Number each parcel in the left-hand column.

Describe the real estate in enough detail so that the IRS can easily locate it for inspection and valuation. For each parcel of real estate, report the area and, if the parcel is improved, describe the improvements. For city or town property, report the street and number, ward, subdivision, block and lot, etc. For rural property, report the township, range, landmarks, etc.

If any item of real estate is subject to a mortgage for which the decedent's estate is liable, that is, if the indebtedness may be charged against other property of the estate that is not subject to that mortgage, or if the decedent was personally liable for that mortgage, you must report the full value of the property in the value column. Enter the amount of the mortgage under "Description" on this schedule. The unpaid amount of the mortgage may be deducted on Schedule K.

If the decedent's estate is not liable for the amount of the mortgage, report only the value of the equity of redemption (or value of the property

Schedule A–Example 2

In this example, alternate valuation is adopted; the date of death is January 1, 2016.				
Item number	**Description**	**Alternate valuation date**	**Alternate value**	**Value at date of death**
1	House and lot, 1921 William Street, NW, Washington, DC (lot 6, square 481). Rent of $8,100 due at the end of each quarter, February 1, May 1, August 1, and November 1. Value based on appraisal, copy of which is attached. Not disposed of within 6 months of date of death	7/1/16	$535,000	$550,000
	Rent due on item 1 for quarter ending November 1, 2015, but not collected until February 1, 2016	2/1/16	8,100	8,100
	Rent accrued on Item 1 for November and December 2015, collected on February 1, 2016	2/1/16	5,400	5,400
2	House and lot, 304 Jefferson Street, Alexandria, VA (lot 18, square 40). Rent of $1,800 payable monthly. Value based on appraisal, copy of which is attached. Property exchanged for farm on May 1, 2016	5/1/16	369,000	375,000
	Rent due on Item 2 for December 2015, but not collected until February 1, 2016	2/1/16	1,800	1,800

DRAFT AS OF June 16, 2016

less the indebtedness) in the value column as part of the gross estate. Do not enter any amount less than zero. Do not deduct the amount of indebtedness on Schedule K.

Also list on Schedule A real property the decedent contracted to purchase. Report the full value of the property and not the equity in the value column. Deduct the unpaid part of the purchase price on Schedule K.

Report the value of real estate without reducing it for homestead or other exemption, or the value of dower, curtesy, or a statutory estate created instead of dower or curtesy.

Explain how the reported values were determined and attach copies of any appraisals.

Schedule A-1—Section 2032A Valuation

The election to value certain farm and closely-held business property at its special-use value is made by checking "Yes," on Form 706, Part 3—Elections by the Executor, line 2. Schedule A-1 is used to report the additional information that must be submitted to support this election. In order to make a valid election, you must complete Schedule A-1 and attach all of the required statements and appraisals.

For definitions and additional information concerning special-use valuation, see section 2032A and the related regulations.

Part 1. Type of Election

Estate and GST tax elections. If you elect special-use valuation for the estate tax, you must also elect special-use valuation for the Generation-Skipping Transfer (GST) tax and vice versa.

Protective election. To make the protective election described in the separate instructions for Part 3—Elections by the Executor, line 2, you must check the box in Part 1. Type of Election, enter the decedent's name and social security number in the spaces provided at the top of Schedule A-1, and complete Part 2. Notice of Election, line 1 and lines 3 and 4, column A. For purposes of the protective election, list on line 3 all of the real property that passes to the qualified heirs even though some of the property will be shown on line 2 when the additional notice of election is subsequently filed. You need not complete columns B through D of lines 3 and 4. You need not complete any other line entries on Schedule A-1. Completing Schedule A-1 as described above constitutes a Notice of Protective Election as described in Regulations section 20.2032A-8(b).

Part 2. Notice of Election

Line 10. Because the special-use valuation election creates a potential tax liability for the recapture tax of section 2032A(c), you must list each person who receives an interest in the specially valued property on Schedule A-1. If there are more than eight persons who receive interests, use an additional sheet that follows the format of line 10. In the columns "Fair market value" and "Special-use value," enter the total respective values of all the specially valued property interests received by each person.

GST Tax Savings

To figure the additional GST tax due upon disposition (or cessation of qualified use) of the property, each "skip person" (as defined in the instructions to Schedule R) who receives an interest in the specially valued property must know the total GST tax savings all interests in specially valued property received. The GST tax savings is the difference between the total GST tax that was imposed on all interests in specially valued property received by the skip person valued at their special-use value and the total GST tax that would have been imposed on the same interests received by the skip person had they been valued at their FMV.

Because the GST tax depends on the executor's allocation of the GST exemption and the grandchild exclusion, the skip person who receives the interests is unable to figure this GST tax savings. Therefore, for each skip person who receives an interest in specially valued property, you must attach a calculation of the total GST tax savings attributable to that person's interests in specially valued property.

How to figure the GST tax savings. Before figuring each skip person's GST tax savings, complete Schedules R and R-1 for the entire estate (using the special-use values).

For each skip person, complete two Schedules R (Parts 2 and 3 only) as worksheets, one showing the interests in specially valued property received by the skip person at their special-use value and one showing the same interests at their FMV.

If the skip person received interests in specially valued property that were shown on Schedule R-1, show these interests on the Schedule R, Parts 2 and 3 worksheets, as appropriate. Do not use Schedule R-1 as a worksheet.

Completing the special-use value worksheets. On Schedule R, Parts 2 and 3, lines 2 through 4 and 6, enter -0-.

Completing the fair market value worksheets.

- *Schedule R, Parts 2 and 3, lines 2 and 3, fixed taxes and other charges.* If valuing the interests at FMV (instead of

special-use value) causes any of these taxes and charges to increase, enter the increased amount (only) on these lines and attach an explanation of the increase. Otherwise, enter -0-.

- *Schedule R, Parts 2 and 3, line 6—GST exemption allocation.* If you completed Schedule R, Part 1, line 10, enter on line 6 the amount shown for the skip person on the line 10 special-use allocation schedule you attached to Schedule R. If you did not complete Schedule R, Part 1, line 10, enter -0- on line 6.

Total GST tax savings. For each skip person, subtract the tax amount on line 10, Part 2 of the special-use value worksheet from the tax amount on line 10, Part 2 of the fair market value worksheet. This difference is the skip person's total GST tax savings.

Part 3. Agreement to Special Valuation Under Section 2032A

The agreement to special valuation is required under sections 2032A(a)(1)(B) and (d)(2) and must be signed by all parties who have any interest in the property being valued based on its qualified use as of the date of the decedent's death.

An interest in property is an interest that, as of the date of the decedent's death, can be asserted under applicable law so as to affect the disposition of the specially valued property by the estate. Any person who at the decedent's death has any such interest in the property, whether present, future, vested, or contingent, must enter into the agreement. Included are owners of remainder and executory interests; the holders of general or special powers of appointment; beneficiaries of a gift over in default of exercise of any such power; joint tenants and holders of similar undivided interests when the decedent held only a joint or undivided interest in the property or when only an undivided interest is specially valued; and trustees of trusts and representatives of other entities holding title to or any interests in the property. An heir who has the power under local law to challenge a will and thereby affect disposition of the property is not, however, considered to be a person with an interest in property under section 2032A solely by reason of that right. Likewise, creditors of an estate are not such persons solely by reason of their status as creditors.

If any person required to enter into the agreement either desires that an agent act for him or her or cannot legally bind himself or herself due to infancy or other incompetency, or due to death before the election under section 2032A is timely exercised, a representative authorized by local law to bind the person in an agreement of this nature may sign the agreement on his or her behalf.

The IRS will contact the agent designated in the agreement on all matters relating to continued qualification under section 2032A of the specially valued real property and on all matters relating to the special lien arising under section 6324B. It is the duty of the agent as attorney-in-fact for the parties with interests in the specially valued property to furnish the IRS with any requested information and to notify the IRS of any disposition or cessation of qualified use of any part of the property.

Checklist for Section 2032A Election

CAUTION *When making the special-use valuation election on Schedule A-1, please use this checklist to ensure that you are providing everything necessary to make a valid election.*

To have a valid special-use valuation election under section 2032A, you must file, in addition to the federal estate tax return, (a) a notice of election (Schedule A-1, Part 2), and (b) a fully executed agreement (Schedule A-1, Part 3). You must include certain information in the notice of election. To ensure that the notice of election includes all of the information required for a valid election, use the following checklist. The checklist is for your use only. Do not file it with the return.

- ☐ Does the notice of election include the decedent's name and social security number as they appear on the estate tax return?
- ☐ Does the notice of election include the relevant qualified use of the property to be specially valued?
- ☐ Does the notice of election describe the items of real property shown on the estate tax return that are to be specially valued and identify the property by the Form 706 schedule and item number?
- ☐ Does the notice of election include the FMV of the real property to be specially valued and also include its value based on the qualified use (determined without the adjustments provided in section 2032A(b)(3)(B))?
- ☐ Does the notice of election include the adjusted value (as defined in section 2032A(b)(3)(B)) of (a) all real property that both passes from the decedent and is used in a qualified use, without regard to whether it is to be specially valued, and (b) all real property to be specially valued?
- ☐ Does the notice of election include (a) the items of personal property shown on the estate tax return that pass from the decedent to a qualified heir and that are used in qualified use and (b) the total value of such personal property adjusted under section 2032A(b)(3)(B)?
- ☐ Does the notice of election include the adjusted value of the gross estate? (See section 2032A(b)(3)(A).)
- ☐ Does the notice of election include the method used to determine the special-use value?
- ☐ Does the notice of election include copies of written appraisals of the FMV of the real property?
- ☐ Does the notice of election include a statement that the decedent and/or a member of his or her family has owned all of the specially valued property for at least 5 years of the 8 years immediately preceding the date of the decedent's death?

DRAFT AS OF June 16, 2016

☐ Does the notice of election include a statement as to whether there were any periods during the 8-year period preceding the decedent's date of death during which the decedent or a member of his or her family did not (a) own the property to be specially valued, (b) use it in a qualified use, or (c) materially participate in the operation of the farm or other business? (See section 2032A(e)(6).)

☐ Does the notice of election include, for each item of specially valued property, the name of every person who has an interest in that item of specially valued property and the following information about each such person: (a) the person's address, (b) the person's taxpayer identification number, (c) the person's relationship to the decedent, and (d) the value of the property interest passing to that person based on both FMV and qualified use?

☐ Does the notice of election include affidavits describing the activities constituting material participation and the identity of the material participants?

☐ Does the notice of election include a legal description of each item of specially valued property?

(In the case of an election made for qualified woodlands, the information included in the notice of election must include the reason for entitlement to the Woodlands election.)

Any election made under section 2032A will not be valid unless a properly executed agreement (Schedule A-1, Part 3) is filed with the estate tax return. To ensure that the agreement satisfies the requirements for a valid election, use the following checklist:

☐ Has the agreement been signed by each qualified heir having an interest in the property being specially valued?

☐ Has every qualified heir expressed consent to personal liability under section 2032A(c) in the event of an early disposition or early cessation of qualified use?

☐ Is the agreement that is actually signed by the qualified heirs in a form that is binding on all of the qualified heirs having an interest in the specially valued property?

☐ Does the agreement designate an agent to act for the parties to the agreement in all dealings with the IRS on matters arising under section 2032A?

☐ Has the agreement been signed by the designated agent and does it give the address of the agent?

Schedule B—Stocks and Bonds

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

TIP *Before completing Schedule B, see the examples illustrating the alternate valuation dates being adopted and not being adopted, later.*

If the total gross estate contains any stocks or bonds, you must complete Schedule B and file it with the return.

On Schedule B, list the stocks and bonds included in the decedent's gross estate. Number each item in the left-hand column.

Note. Unless specifically exempted by an estate tax provision of the Code, bonds that are exempt from federal income tax are not exempt from estate tax. You should list these bonds on Schedule B.

Public housing bonds includible in the gross estate must be included at their full value.

If you paid any estate, inheritance, legacy, or succession tax to a foreign country on any stocks or bonds included in this schedule, group those stocks and bonds together and label them "Subjected to Foreign Death Taxes."

List interest and dividends on each stock or bond on a separate line.

Indicate as a separate item dividends that have not been collected at death and are payable to the decedent or the estate because the decedent was a stockholder of record on the date of death. However, if the stock is being traded on an exchange and is selling ex-dividend on the date of the decedent's death, do not include the amount of the dividend as a separate item. Instead, add it to the ex-dividend quotation in determining the FMV of the stock on the date of the decedent's death. Dividends declared on shares of stock before the death of the decedent but payable to stockholders of record on a date after the decedent's death are not includible in the gross estate for federal estate tax purposes and should not be listed here.

Description

Stocks. For stocks, indicate:
- Number of shares;
- Whether common or preferred;
- Issue;
- Par value where needed for identification;
- Price per share;
- Exact name of corporation;
- Principal exchange upon which sold, if listed on an exchange; and
- Nine-digit CUSIP number (defined later).

Bonds. For bonds, indicate:
- Quantity and denomination;
- Name of obligor;
- Date of maturity;
- Interest rate;
- Interest due date;
- Principal exchange, if listed on an exchange; and
- Nine-digit CUSIP number.

If the stock or bond is unlisted, show the company's principal business office.

If the gross estate includes any interest in a trust, partnership, or closely-held entity, provide the employer identification number (EIN) of

DRAFT AS OF June 18, 2013

Schedule B Examples

Example showing use of Schedule B where the alternate valuation is not adopted; date of death, January 1, 2016

Item number	Description, including face amount of bonds or number of shares and par value where needed for identification. Give CUSIP number. If trust, partnership, or closely-held entity, give EIN.	CUSIP number or EIN, where applicable	Unit value	Alternate valuation date	Alternate value	Value at date of death
1	$60,000-Arkansas Railroad Co. first mortgage 4%, 20-year bonds, due 2017. Interest payable quarterly on Feb. 1, May 1, Aug. 1, and Nov. 1; N.Y. Exchange	XXXXXXXXX	100	-------	$-------	$ 60,000
	Interest coupons attached to bonds, item 1, due and payable on Nov. 1, 2015, but not cashed at date of death		-------	-------	-------	600
	Interest accrued on item 1, from Nov. 1, 2015, to Jan. 1, 2016		-------	-------	-------	400
2	500 shares Public Service Corp., common; N.Y. Exchange	XXXXXXXXX	110	-------	-------	55,000
	Dividend on item 2 of $2 per share declared Dec. 10, 2015, payable on Jan. 9, 2016, to holders of record on Dec. 30, 2015		-------	-------	-------	1,000

DRAFT AS OF June 16, 2016

Example showing use of Schedule B where the alternate valuation is adopted; date of death, January 1, 2016

Item number	Description, including face amount of bonds or number of shares and par value where needed for identification. Give CUSIP number. If trust, partnership, or closely-held entity, give EIN.	CUSIP number or EIN, where applicable	Unit value	Alternate valuation date	Alternate value	Value at date of death
1	$60,000-Arkansas Railroad Co. first mortgage 4%, 20-year bonds, due 2017. Interest payable quarterly on Feb. 1, May 1, Aug. 1, and Nov. 1; N.Y. Exchange	XXXXXXXXX	100	------	$------	$ 60,000
	$30,000 of item 1 distributed to legatees on Apr. 1, 2016		99	4/1/16	29,700	------
	$30,000 of item 1 sold by executor on May 1, 2016		98	5/1/16	29,400	------
	Interest coupons attached to bonds, item 1, due and payable on Nov. 1, 2015, but not cashed at date of death. Cashed by executor on Feb. 2, 2016		------	2/2/16	600	600
	Interest accrued on item 1, from Nov. 1, 2015, to Jan. 1, 2016. Cashed by executor on Feb. 2, 2016		------	2/2/16	400	400
2	500 shares Public Service Corp., common; N.Y. Exchange	XXXXXXXXX	110	------	------	55,000
	Not disposed of within 6 months following death		90	7/1/16	45,000	------
	Dividend on item 2 of $2 per share declared Dec. 10, 2015, paid on Jan. 9, 2016, to holders of record on Dec. 30, 2015		------	1/9/16	1,000	1,000

the entity in the description column on Schedules B, E, F, G, M, and O. You must also provide the EIN of an estate (if any) in the description column on the above-noted schedules, where applicable.

The CUSIP (Committee on Uniform Security Identification Procedure) number is a nine-digit number that is assigned to all stocks and bonds traded on major exchanges and many unlisted securities. Usually, the CUSIP number is printed on the face of the stock certificate. If you do not have a stock certificate, the CUSIP may be found on the broker's or custodian's statement or by contacting the company's transfer agent.

Valuation

List the FMV of the stocks or bonds. The FMV of a stock or bond (whether listed or unlisted) is the mean between the highest and lowest selling prices quoted on the valuation date. If only the closing selling prices are available, then the FMV is the mean between the quoted closing selling price on the valuation date and on the trading day before the valuation date.

If there were no sales on the valuation date, figure the FMV as follows:

1. Find the mean between the highest and lowest selling prices on the nearest trading date before and the nearest trading date after the valuation date. Both trading dates must be reasonably close to the valuation date.

2. Prorate the difference between the mean prices to the valuation date.

3. Add or subtract (whichever applies) the prorated part of the difference to or from the mean price figured for the nearest trading date before the valuation date.

If no actual sales were made reasonably close to the valuation date, make the same computation using the mean between the bona fide bid and asked prices instead of sales prices. If actual sales prices or bona fide bid and asked prices are available within a reasonable period of time before the valuation date but not after the valuation date, or vice versa, use the mean between the highest and lowest sales prices or bid and asked prices as the FMV.

For example, assume that sales of stock nearest the valuation date (June 15) occurred 2 trading days before (June 13) and 3 trading days after (June 18). On those days, the mean sale prices per share were $10 and $15, respectively. Therefore, the price of $12 is considered the FMV of a share of stock on the valuation date. If, however, on June 13 and 18, the mean sale prices per share were $15 and $10, respectively, the FMV of a share of stock on the valuation date is $13.

If only closing prices for bonds are available, see Regulations section 20.2031-2(b).

Apply the rules in the section 2031 regulations to determine the value of inactive stock and stock in close corporations. Attach to Schedule B complete financial and other data used to determine value, including balance sheets (particularly the one nearest to the valuation date) and statements of the net earnings or operating results and dividends paid for each of the 5 years immediately before the valuation date.

Securities reported as of no value, of nominal value, or obsolete should be listed last. Include the address of the company and the state and date of the incorporation. Attach copies of correspondence or statements used to determine the "no value."

If the security was listed on more than one stock exchange, use either the records of the exchange where the security is principally traded or the composite listing of combined exchanges, if available, in a publication of general circulation. In valuing listed stocks and bonds, you should carefully check accurate records to obtain values for the applicable valuation date.

If you get quotations from brokers, or evidence of the sale of securities from the officers of the issuing companies, attach to the schedule copies of the letters furnishing these quotations or evidence of sale.

Schedule C—Mortgages, Notes, and Cash

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

Complete Schedule C and file it with your return if the total gross estate contains any:

- Mortgages,
- Notes, or
- Cash.

List on Schedule C:

- Mortgages and notes payable **to the decedent** at the time of death.
- Cash the decedent had at the date of death.

Note. Do not list mortgages and notes payable **by the decedent** on Schedule C. (If these are deductible, list them on Schedule K.)

List the items on Schedule C in the following order:

1. Mortgages;
2. Promissory notes;
3. Contracts by decedent to sell land;
4. Cash in possession; and
5. Cash in banks, savings and loan associations, and other types of financial organizations.

What to enter in the "Description" column:
For mortgages, list:

- Face value,
- Unpaid balance,
- Date of mortgage,
- Name of maker,
- Property mortgaged,
- Date of maturity,
- Interest rate, and
- Interest date.

Example to enter in "Description" column: "Bond and mortgage of $50,000, unpaid balance: $17,000; dated: January 1, 1992; John Doe to Richard Roe; premises: 22 Clinton Street, Newark, NJ; due: January 1, 2015; interest payable at 10% a year—January 1 and July 1."

For promissory notes, list in the same way as mortgages.

For contracts by the decedent to sell land, list:

- Name of purchaser,
- Contract date,
- Property description,
- Sale price,
- Initial payment,
- Amounts of installment payment,
- Unpaid balance of principal, and
- Interest rate.

For cash on hand, list such cash separately from bank deposits.

For cash in banks, savings and loan associations, and other types of financial organizations, list:

- Name and address of each financial organization,
- Amount in each account,
- Serial or account number,
- Nature of account—checking, savings, time deposit, etc., and
- Unpaid interest accrued from date of last interest payment to the date of death.

Note. If you obtain statements from the financial organizations, keep them for IRS inspection.

Schedule D—Insurance on the Decedent's Life

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

If you are required to file Form 706 and there was any insurance on the decedent's life, whether or not included in the gross estate, you must complete Schedule D and file it with the return.

Insurance you must include on Schedule D. Under section 2042, you must include in the gross estate:

- Insurance on the decedent's life receivable by or for the benefit of the estate; and
- Insurance on the decedent's life receivable by beneficiaries other than the estate, as described below.

The term "insurance" refers to life insurance of every description, including death benefits paid by fraternal beneficiary societies operating under the lodge system, and death benefits paid under no-fault automobile insurance policies if the no-fault insurer was unconditionally bound to pay the benefit in the event of the insured's death.

DRAFT AS OF June 16, 2016

Insurance in favor of the estate. Include on Schedule D the full amount of the proceeds of insurance on the life of the decedent receivable by the executor or otherwise payable to or for the benefit of the estate. Insurance in favor of the estate includes insurance used to pay the estate tax, and any other taxes, debts, or charges that are enforceable against the estate. The manner in which the policy is drawn is immaterial as long as there is an obligation, legally binding on the beneficiary, to use the proceeds to pay taxes, debts, or charges. You must include the full amount even though the premiums or other consideration may have been paid by a person other than the decedent.

Insurance receivable by beneficiaries other than the estate. Include on Schedule D the proceeds of all insurance on the life of the decedent not receivable by, or for the benefit of, the decedent's estate if the decedent possessed at death any of the following incidents of ownership, exercisable either alone or in conjunction with any person or entity.

Incidents of ownership in a policy include:

- The right of the insured or estate to its economic benefits;
- The power to change the beneficiary;
- The power to surrender or cancel the policy;
- The power to assign the policy or to revoke an assignment;
- The power to pledge the policy for a loan;
- The power to obtain from the insurer a loan against the surrender value of the policy; and
- A reversionary interest if the value of the reversionary interest was more than 5% of the value of the policy immediately before the decedent died. (An interest in an insurance policy is considered a reversionary interest if, for example, the proceeds become payable to the insured's estate or payable as the insured directs if the beneficiary dies before the insured.)

Life insurance not includible in the gross estate under section 2042 may be includible under some other section of the Code. For example, a life insurance policy could be transferred by the decedent in such a way that it would be includible in the gross estate under section 2036, 2037, or 2038. See the instructions to Schedule G for a description of these sections.

Completing the Schedule

You must list every insurance policy on the life of the decedent, whether or not it is included in the gross estate.

Under "Description," list:

- The name of the insurance company, and
- The number of the policy.

For every life insurance policy listed on the schedule, request a statement on Form 712, Life Insurance Statement, from the company that issued the policy. Attach the Form 712 to Schedule D.

If the policy proceeds are paid in one sum, enter the net proceeds received (from Form 712, line 24) in the value (and alternate value) columns of Schedule D. If the policy proceeds are not paid in one sum, enter the value of the proceeds as of the date of the decedent's death (from Form 712, line 25).

If part or all of the policy proceeds are not included in the gross estate, explain why they were not included.

Schedule E—Jointly Owned Property

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

If you are required to file Form 706, complete Schedule E and file it with the return if the decedent owned any joint property at the time of death, whether or not the decedent's interest is includible in the gross estate.

Enter on this schedule all property of whatever kind or character, whether real estate, personal property, or bank accounts, in which the decedent held at the time of death an interest either as a joint tenant with right to survivorship or as a tenant by the entirety.

Do not list on this schedule property that the decedent held as a tenant in common, but report the value of the interest on Schedule A if real estate, or on the appropriate schedule if personal property. Similarly, community property held by the decedent and spouse should be reported on the appropriate Schedules A through I. The decedent's interest in a partnership should not be entered on this schedule unless the partnership interest itself is jointly-owned. Solely owned partnership interests should be reported on Schedule F, "Other Miscellaneous Property Not Reportable Under Any Other Schedule."

Part 1. Qualified joint interests held by decedent and spouse. Under section 2040(b)(2), a joint interest is a qualified joint interest if the decedent and the surviving spouse held the interest as:

- Tenants by the entirety, or
- Joint tenants with right of survivorship if the decedent and the decedent's spouse are the only joint tenants.

Interests that meet either of the two requirements above should be entered in Part 1. Joint interests that do not meet either of the two requirements above should be entered in Part 2.

Under "Description," describe the property as required in the instructions for Schedules A, B, C, and F for the type of property involved. For example, jointly held stocks and bonds should be described using the rules given in the instructions to Schedule B.

Under "Alternate value" and "Value at date of death," enter the full value of the property.

Note. You cannot claim the special treatment under section 2040(b) for property held jointly by a decedent and a surviving spouse who is not a U.S. citizen. Report these joint interests on Part 2 of Schedule E, not Part 1.

Part 2. All other joint interests. All joint interests that were not entered in Part 1 must be entered in Part 2.

For each item of property, enter the appropriate letter A, B, C, etc., from line 2a to indicate the name and address of the surviving co-tenant.

Under "Description," describe the property as required in the instructions for Schedules A, B, C, and F for the type of property involved.

In the "Percentage includible" column, enter the percentage of the total value of the property included in the gross estate.

Generally, you must include the full value of the jointly-owned property in the gross estate. However, the full value should not be included if you can show that a part of the property originally belonged to the other tenant or tenants and was never received or acquired by the other tenant or tenants from the decedent for less than adequate and full consideration in money or money's

DRAFT AS OF June 16, 2016

worth. Full value of jointly-owned property also does not have to be included in the gross estate if you can show that any part of the property was acquired with consideration originally belonging to the surviving joint tenant or tenants. In this case, you may exclude from the value of the property an amount proportionate to the consideration furnished by the other tenant or tenants. Relinquishing or promising to relinquish dower, curtesy, or statutory estate created instead of dower or curtesy, or other marital rights in the decedent's property or estate is not consideration in money or money's worth. See the Schedule A instructions for the value to show for real property that is subject to a mortgage.

If the property was acquired by the decedent and another person or persons by gift, bequest, devise, or inheritance as joint tenants, and their interests are not otherwise specified by law, include only that part of the value of the property that is figured by dividing the full value of the property by the number of joint tenants.

If you believe that less than the full value of the entire property is includible in the gross estate for tax purposes, you must establish the right to include the smaller value by attaching proof of the extent, origin, and nature of the decedent's interest and the interest(s) of the decedent's co-tenant or co-tenants.

In the "Includible alternate value" and "Includible value at date of death" columns, enter only the values that you believe are includible in the gross estate.

Schedule F—Other Miscellaneous Property

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

You must complete Schedule F and file it with the return.

On Schedule F, list all items that must be included in the gross estate that are not reported on any other schedule, including:

- Debts due the decedent (other than notes and mortgages included on Schedule C);
- Interests in business;
- Any interest in an Archer medical savings account (MSA) or health savings account (HSA), unless such interest passes to the surviving spouse; and
- Insurance on the life of another (obtain and attach Form 712, for each policy).

Note (for single premium or paid-up policies). In certain situations (for example, where the surrender value of the policy exceeds its replacement cost), the true economic value of the policy will be greater than the amount shown on line 59 of Form 712. In these situations, report the full economic value of the policy on Schedule F. See Rev. Rul. 78-137, 1978-1 C.B. 280 for details.

- Section 2044 property (see *Decedent Who Was a Surviving Spouse,* later);
- Claims (including the value of the decedent's interest in a claim for refund of income taxes or the amount of the refund actually received);
- Rights;
- Royalties;
- Leaseholds;
- Judgments;
- Reversionary or remainder interests;
- Shares in trust funds (attach a copy of the trust instrument);
- Household goods and personal effects, including wearing apparel;
- Farm products and growing crops;
- Livestock;
- Farm machinery; and
- Automobiles.

Interests. If the decedent owned any interest in a partnership or unincorporated business, attach a statement of assets and liabilities for the valuation date and for the 5 years before the valuation date. Also, attach statements of the net earnings for the same 5 years. Be sure to include the EIN of the entity. You must account for goodwill in the valuation. In general, furnish the same information and follow the methods used to value close corporations. See the instructions for Schedule B.

All partnership interests should be reported on Schedule F unless the partnership interest, itself, is jointly-owned. Jointly-owned partnership interests should be reported on Schedule E.

If real estate is owned by a sole proprietorship, it should be reported on Schedule F and not on Schedule A. Describe the real estate with the same detail required for Schedule A.

Valuation discounts. If you answered "Yes," to Part 4—General Information, line 11b for any interest in a partnership, an unincorporated business, a limited liability company, or stock in a closely-held corporation, attach a statement that lists the item number from Schedule F and identifies the total effective discount taken (that is, XX.XX%) on such interest.

Example of effective discount:

a	Pro-rata value of limited liability company (before any discounts)	$100.00
b	Minus: 10% discounts for lack of control	(10.00)
c	Marketable minority interest value (as if freely traded minority interest value)	$90.00
d	Minus: 15% discount for lack of marketability	(13.50)
e	Non-marketable minority interest value	$76.50

Calculation of effective discount:

(**a** minus **e**) divided by **a** = effective discount
($100.00 - $76.50) ÷ $100.00 = 23.50%

Note. The amount of discounts are based on the factors pertaining to a specific interest and those discounts shown in the example are for demonstration purposes only.

If you answered "Yes," to line 11b for any transfer(s) described in (1) through (5) in the Schedule G instructions (and made by the decedent), **attach a statement to Schedule G** which lists the item number from that schedule and identifies the total effective discount taken (that is, XX.XX%) on such transfer(s).

Line 1. If the decedent owned at the date of death works of art or items with collectible value (for example, jewelry, furs, silverware, books, statuary, vases, oriental rugs, coin or stamp collections), check the "Yes," box on line 1 and provide full details. If any item or collection of similar items is valued at more than $3,000, attach an appraisal by an expert under oath and the required statement regarding the appraiser's qualifications (see Regulations section 20.2031-6(b)).

Decedent Who Was a Surviving Spouse

If the decedent was a surviving spouse, he or she may have received qualified

DRAFT AS OF June 16, 2016

terminable interest property (QTIP) from the predeceased spouse for which the marital deduction was elected either on the predeceased spouse's estate tax return or on a gift tax return, Form 709. The election is available for transfers made and decedents dying after December 31, 1981. List such property on Schedule F.

If this election was made and the surviving spouse retained his or her interest in the QTIP property at death, the full value of the QTIP property is includible in his or her estate, even though the qualifying income interest terminated at death. It is valued as of the date of the surviving spouse's death, or alternate valuation date, if applicable. Do not reduce the value by any annual exclusion that may have applied to the transfer creating the interest.

The value of such property included in the surviving spouse's gross estate is treated as passing from the surviving spouse. It therefore qualifies for the charitable and marital deductions on the surviving spouse's estate tax return if it meets the other requirements for those deductions.

For additional details, see Regulations section 20.2044-1.

Schedule G—Transfers During Decedent's Life

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

Complete Schedule G and file it with the return if the decedent made any of the transfers described in (1) through (5) later, or if you answered "Yes," to question 12 or 13a of Part 4—General Information.

Report the following types of transfers on this schedule:

IF. . .	AND . . .	THEN . . .
the decedent made a transfer from a trust,	at the time of the transfer, the transfer was from a portion of the trust that was owned by the grantor under section 676 (other than by reason of section 672(e)) by reason of a power in the grantor,	for purposes of sections 2035 and 2038, treat the transfer as made directly by the decedent.
		Any such transfer within the annual gift tax exclusion is not includible in the gross estate.

1. **Certain gift taxes (section 2035(b)).** Enter at item A of Schedule G the total value of the gift taxes that were paid by the decedent or the estate on gifts made by the decedent or the decedent's spouse within 3 years of death.

The date of the gift, not the date of payment of the gift tax, determines whether a gift tax paid is included in the gross estate under this rule. Therefore, you should carefully examine the Forms 709 filed by the decedent and the decedent's spouse to determine what part of the total gift taxes reported on them was attributable to gifts made within 3 years of death.

For example, if the decedent died on July 10, 2016, you should examine gift tax returns for 2016, 2015, 2014, and 2013. However, the gift taxes on the 2013 return that are attributable to gifts made on or before July 10, 2013, are not included in the gross estate.

Explain how you figured the includible gift taxes if the entire gift taxes shown on any Form 709 filed for gifts made within 3 years of death are not included in the gross estate. Also attach copies of any relevant gift tax returns filed by the decedent's spouse for gifts made within 3 years of death.

2. **Other transfers within 3 years of death (section 2035(a)).** These transfers include only the following:

- Any transfer by the decedent with respect to a life insurance policy within 3 years of death; or
- Any transfer within 3 years of death of a retained section 2036 life estate, section 2037 reversionary interest, or section 2038 power to revoke, etc., if the property subject to the life estate, interest, or power would have been included in the gross estate had the decedent continued to possess the life estate, interest, or power until death.

These transfers are reported on Schedule G, regardless of whether a gift tax return was required to be filed for them when they were made. However, the amount includible and the information required to be shown for the transfers are determined:

- For insurance on the life of the decedent using the instructions to Schedule D (attach Forms 712);
- For insurance on the life of another using the instructions to Schedule F (attach Forms 712); and
- For sections 2036, 2037, and 2038 transfers, using paragraphs (3), (4), and (5) of these instructions.

3. Transfers with retained life estate (section 2036). These are transfers by the decedent in which the decedent retained an interest in the transferred property. The transfer can be in trust or otherwise, but excludes bona fide sales for adequate and full consideration.

Interests or rights. Section 2036 applies to the following retained interests or rights:

- The right to income from the transferred property;
- The right to the possession or enjoyment of the property; and
- The right, either alone or with any person, to designate the persons who shall receive the income from, possess, or enjoy, the property.

Retained annuity, unitrust, and other income interests in trusts. If a decedent transferred property into a trust and retained or reserved the right to use the property, or the right to an annuity, unitrust, or other interest in such trust for the property for decedent's life, any period not ascertainable without reference to the decedent's death, or for a period that does not, in fact, end before the decedent's death, then the decedent's right to use the property or the retained annuity, unitrust, or other interest (whether payable from income and/or principal) is the retention of the possession or enjoyment of, or the right to the income from, the property for purposes of section 2036. See Regulations section 20.2036-1(c)(2).

Retained voting rights. Transfers with a retained life estate also include

DRAFT AS OF June 16, 2016

transfers of stock in a controlled corporation made after June 22, 1976, if the decedent retained or acquired voting rights in the stock. If the decedent retained direct or indirect voting rights in a controlled corporation, the decedent is considered to have retained enjoyment of the transferred property. A corporation is a *controlled corporation* if the decedent owned (actually or constructively) or had the right (either alone or with any other person) to vote at least 20% of the total combined voting power of all classes of stock. See section 2036(b)(2). If these voting rights ceased or were relinquished within 3 years of the decedent's death, the corporate interests are included in the gross estate as if the decedent had actually retained the voting rights until death.

The amount includible in the gross estate is the value of the transferred property at the time of the decedent's death. If the decedent kept or reserved an interest or right to only a part of the transferred property, the amount includible in the gross estate is a corresponding part of the entire value of the property.

A retained life estate does not have to be legally enforceable. What matters is that a substantial economic benefit was retained. For example, if a mother transferred title to her home to her daughter but with the informal understanding that she was to continue living there until her death, the value of the home would be includible in the mother's estate even if the agreement would not have been legally enforceable.

4. **Transfers taking effect at death (section 2037).** A transfer that takes effect at the decedent's death is one under which possession or enjoyment can be obtained only by surviving the decedent. A transfer is not treated as one that takes effect at the decedent's death unless the decedent retained a reversionary interest (defined later) in the property that immediately before the decedent's death had a value of more than 5% of the value of the transferred property. If the transfer was made before October 8, 1949, the reversionary interest must have arisen by the express terms of the instrument of transfer.

A *reversionary interest* is, generally, any right under which the transferred property will or may be returned to the decedent or the decedent's estate. It also includes the possibility that the transferred property may become subject to a power of disposition by the decedent. It does not matter if the right arises by the express terms of the instrument of transfer or by operation of law. For this purpose, reversionary interest does not include the possibility that the income alone from the property may return to the decedent or become subject to the decedent's power of disposition.

5. **Revocable transfers (section 2038).** The gross estate includes the value of any transferred property which was subject to the decedent's power to alter, amend, revoke, or terminate the transfer at the time of the decedent's death. A decedent's power to change beneficiaries and to increase any beneficiary's enjoyment of the property are examples of this.

It does not matter whether the power was reserved at the time of the transfer, whether it arose by operation of law, or whether it was later created or conferred. The rule applies regardless of the source from which the power was acquired, and regardless of whether the power was exercisable by the decedent alone or with any person (and regardless of whether that person had a substantial adverse interest in the transferred property).

The capacity in which the decedent could use a power has no bearing. If the decedent gave property in trust and was the trustee with the power to revoke the trust, the property would be included in his or her gross estate. For transfers or additions to an irrevocable trust after October 28, 1979, the transferred property is includible if the decedent reserved the power to remove the trustee at will and appoint another trustee.

If the decedent relinquished within 3 years of death any of the includible powers described above, figure the gross estate as if the decedent had actually retained the powers until death.

Only the part of the transferred property that is subject to the decedent's power is included in the gross estate.

For more detailed information on which transfers are includible in the gross estate, see Regulations section 20.2038-1.

Special Valuation Rules for Certain Lifetime Transfers

Sections 2701 through 2704 provide rules for valuing certain transfers to family members.

Section 2701 deals with the transfer of an interest in a corporation or partnership while retaining certain distribution rights, or a liquidation, put, call, or conversion right.

Section 2702 deals with the transfer of an interest in a trust while retaining any interest other than a qualified interest. In general, a *qualified interest* is a right to receive certain distributions from the trust at least annually, or a noncontingent remainder interest if all of the other interests in the trust are distribution rights specified in section 2702.

Section 2703 provides rules for the valuation of property transferred to a family member but subject to an option, agreement, or other right to acquire or use the property at less than FMV. It also applies to transfers subject to restrictions on the right to sell or use the property.

Finally, section 2704 provides that in certain cases, the lapse of a voting or liquidation right in a family-owned corporation or partnership will result in a deemed transfer.

These rules have potential consequences for the valuation of property in an estate. If the decedent (or any member of his or her family) was involved in any such transactions, see sections 2701 through 2704 and the related regulations for additional details.

How To Complete Schedule G

All transfers (other than outright transfers not in trust and bona fide sales) made by the decedent at any time during life must be reported on Schedule G, regardless of whether you believe the transfers are subject to tax. If the decedent made any transfers not described in these instructions, the transfers should not be shown on Schedule G. Instead, attach a statement describing these transfers by listing:

- The date of the transfer,
- The amount or value of the transferred property, and
- The type of transfer.

Complete the schedule for each transfer that is included in the gross estate under sections 2035(a), 2036, 2037, and 2038 as described in the Instructions for Schedule G.

In the “Item number” column, number each transfer consecutively beginning with “1.” In the “Description” column, list the name of the transferee and the date of the transfer, and give a complete description of the property. Transfers

DRAFT AS OF June 18, 2016

included in the gross estate should be valued on the date of the decedent's death or, if alternate valuation is elected, according to section 2032.

If only part of the property transferred meets the terms of section 2035(a), 2036, 2037, or 2038, then only a corresponding part of the value of the property should be included in the value of the gross estate. If the transferee makes additions or improvements to the property, the increased value of the property at the valuation date should not be included on Schedule G. However, if only a part of the value of the property is included, enter the value of the whole under the column headed "Description" and explain what part was included.

Attachments. If a transfer, by trust or otherwise, was made by a written instrument, attach a copy of the instrument to Schedule G. If the copy of the instrument is of public record, it should be certified; if not of public record, the copy should be verified.

Schedule H—Powers of Appointment

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

Complete Schedule H and file it with the return if you answered "Yes," to question 14 of Part 4—General Information.

On Schedule H, include in the gross estate:

- The value of property for which the decedent possessed a general power of appointment (defined later) on the date of his or her death and
- The value of property for which the decedent possessed a general power of appointment that he or she exercised or released before death by disposing of it in such a way that if it were a transfer of property owned by the decedent, the property would be includible in the decedent's gross estate as a transfer with a retained life estate, a transfer taking effect at death, or a revocable transfer.

With the above exceptions, property subject to a power of appointment is not includible in the gross estate if the decedent released the power completely and the decedent held no interest in or control over the property.

If the failure to exercise a general power of appointment results in a lapse of the power, the lapse is treated as a release only to the extent that the value of the property that could have been appointed by the exercise of the lapsed power is more than the greater of $5,000 or 5% of the total value, at the time of the lapse, of the assets out of which, or the proceeds of which, the exercise of the lapsed power could have been satisfied.

Powers of Appointment

A *power of appointment* determines who will own or enjoy the property subject to the power and when they will own or enjoy it. The power must be created by someone other than the decedent. It does not include a power created or held on property transferred by the decedent.

A power of appointment includes all powers which are, in substance and effect, powers of appointment regardless of how they are identified and regardless of local property laws. For example, if a settlor transfers property in trust for the life of his wife, with a power in the wife to appropriate or consume the principal of the trust, the wife has a power of appointment.

Some powers do not in themselves constitute a power of appointment. For example, a power to amend only administrative provisions of a trust that cannot substantially affect the beneficial enjoyment of the trust property or income is not a power of appointment. A power to manage, invest, or control assets, or to allocate receipts and disbursements, when exercised only in a fiduciary capacity, is not a power of appointment.

General power of appointment. A *general power of appointment* is a power that is exercisable in favor of the decedent, the decedent's estate, the decedent's creditors, or the creditors of the decedent's estate, except:

1. A power to consume, invade, or appropriate property for the benefit of the decedent that is limited by an ascertainable standard relating to health, education, support, or maintenance of the decedent.

2. A power exercisable by the decedent only in conjunction with:

a. the creator of the power or

b. a person who has a substantial interest in the property subject to the power, which is adverse to the exercise of the power in favor of the decedent.

A part of a power is considered a general power of appointment if the power:

1. May only be exercised by the decedent in conjunction with another person and

2. Is also exercisable in favor of the other person (in addition to being exercisable in favor of the decedent, the decedent's creditors, the decedent's estate, or the creditors of the decedent's estate).

When there is a partial power, figure the amount included in the gross estate by dividing the value of the property by the number of persons (including the decedent) in favor of whom the power is exercisable.

Date power was created. Generally, a power of appointment created by will is considered created on the date of the testator's death.

A power of appointment created by an inter vivos instrument is considered created on the date the instrument takes effect. If the holder of a power exercises it by creating a second power, the second power is considered as created at the time of the exercise of the first.

Attachments

If the decedent ever possessed a power of appointment, attach a certified or verified copy of the instrument granting the power and a certified or verified copy of any instrument by which the power was exercised or released. You must file these copies even if you contend that the power was not a general power of appointment, and that the property is not otherwise includible in the gross estate.

Schedule I—Annuities

CAUTION *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 instructions for line 10 of Part 5–Recapitulation for information on how to estimate and report the value of these assets.*

Complete Schedule I and file it with the return if you answered "Yes," to question 16 of Part 4—General Information.

Enter on Schedule I every annuity that meets all of the conditions under General, later, and every annuity

DRAFT AS OF June 16, 2016

described in paragraphs (a) through (h) of *Annuities Under Approved Plans,* even if the annuities are wholly or partially excluded from the gross estate.

For a discussion regarding the QTIP treatment of certain joint and survivor annuities, see the Schedule M, line 3 instructions.

General

These rules apply to all types of annuities, including pension plans, individual retirement arrangements, purchased commercial annuities, and private annuities.

In general, you must include in the gross estate all or part of the value of any annuity that meets the following requirements:

- It is receivable by a beneficiary following the death of the decedent and by reason of surviving the decedent;
- The annuity is under a contract or agreement entered into after March 3, 1931;
- The annuity was payable to the decedent (or the decedent possessed the right to receive the annuity) either alone or in conjunction with another, for the decedent's life or for any period not ascertainable without reference to the decedent's death or for any period that did not in fact end before the decedent's death; and
- The contract or agreement is not a policy of insurance on the life of the decedent.

Note. A *private annuity* is an annuity issued by a party not engaged in the business of writing annuity contracts, typically a junior generation family member or a family trust.

An annuity contract that provides periodic payments to a person for life and ceases at the person's death is not includible in the gross estate. Social security benefits are not includible in the gross estate even if the surviving spouse receives benefits.

An annuity or other payment that is not includible in the decedent's or the survivor's gross estate as an annuity may still be includible under some other applicable provision of the law. For example, see *Powers of Appointment and the instructions for Schedule G—Transfers During Decedent's Life*, earlier. See also Regulations section 20.2039-1(e).

If the decedent retired before January 1, 1985, see *Annuities Under Approved Plans,* later, for rules that allow the exclusion of part or all of certain annuities.

Part Includible

If the decedent contributed only part of the purchase price of the contract or agreement, include in the gross estate only that part of the value of the annuity receivable by the surviving beneficiary that the decedent's contribution to the purchase price of the annuity or agreement bears to the total purchase price.

For example, if the value of the survivor's annuity was $20,000 and the decedent had contributed three-fourths of the purchase price of the contract, the amount includible is $15,000 (¾ × $20,000).

Except as provided under *Annuities Under Approved Plans,* contributions made by the decedent's employer to the purchase price of the contract or agreement are considered made by the decedent if they were made by the employer because of the decedent's employment. For more information, see section 2039(b).

Definitions

Annuity. An *annuity* consists of one or more payments extending over any period of time. The payments may be equal or unequal, conditional or unconditional, periodic or sporadic.

Examples. The following are examples of contracts (but not necessarily the only forms of contracts) for annuities that must be included in the gross estate:

1. A contract under which the decedent immediately before death was receiving or was entitled to receive, for the duration of life, an annuity with payments to continue after death to a designated beneficiary, if surviving the decedent.

2. A contract under which the decedent immediately before death was receiving or was entitled to receive, together with another person, an annuity payable to the decedent and the other person for their joint lives, with payments to continue to the survivor following the death of either.

3. A contract or agreement entered into by the decedent and employer under which the decedent immediately before death and following retirement was receiving, or was entitled to receive, an annuity payable to the decedent for life. After the decedent's death, if survived by a designated beneficiary, the annuity was payable to the beneficiary with payments either fixed by contract or subject to an option or election exercised or exercisable by the decedent. However, see *Annuities Under Approved Plans,* later.

4. A contract or agreement entered into by the decedent and the decedent's employer under which at the decedent's death, before retirement, or before the expiration of a stated period of time, an annuity was payable to a designated beneficiary, if surviving the decedent. However, see *Annuities Under Approved Plans,* later.

5. A contract or agreement under which the decedent immediately before death was receiving, or was entitled to receive, an annuity for a stated period of time, with the annuity to continue to a designated beneficiary, surviving the decedent, upon the decedent's death and before the expiration of that period of time.

6. An annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary for life or over a period of at least 36 months after the date of the decedent's death under an individual retirement account, annuity, or bond as described in section 2039(e) (before its repeal by P.L. 98-369).

Payable to the decedent. An annuity or other payment was payable to the decedent if, at the time of death, the decedent was in fact receiving an annuity or other payment, with or without an enforceable right to have the payments continued.

Right to receive an annuity. The decedent had the right to receive an annuity or other payment if, immediately before death, the decedent had an enforceable right to receive payments at some time in the future, whether or not at the time of death the decedent had a present right to receive payments.

Annuities Under Approved Plans

The following rules relate to whether part or all of an otherwise includible annuity may be excluded. These rules have been repealed and apply only if the decedent either:

- On December 31, 1984, was both a participant in the plan and in pay status (for example, had received at least one benefit payment on or before December 31, 1984) and had irrevocably elected the form of the benefit before July 18, 1984, or
- Had separated from service before January 1, 1985, and did not change the form of benefit before death.

DRAFT AS OF June 16, 2015

The amount excluded cannot exceed $100,000 unless either of the following conditions is met:

- On December 31, 1982, the decedent was both a participant in the plan and in pay status (for example, had received at least one benefit payment on or before December 31, 1982) and the decedent irrevocably elected the form of the benefit before January 1, 1983, or
- The decedent separated from service before January 1, 1983, and did not change the form of benefit before death.

DRAFT AS OF June 18, 2018

Approved Plans

Approved plans may be separated into two categories:

- Pension, profit-sharing, stock bonus, and other similar plans and
- Individual retirement arrangements (IRAs), and retirement bonds.

Different exclusion rules apply to the two categories of plans.

Pension, etc., plans. The following plans are approved plans for the exclusion rules:

a. An employees' trust (or a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan that met all the requirements of section 401(a), either at the time of the decedent's separation from employment (whether by death or otherwise) or at the time of the termination of the plan (if earlier);

b. A retirement annuity contract purchased by the employer (but not by an employees' trust) under a plan that, at the time of the decedent's separation from employment (by death or otherwise), or at the time of the termination of the plan (if earlier), was a plan described in section 403(a);

c. A retirement annuity contract purchased for an employee by an employer that is an organization referred to in section 170(b)(1)(A)(ii) or (vi), or that is a religious organization (other than a trust), and that is exempt from tax under section 501(a);

d. Chapter 73 of Title 10 of the United States Code; or

e. A bond purchase plan described in section 405 (before its repeal by P.L. 98-369, effective for obligations issued after December 31, 1983).

Exclusion rules for pension, etc., plans. If an annuity under an *approved plan* described in (a) through (e) above is receivable by a beneficiary other than the executor and the decedent made no contributions under the plan toward the cost, no part of the value of the annuity, subject to the $100,000 limitation (if applicable), is includible in the gross estate.

If the decedent made a contribution under a plan described in (a) through (e) above toward the cost, include in the gross estate on this schedule that proportion of the value of the annuity which the amount of the decedent's contribution under the plan bears to the total amount of all contributions under the plan. The remaining value of the annuity is excludable from the gross estate subject to the $100,000 limitation (if applicable). For the rules to determine whether the decedent made contributions to the plan, see Regulations section 20.2039-1(c).

IRAs and retirement bonds. The following plans are approved plans for the exclusion rules:

f. An individual retirement account described in section 408(a),

g. An individual retirement annuity described in section 408(b), or

h. A retirement bond described in section 409(a) (before its repeal by P.L. 98-369).

Exclusion rules for IRAs and retirement bonds. These plans are approved plans only if they provide for a series of substantially equal periodic payments made to a beneficiary for life, or over a period of at least 36 months after the date of the decedent's death.

Subject to the $100,000 limitation (if applicable), if an annuity under a “plan” described in (f) through (h) above is receivable by a beneficiary other than the executor, the entire value of the annuity is excludable from the gross estate even if the decedent made a contribution under the plan.

However, if any payment to or for an account or annuity described in paragraph (f), (g), or (h) earlier was not allowable as an income tax deduction under section 219 (and was not a rollover contribution as described in section 2039(e) before its repeal by P.L. 98-369), include in the gross estate on this schedule that proportion of the value of the annuity which the amount not allowable as a deduction under section 219 and not a rollover contribution bears to the total amount paid to or for such account or annuity. For more information, see Regulations section 20.2039-5.

Rules applicable to all approved plans. The following rules apply to all approved plans described in paragraphs (a) through (h) earlier.

If any part of an annuity under a “plan” described in (a) through (h) earlier is receivable by the executor, it is generally includible in the gross estate to the extent that it is receivable by the executor in that capacity. In general, the annuity is receivable by the executor if it is to be paid to the executor or if there is an agreement (expressed or implied) that it will be applied by the beneficiary for the benefit of the estate (such as in discharge of the estate's liability for death taxes or debts of the decedent, etc.) or that its distribution will be governed to any extent by the terms of the decedent's will or the laws of descent and distribution.

If data available to you does not indicate whether the plan satisfies the requirements of section 401(a), 403(a), 408(a), 408(b), or 409(a), you may obtain that information from the IRS office where the employer's principal place of business is located.

Line A. Lump Sum Distribution Election

Note. The following rules have been repealed and apply only if the decedent:

- On December 31, 1984, was both a participant in the plan and in pay status (for example, had received at least one benefit payment on or before December 31, 1984) and had irrevocably elected the form of the benefit before July 18, 1984, or
- Had separated from service before January 1, 1985, and did not change the form of benefit before death.

Generally, the entire amount of any lump sum distribution is included in the decedent's gross estate. However, under this special rule, all or part of a lump sum distribution from a qualified (approved) plan will be excluded if the lump sum distribution is included in the recipient's income for income tax purposes.

If the decedent was born before 1936, the recipient may be eligible to elect special “10-year averaging” rules (under repealed section 402(e)) and capital gain treatment (under repealed section 402(a)(2)) in figuring the income tax on the distribution. For more information, see Pub. 575, Pension and Annuity Income. If this option is available, the estate tax exclusion cannot be claimed unless the recipient elects to forego the “10-year averaging” and capital gain treatment in figuring the income tax on the distribution. The recipient elects to forego this treatment

by treating the distribution as taxable on his or her income tax return as described in Regulations section 20.2039-4(d). The election is irrevocable.

The amount excluded from the gross estate is the portion attributable to the employer contributions. The portion, if any, attributable to the employee-decedent's contributions is always includible. Also, you may not figure the gross estate in accordance with this election unless you check "Yes" on line A and attach the name, address, and identifying number of the recipients of the lump sum distributions. See Regulations section 20.2039-4(d)(2).

DRAFT AS OF June 16, 2016

How To Complete Schedule I

In describing an annuity, give the name and address of the grantor of the annuity. Specify if the annuity is under an approved plan.

IF . . .	THEN . . .
the annuity is under an approved plan,	state the ratio of the decedent's contribution to the total purchase price of the annuity.
the decedent was employed at the time of death and an annuity as described in Definitions, Annuity, Example 4, above, became payable to any beneficiary because the beneficiary survived the decedent,	state the ratio of the decedent's contribution to the total purchase price of the annuity.
an annuity under an individual retirement account or annuity became payable to any beneficiary because that beneficiary survived the decedent and is payable to the beneficiary for life or for at least 36 months following the decedent's death,	state the ratio of the amount paid for the individual retirement account or annuity that was not allowable as an income tax deduction under section 219 (other than a rollover contribution) to the total amount paid for the account or annuity.
the annuity is payable out of a trust or other fund,	the description should be sufficiently complete to fully identify it.
the annuity is payable for a term of years,	include the duration of the term and the date on which it began.
the annuity is payable for the life of a person other than the decedent,	include the date of birth of that person.
the annuity is wholly or partially excluded from the gross estate,	enter the amount excluded under "Description" and explain how you figured the exclusion.

Schedule J—Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims

CAUTION *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 J but without a value in the last column.*

General. Complete and file Schedule J if you claim a deduction on item 14 of Part 5—Recapitulation.

On Schedule J, itemize funeral expenses and expenses incurred in administering property subject to claims. List the names and addresses of persons to whom the expenses are payable and describe the nature of the expense. **Do not list expenses incurred in administering property not subject to claims on this schedule. List them on Schedule L instead.**

The deduction is limited to the amount paid for these expenses that is allowable under local law but may not exceed:

1. The value of property subject to claims included in the gross estate, plus

2. The amount paid out of property included in the gross estate but not subject to claims. This amount must actually be paid by the due date of the estate tax return.

The applicable local law under which the estate is being administered determines which property is and is not subject to claims. If under local law a particular property interest included in the gross estate would bear the burden for the payment of the expenses, then the property is considered property subject to claims.

Unlike certain claims against the estate for debts of the decedent (see the instructions for Schedule K), you cannot deduct expenses incurred in administering property subject to claims on both the estate tax return and the estate's income tax return. If you choose to deduct them on the estate tax return, you cannot deduct them on a Form 1041, U.S. Income Tax Return for Estate and Trusts, filed for the estate. Funeral expenses are only deductible on the estate tax return.

Funeral expenses. Itemize funeral expenses on line A. Deduct from the expenses any amounts that were reimbursed, such as death benefits payable by the Social Security Administration or the Veterans Administration.

Executors' commissions. When you file the return, you may deduct commissions that have actually been paid to you or that you expect will be paid. Do not deduct commissions if none will be collected. If the amount of the commissions has not been fixed by decree of the proper court, the deduction will be allowed on the final examination of the return, provided that:

- The Chief, Estate and Gift Tax Examinations, is reasonably satisfied that the commissions claimed will be paid;
- The amount entered as a deduction is within the amount allowable by the laws of the jurisdiction where the estate is being administered; and
- It is in accordance with the usually accepted practice in that jurisdiction for estates of similar size and character.

If you have not been paid the commissions claimed at the time of the final examination of the return, you must support the amount you deducted with an affidavit or statement signed under the penalties of perjury that the amount has been agreed upon and will be paid.

You may not deduct a bequest or devise made to you instead of commissions. If, however, the decedent fixed by will the compensation payable to you for services to be rendered in the administration of the estate, you may deduct this amount to the extent it is not more than the compensation allowable by the local law or practice.

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 Tax Examinations, 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 the 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

CAUTION *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 not also be claimed on the estate tax return. In this case, you also may 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 the heading “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 to line 7 in Part 4—General Information.

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. Edison Electric Illuminating Co., for electric service during December 2015, $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

DRAFT AS OF June 16, 2016

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. If you have difficulty figuring the deduction, you may request a computation of it. Send your request within a reasonable amount of time before the due date of the return to:

Department of the Treasury
Commissioner of Internal Revenue
Washington, DC 20224.

Attach to your request a copy of the will and relevant documents, a statement showing the distribution of the estate under the decedent's will, and a computation of the state or foreign death tax showing any amount payable by a charitable organization.

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., also should 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 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

CAUTION *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)

CAUTION *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 instructions for line 23 of Part 5–Recapitulation 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 Part 5—Recapitulation, item 21.

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 qualified domestic trust (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.

DRAFT AS OF June 16, 2016

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 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); or

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.

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 decedent devised real property to his wife for life, with remainder to his children. The life interest that passed to the wife does not qualify for the marital deduction because it will terminate at her death and the children will thereafter possess or enjoy the property.

However, if the decedent purchased a joint and survivor annuity for himself and his wife who survived him, 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 wife'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 sections 20.2056(b)-1(f) and 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

Example—Listing Property Interests on Schedule M

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 survivorship under deed dated July 15, 1975 (Schedule E, Part I, item 1)	$182,500
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

DRAFT AS OF June 19, 2016

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 a son. 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: (a) the surviving spouse is entitled for life to all of the income from the entire interest; (b) the income is payable annually or at more frequent intervals; (c) 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; (d) 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; and (e) 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: (a) 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; (b) the installment or interest payments are payable annually, or more frequently, beginning not later than 13 months after the decedent's death; (c) 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; (d) 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; and (e) 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 Interests (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.

DRAFT AS OF June 10, 2016

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 Election (QDOT)

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 *qualified domestic trust (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, paragraphs 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; and

3. The employer identification number (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 qualified domestic trust 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.

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 apply also 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 value of all property that is included in the decedent's gross estate (Schedules A through I) but is not a part

DRAFT AS OF June 16, 2016

of the decedent's probate estate, such as lifetime transfers, jointly-owned property that passed to the survivor on 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 decedent's employees, only the number in each class and the total value of property received by them need be furnished);
- The date of birth of all persons, the length of whose lives may affect the value of the residuary interest passing to the surviving spouse; and
- 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

CAUTION *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 instructions for line 23 of Part 5–Recapitulation 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; or
- 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 www.irs.gov/pub/irs-irbs/irb08-39.pdf, 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:

- 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

DRAFT AS OF June 16, 2016

each class and the total value of property they received;

- The date 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 decedent's death, and insurance payable to specific beneficiaries;
- Any agreements with charitable beneficiaries, whether entered before or after date of death of the decedent;
- Verification of the sale or purchase of property that is the subject of a charitable deduction; and
- 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 apply also on Schedule O.

Schedule P—Credit for Foreign Death Taxes

General

If you claim a credit on line 13 of Part 2—Tax Computation, 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; or
- 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 at 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 at item 1.

DRAFT AS OF June 16, 2016

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 at 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, Netherlands, Norway, 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; and
- The amount entered at 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 computation of credits under the treaties, see the applicable regulations.

Computation of credit in cases where property is situated outside both countries or deemed situated within both countries. See the appropriate treaty for details.

DRAFT AS OF June 16, 2016

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 (a) or estate tax (b), 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

DRAFT AS OF June 16, 2009

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 Schedule Q Worksheet 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)				

DRAFT AS O
June 16, 201

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	

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 only on 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 only on 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 the main heading, *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 the main heading, Dividing Direct Skips Between Schedules R and R-1.

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 his or her property 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 his or her property, 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 his 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 his 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

DRAFT AS OF June 16, 2016

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 his or her birth date, as follows:

a. A person who was born not more than 12½ years after the decedent is in the decedent's generation.

b. A person born more than 12½ years, but not more than 37½ 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.

If property is transferred to an individual who is a descendant of a parent of the transferor, and that individual's parent (who is a lineal descendant of the parent of the transferor) is deceased at the time the transfer is subject to gift or estate tax, then for purposes of generation assignment, the individual is treated as if he or she is a member of the generation that is one generation below the lower of:

- The transferor's generation or
- The generation assignment of the youngest living ancestor of the individual, who is also a descendant of the parent of the transferor.

The same rules apply to the generation assignment of any descendant of the individual.

This rule does not apply to a transfer to an individual who is not a lineal descendant of the transferor if the transferor has any living lineal descendants.

If any transfer of property to a trust would have been a direct skip except for this generation assignment rule, then the rule also applies to transfers from the trust attributable to such property.

See examples in Regulations section 26.2651–1(c).

Ninety-day rule. For purposes of determining if an individual's parent is deceased at the time of a testamentary transfer, an individual's parent who dies no later than 90 days after a transfer occurring by reason of the death of the transferor is treated as having predeceased the transferor. The 90-day rule applies to transfers occurring on or after July 18, 2005. See Regulations section 26.2651-1, for more information.

Charitable organizations. Charitable organizations and trusts described in sections 511(a)(2) and 511(b)(2) are assigned to the decedent's generation. Transfers to such organizations are therefore not subject to the GST tax.

Charitable remainder trusts. Transfers to or in the form of charitable remainder annuity trusts, charitable remainder unitrusts, and pooled income funds are not considered made to skip persons and, therefore, are not direct skips even if all of the life beneficiaries are skip persons.

Estate tax value. Estate tax value is the value shown on Schedules A through I of this Form 706.

Examples. The rules above can be illustrated by the following examples:

1. Under the will, the decedent's house is transferred to the decedent's daughter for her life with the remainder passing to her children. This transfer is made to a "trust" even though there is no explicit trust instrument. The interest in the property transferred (the present right to use the house) is transferred to a non-skip person (the decedent's daughter). Therefore, the trust is not a skip person because there is an interest in the transferred property that is held by a non-skip person. The transfer is not a direct skip.

2. The will bequeaths $100,000 to the decedent's grandchild. This transfer is a direct skip that is not made in trust and should be shown on Schedule R.

3. The will establishes a trust that is required to accumulate income for 10 years and then pay its income to the decedent's grandchildren for the rest of their lives and, upon their deaths, distribute the corpus to the decedent's great-grandchildren. Because the trust has no current beneficiaries, there are no present interests in the property transferred to the trust. All of the persons to whom the trust can make future distributions (including distributions upon the termination of interests in property held in trust) are skip persons (for example, the decedent's grandchildren and great-grandchildren). Therefore, the trust itself is a skip person and you should show the transfer on Schedule R.

4. The will establishes a trust that is to pay all of its income to the decedent's grandchildren for 10 years. At the end of 10 years, the corpus is to be distributed to the decedent's children. All of the present interests in this trust are held by skip persons. Therefore, the trust is a skip person and you should show this

DRAFT AS OF June 16, 2016

transfer on Schedule R. You should show the estate tax value of all the property transferred to the trust even though the trust has some ultimate beneficiaries who are non-skip persons.

Dividing Direct Skips Between Schedules R and R-1

TIP *Report all generation-skipping transfers on Schedule R unless the rules below specifically provide that they are to be reported on Schedule R-1.*

Under section 2603(a)(2), the GST tax on direct skips from a trust (as defined for GST tax purposes) is to be paid by the trustee and not by the estate. Schedule R-1 serves as a notification from the executor to the trustee that a GST tax is due.

For a direct skip to be reportable on Schedule R-1, the trust must be includible in the decedent's gross estate.

If the decedent was a surviving spouse receiving benefits for his or her lifetime from a marital deduction power of appointment (or QTIP) trust created by the decedent's spouse, then transfers caused by reason of the decedent's death from that trust to skip persons are direct skips required to be reported on Schedule R-1.

If a direct skip is made "from a trust" under these rules, it is reportable on Schedule R-1 even if it is also made "to a trust" rather than to an individual.

Similarly, if property in a trust (as defined for GST tax purposes) is included in the decedent's gross estate under sections 2035, 2036, 2037, 2038, 2039, 2041, or 2042 and such property is, by reason of the decedent's death, transferred to skip persons, the transfers are direct skips required to be reported on Schedule R-1.

Special rule for trusts other than ordinary trusts. An *ordinary trust* is defined in Regulations section 301.7701-4(a) as "an arrangement created by a will or by an inter vivos declaration whereby trustees take title to property for the purpose of protecting or conserving it for the beneficiaries under the ordinary rules applied in chancery or probate courts." Direct skips from ordinary trusts are required to be reported on Schedule R-1 regardless of their size unless the executor is also a trustee (see *Executor as trustee,* below).

Direct skips from trusts that are trusts for GST tax purposes but are not ordinary trusts are to be shown on Schedule R-1 only if the total of all tentative maximum direct skips from the entity is $250,000 or more. If this total is less than $250,000, the skips should be shown on Schedule R. For purposes of the $250,000 limit, *tentative maximum direct skips* is the amount you would enter on line 5 of Schedule R-1 if you were to file that schedule.

A liquidating trust (such as a bankruptcy trust) under Regulations section 301.7701-4(d) is not treated as an ordinary trust for the purposes of this special rule.

If the proceeds of a life insurance policy are includible in the gross estate and are payable to a beneficiary who is a skip person, the transfer is a direct skip from a trust that is not an ordinary trust. It should be reported on Schedule R-1 if the total of all the tentative maximum direct skips from the company is $250,000 or more. Otherwise, it should be reported on Schedule R.

Similarly, if an annuity is includible on Schedule I and its survivor benefits are payable to a beneficiary who is a skip person, then the estate tax value of the annuity should be reported as a direct skip on Schedule R-1 if the total tentative maximum direct skips from the entity paying the annuity is $250,000 or more.

Executor as trustee. If any of the executors of the decedent's estate are trustees of the trust, then all direct skips for that trust must be shown on Schedule R and not on Schedule R-1, even if they would otherwise have been required to be shown on Schedule R-1. This rule applies even if the trust has other trustees who are not executors of the decedent's estate.

How To Complete Schedules R and R-1

Valuation. Enter on Schedules R and R-1 the estate tax value of the property interests subject to the direct skips. If you elected alternate valuation (section 2032) and/or special-use valuation (section 2032A), you must use the alternate and/or special-use values on Schedules R and R-1.

How To Complete Schedule R

Part 1. GST Exemption Reconciliation

Part 1, line 6 of both Parts 2 and 3, and line 4 of Schedule R-1 are used to allocate the decedent's GST exemption. This allocation is made by filing Form 706 and attaching a completed Schedule R and/or R-1. Once made, the allocation is irrevocable. You are not required to allocate all of the decedent's GST exemption. However, the portion of the exemption that you do not allocate will be allocated by the IRS under the deemed allocation of unused GST exemption rules of section 2632(e).

For transfers made through 1998, the GST exemption was $1 million. The current GST exemption is $5,450,000. The exemption amounts for 1999 through 2015 are as follows:

Year of transfer	GST exemption
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, 2007, and 2008	$2,000,000
2009	$3,500,000
2010 and 2011	$5,000,000
2012	$5,120,000
2013	$5,250,000
2014	$5,340,000
2015	$5,430,000

The amount of each increase can only be allocated to transfers made (or appreciation that occurred) during or after the year of the increase. The following example shows the application of this rule:

Example. In 2003, G made a direct skip of $1,120,000 and applied her full $1,120,000 of GST exemption to the transfer. G made a $450,000 taxable direct skip in 2004 and another of $90,000 in 2006. For 2004, G can only apply $380,000 of exemption ($380,000 inflation adjustment from 2004) to the $450,000 transfer in 2004. For 2006, G can apply $90,000 of exemption to the 2006 transfer, but nothing to the transfer made in 2004. At the end of 2006, G would have $410,000 of unused exemption that she can apply to future transfers (or appreciation) starting in 2007.

Special QTIP election. In the case of property for which a marital deduction is allowed to the decedent's estate under section 2056(b)(7) (QTIP election), section 2652(a)(3) allows you to treat such property for purposes of the GST tax as if the election to be treated as qualified terminable interest property had not been made.

DRAFT AS OF June 16, 2016

The 2652(a)(3) election must include the value of all property in the trust for which a QTIP election was allowed under section 2056(b)(7).

If a section 2652(a)(3) election is made, then the decedent will, for GST tax purposes, be treated as the transferor of all the property in the trust for which a marital deduction was allowed to the decedent's estate under section 2056(b)(7). In this case, the executor of the decedent's estate may allocate part or all of the decedent's GST exemption to the property.

You make the election simply by listing qualifying property on line 9 of Part 1.

DRAFT AS OF June 16, 2015

Line 2. These allocations will have been made either on Forms 709 filed by the decedent or on Notices of Allocation made by the decedent for inter vivos transfers that were not direct skips but to which the decedent allocated the GST exemption. These allocations by the decedent are irrevocable.

Also include on this line allocations deemed to have been made by the decedent under the rules of section 2632. Unless the decedent elected out of the deemed allocation rules, allocations are deemed to have been made in the following order:

1. To inter vivos direct skips and

2. Beginning with transfers made after December 31, 2000, to lifetime transfers to certain trusts, by the decedent, that constituted indirect skips that were subject to the gift tax.

For more information, see section 2632 and related regulations.

Line 3. Make an entry on this line if you are filing Form(s) 709 for the decedent and wish to allocate any exemption.

Lines 4, 5, and 6. These lines represent your allocation of the GST exemption to direct skips made by reason of the decedent's death. Complete Parts 2 and 3 and Schedule R-1 before completing these lines.

Line 9. Line 9 is used to allocate the remaining unused GST exemption (from line 8) and to help you figure the trust's inclusion ratio. Line 9 is a Notice of Allocation for allocating the GST exemption to trusts as to which the decedent is the transferor and from which a generation-skipping transfer could occur after the decedent's death.

If line 9 is not completed, the deemed allocation at death rules will apply to allocate the decedent's remaining unused GST exemption. The exemption will be first allocated to property that is the subject of a direct skip occurring at the decedent's death, and then to trusts as to which the decedent is the transferor. To avoid the application of the deemed allocation rules, you should enter on line 9 every trust (except certain trusts entered on Schedule R-1, as described later) to which you wish to allocate any part of the decedent's GST exemption. Unless you enter a trust on line 9, the unused GST exemption will be allocated to it under the deemed allocation rules.

If a trust is entered on Schedule R-1, the amount you entered on line 4 of Schedule R-1 serves as a Notice of Allocation and you need not enter the trust on line 9 unless you wish to allocate more than the Schedule R-1, line 4 amount to the trust. However, you must enter the trust on line 9 if you wish to allocate any of the unused GST exemption amount to it. Such an additional allocation would not ordinarily be appropriate in the case of a trust entered on Schedule R-1 when the trust property passes outright (rather than to another trust) at the decedent's death. However, where section 2032A property is involved, it may be appropriate to allocate additional exemption amounts to the property. See the instructions for line 10 later.

CAUTION *To avoid application of the deemed allocation rules, Form 706 and Schedule R should be filed to allocate the exemption to trusts that may later have taxable terminations or distributions under section 2612 even if the form is not required to be filed to report estate or GST tax.*

Line 9, column C. Enter the GST exemption, included on lines 2 through 6 of Part 1 of Schedule R (discussed above), that was allocated to the trust.

Line 9, column D. Allocate the amount on line 8 of Part 1 of Schedule R in line 9, column D. This amount may be allocated to transfers into trusts that are not otherwise reported on Form 706. For example, the line 8 amount may be allocated to an inter vivos trust established by the decedent during his or her lifetime and not included in the gross estate. This allocation is made by identifying the trust on line 9 and making an allocation to it using column D. If the trust is not included in the gross estate, value the trust as of the date of death. Inform the trustee of each trust listed on line 9 of the total GST exemption you allocated to the trust. The trustee will need this information to figure the GST tax on future distributions and terminations.

Line 9, column E. Trust's inclusion ratio. The trustee must know the trust's inclusion ratio to figure the trust's GST tax for future distributions and terminations. You are not required to inform the trustee of the inclusion ratio and may not have enough information to figure it. Therefore, you are not required to make an entry in column E. However, column E and the worksheet later are provided to assist you in figuring the inclusion ratio for the trustee if you wish to do so.

Inform the trustee of the amount of the GST exemption you allocated to the trust. Line 9, columns C and D may be used to figure this amount for each trust.

Note. This worksheet will figure an accurate inclusion ratio only if the decedent was the only settlor of the trust. Use a separate worksheet for each trust (or separate share of a trust that is treated as a separate trust).

WORKSHEET (inclusion ratio):

1	Total estate and gift tax value of all of the property interests that passed to the trust	_____
2	Estate taxes, state death taxes, and other charges actually recovered from the trust . . .	_____
3	GST taxes imposed on direct skips to skip persons other than this trust and borne by the property transferred to this trust	_____
4	GST taxes actually recovered from this trust (from Schedule R, Part 2, line 8 or Schedule R-1, line 6)	_____
5	Add lines 2 through 4	_____
6	Subtract line 5 from line 1 . .	_____
7	Add columns C and D of line 9	_____
8	Divide line 7 by line 6	_____
9	Trust's inclusion ratio. Subtract line 8 from 1.000	_____

Line 10. Special-use allocation. For skip persons who receive an interest in section 2032A special-use property, you may allocate more GST exemption than the direct skip amount to reduce the additional GST tax that would be due when the interest is later disposed of or qualified use ceases. See Schedule A-1, above, for more details about this additional GST tax.

Enter on line 10 the total additional GST exemption available to allocate to all skip persons who received any interest in section 2032A property.

Attach a special-use allocation statement listing each such skip person and the amount of the GST exemption allocated to that person.

If you do not allocate the GST exemption, it will be automatically allocated under the deemed allocation at death rules. To the extent any amount is not so allocated, it will be automatically allocated to the earliest disposition or cessation that is subject to the GST tax. Under certain circumstances, post-death events may cause the decedent to be treated as a transferor for purposes of Chapter 13.

Line 10 may be used to set aside an exemption amount for such an event. Attach a statement listing each such event and the amount of exemption allocated to that event.

Parts 2 and 3.

Use Part 2 to figure the GST tax on transfers in which the property interests transferred are to bear the GST tax on the transfers. Use Part 3 to report the GST tax on transfers in which the property interests transferred do not bear the GST tax on the transfers.

Section 2603(b) requires that unless the governing instrument provides otherwise, the GST tax is to be charged to the property constituting the transfer. Therefore, you will usually enter all of the direct skips on Part 2.

You may enter a transfer on Part 3 only if the will or trust instrument directs, by specific reference, that the GST tax is not to be paid from the transferred property interests.

Part 2, Line 3. Enter zero on this line unless the will or trust instrument specifies that the GST taxes will be paid by property other than that constituting the transfer (as described above). Enter on line 3 the total of the GST taxes shown on Part 3 and Schedule(s) R-1 that are payable out of the property interests shown on Part 2, line 1.

Part 2, Line 6. Do not enter more than the amount on line 5. Additional allocations may be made using Part 1.

Part 3, Line 3. See the instructions to Part 2, line 3 above. Enter only the total of the GST taxes shown on Schedule(s) R-1 that are payable out of the property interests shown on Part 3, line 1.

Part 3, Line 6. See the instructions to Part 2, line 6 above.

How To Complete Schedule R-1

Filing due date. Enter the due date of Form 706. You must send the copies of Schedule R-1 to the fiduciary before this date.

Line 4. Do not enter more than the amount on line 3. If you wish to allocate an additional GST exemption, you must use Schedule R, Part 1. Making an entry on line 4 constitutes a Notice of Allocation of the decedent's GST exemption to the trust.

Line 6. If the property interests entered on line 1 will not bear the GST tax, multiply line 6 by 40% (0.40).

Signature. The executor(s) must sign Schedule R-1 in the same manner as Form 706. See *Signature and Verification,* above.

Filing Schedule R-1. Attach to Form 706 one copy of each Schedule R-1 that you prepare. Send two copies of each Schedule R-1 to the fiduciary.

Schedule U—Qualified Conservation Easement Exclusion

CAUTION *If at the time of the contribution of the conservation easement, the value of the easement, the value of the land subject to the easement, or the value of any retained development right was different than the estate tax value, you must complete a separate computation in addition to completing Schedule U.*

Use a copy of Schedule U as a worksheet for this separate computation. Complete lines 4 through 14 of the worksheet Schedule U. However, the value you use on lines 4, 5, 7, and 10 of the worksheet is the value for these items as of the date of the contribution of the easement, not the estate tax value. If the date of contribution and the estate tax values are the same, you do not need to do a separate computation.

After completing the worksheet, enter the amount from line 14 of the worksheet on line 14 of Schedule U. Finish completing Schedule U by entering amounts on lines 4, 7, and 15 through 20, following the instructions later for those lines. At the top of Schedule U, enter "worksheet attached." Attach the worksheet to the return.

Under section 2031(c), you may elect to exclude a portion of the value of land that is subject to a qualified conservation easement. You make the election by filing Schedule U with all of the required information and excluding the applicable value of the land that is subject to the easement on Part 5—Recapitulation, at item 12. To elect the exclusion, include on Schedule A, B, E, F, G, or H, as appropriate, the decedent's interest in the land that is subject to the exclusion. You must make the election on a timely filed Form 706, including extensions.

The exclusion is the lesser of:

- The applicable percentage of the value of land (after certain reductions) subject to a qualified conservation easement or
- $500,000.

Once made, the election is irrevocable.

General Requirements

Qualified Land

Land may qualify for the exclusion if all of the following requirements are met:

- The decedent or a member of the decedent's family must have owned the land for the 3-year period ending on the date of the decedent's death.
- No later than the date the election is made, a qualified conservation easement on the land has been made by the decedent, a member of the decedent's family, the executor of the decedent's estate, or the trustee of a trust that holds the land.
- The land is located in the United States or one of its possessions.

Member of Family

Members of the decedent's family include the decedent's spouse; ancestors; lineal descendants of the decedent, of the decedent's spouse, and of the parents of the decedent; and the spouse of any lineal descendant. A legally adopted child of an individual is considered a child of the individual by blood.

Indirect Ownership of Land

The qualified conservation easement exclusion applies if the land is owned indirectly through a partnership, corporation, or trust, if the decedent owned (directly or indirectly) at least 30% of the entity. For the rules on determining ownership of an entity, see *Ownership rules,* later.

Ownership rules. An interest in property owned, directly or indirectly, by or for a corporation, partnership, or trust is considered proportionately owned by

DRAFT AS OF June 16, 2016

or for the entity's shareholders, partners, or beneficiaries. A person is the beneficiary of a trust only if he or she has a present interest in the trust. For additional information, see the ownership rules in section 2057(e)(3).

Qualified Conservation Easement

A *qualified conservation easement* is one that would qualify as a qualified conservation contribution under section 170(h). It must be a contribution:

- Of a qualified real property interest,
- To a qualified organization, and
- Exclusively for conservation purposes.

Qualified real property interest. A *qualified real property interest* is any of the following:

- The entire interest of the donor, other than a qualified mineral interest;
- A remainder interest; or
- A restriction granted in perpetuity on the use that may be made of the real property. The restriction must include a prohibition on more than a de minimis use for commercial recreational activity.

Qualified organization. A *qualified organization* includes:

- Corporations and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition, or for the prevention of cruelty to children or animals, without net earnings benefitting any individual shareholder and without activity with the purpose of influencing legislation or political campaigning, which

  a. Receives more than one-third of its support from gifts, contributions, membership fees, or receipts from sales, admissions fees, or performance of services, or

  b. Is controlled by such an organization.
- Any entity that qualifies under section 170(b)(1)(A)(v) or (vi).

Conservation purpose. An easement has a *conservation purpose* if it is for:

- The preservation of land areas for outdoor recreation by, or for the education of, the public;
- The protection of a relatively natural habitat of fish, wildlife, or plants, or a similar ecosystem; or
- The preservation of open space (including farmland and forest land) where such preservation is for the scenic enjoyment of the general public, or under a clearly delineated federal, state, or local conservation policy and will yield a significant public benefit.

Specific Instructions

Line 1

If the land is reported as one or more item numbers on a Form 706 schedule, simply list the schedule and item numbers. If the land subject to the easement is only part of an item, however, list the schedule and item number and describe the part subject to the easement. See the Instructions for *Schedule A — Real Estate* for information on how to describe the land.

Line 3

Using the general rules for describing real estate, provide enough information so the IRS can value the easement. Give the date the easement was granted and by whom it was granted.

Line 4

Enter on this line the gross value at which the land was reported on the applicable asset schedule on this Form 706. Do not reduce the value by the amount of any mortgage outstanding. Report the estate tax value even if the easement was granted by the decedent (or someone other than the decedent) prior to the decedent's death.

Note. If the value of the land reported on line 4 was different at the time the easement was contributed than that reported on Form 706, see the *Caution* at the beginning of the Schedule U Instructions.

Line 5

The amount on line 5 should be the date of death value of any qualifying conservation easements granted prior to the decedent's death, whether granted by the decedent or someone other than the decedent, for which the exclusion is being elected.

Note. If the value of the easement reported on line 5 was different at the time the easement was contributed than at the date of death, see the *Caution* at the beginning of the Schedule U Instructions.

Line 7

You must reduce the land value by the value of any development rights retained by the donor in the conveyance of the easement. A *development right* is any right to use the land for any commercial purpose that is not subordinate to or directly supportive of the use of the land as a farm for farming purposes.

Note. If the value of the retained development rights reported on line 7 was different at the time the easement was contributed than at the date of death, see the *Caution* at the beginning of the Schedule U Instructions.

You do not have to make this reduction if everyone with an interest in the land (regardless of whether in possession) agrees to permanently extinguish the retained development right. The agreement must be filed with this return and must include the following information and terms:

1. A statement that the agreement is made under section 2031(c)(5);

2. A list of all persons in being holding an interest in the land that is subject to the qualified conservation easement. Include each person's name, address, tax identifying number, relationship to the decedent, and a description of their interest;

3. The items of real property shown on the estate tax return that are subject to the qualified conservation easement (identified by schedule and item number);

4. A description of the retained development right that is to be extinguished;

5. A clear statement of consent that is binding on all parties under applicable local law:

   a. To take whatever action is necessary to permanently extinguish the retained development rights listed in the agreement and

   b. To be personally liable for additional taxes under section 2031(c)(5)(C) if this agreement is not implemented by the earlier of:

   - The date that is 2 years after the date of the decedent's death or
   - The date of sale of the land subject to the qualified conservation easement;

6. A statement that in the event this agreement is not timely implemented, that they will report the additional tax on whatever return is required by the IRS and will file the return and pay the additional tax by the last day of the 6th month following the applicable date described above.

All parties to the agreement must sign the agreement.

DRAFT AS OF June 16, 2016

For an example of an agreement containing some of the same terms, see Part 3 of Schedule A-1 (Form 706).

Line 10

Enter the total value of the qualified conservation easements on which the exclusion is based. This could include easements granted by the decedent (or someone other than the decedent) prior to the decedent's death, easements granted by the decedent that take effect at death, easements granted by the executor after the decedent's death, or some combination of these.

CAUTION *Use the value of the easement as of the date of death, even if the easement was granted prior to the date of death. But, if the value of the easement was different at the time the easement was contributed than at the date of death, see the* Caution *at the beginning of the Schedule U Instructions.*

Explain how this value was determined and attach copies of any appraisals. Normally, the appropriate way to value a conservation easement is to determine the FMV of the land both before and after the granting of the easement, with the difference being the value of the easement.

Reduce the reported value of the easement by the amount of any consideration received for the easement. If the date of death value of the easement is different from the value at the time the consideration was received, reduce the value of the easement by the same proportion that the consideration received bears to the value of the easement at the time it was granted. For example, assume the value of the easement at the time it was granted was $100,000 and $10,000 was received in consideration for the easement. If the easement was worth $150,000 at the date of death, you must reduce the value of the easement by $15,000 ($10,000/$100,000 × $150,000) and report the value of the easement on line 10 as $135,000.

Line 15

If a charitable contribution deduction for this land has been taken on Schedule O, enter the amount of the deduction here. If the easement was granted after the decedent's death, a contribution deduction may be taken on Schedule O, if it otherwise qualifies, as long as no income tax deduction was or will be claimed for the contribution by any person or entity.

Line 16

Reduce the value of the land by the amount of any acquisition indebtedness on the land at the date of the decedent's death. Acquisition indebtedness includes the unpaid amount of:

- Any indebtedness incurred by the donor in acquiring the property;
- Any indebtedness incurred before the acquisition if the indebtedness would not have been incurred but for the acquisition;
- Any indebtedness incurred after the acquisition if the indebtedness would not have been incurred but for the acquisition and the incurrence of the indebtedness was reasonably foreseeable at the time of the acquisition; and
- The extension, renewal, or refinancing of acquisition indebtedness.

Schedule PC—Protective Claim for Refund

A *protective claim for refund* preserves the estate's right to a refund of tax paid on any amount included in the gross estate which would be deductible under section 2053 but has not been paid or otherwise will not meet the requirements of section 2053 until after the limitations period for filing the claim has passed. See section 6511(a).

CAUTION *Only use Schedule PC for section 2053 protective claims for refund being filed with Form 706. If the initial notice of the protective claim for refund is being submitted after Form 706 has been filed, use Form 843, Claim for Refund and Request for Abatement, to file the claim.*

Schedule PC may be used to file a section 2053 protective claim for refund by estates of decedents who died after December 31, 2011. It will also be used to inform the IRS when the contingency leading to the protective claim for refund is resolved and the refund due the estate is finalized. The estate must indicate whether the Schedule PC being filed is the initial notice of protective claim for refund, notice of partial claim for refund, or notice of the final resolution of the claim for refund.

Because each separate claim or expense requires a separate Schedule PC, more than one Schedule PC may be included with Form 706, if applicable. Two copies of each Schedule PC must be included with Form 706.

Note. Filing a section 2053 protective claim for refund on Schedule PC will not suspend the IRS' review and examination of Form 706, nor will it delay the issuance of a closing letter for the estate.

Initial Notice of Claim

The first Schedule PC to be filed is the initial notice of protective claim for refund. The estate will receive a written acknowledgment of receipt of the claim from the IRS. If the acknowledgment is not received within 180 days of filing the protective claim for refund on Schedule PC, the fiduciary should contact the IRS at (866) 699-4083 to inquire about the receipt and processing of the claim. A certified mail receipt or other evidence of delivery is not sufficient to confirm receipt and processing of the protective claim for refund.

Note. The written acknowledgment of receipt does not constitute a determination that all requirements for a valid protective claim for refund have been met.

In general, the claim will not be subject to substantive review until the amount of the claim has been established. However, a claim can be disallowed at the time of filing. For example, the claim for refund will be rejected if:

- The claim was not timely filed;
- The claim was not filed by the fiduciary or other person with authority to act on behalf of the estate;
- The acknowledgment of the penalties of perjury statement (on page 1 of Form 706) was not signed; or,
- The claim is not adequately described.

If the IRS does not raise such a defect when the claim is filed, it will not be precluded from doing so in the later substantive review.

The estate may be given an opportunity to cure any defects in the initial notice by filing a corrected and signed protective claim for refund before the expiration of the limitations period in section 6511(a) or within 45 days of notice of the defect, whichever is later.

Related Ancillary Expenses

If a Section 2053 protective claim for refund has been adequately identified on Schedule PC, the IRS will presume that the claim includes certain expenses related to resolving, defending or

DRAFT AS OF June 16, 2016

satisfying the claim. These ancillary expenses may include attorneys' fees, court costs, appraisal fees, and accounting fees. The estate is not required to separately identify or substantiate these expenses; however, each expense must meet the requirements of section 2053 to be deductible.

Notice of Final Resolution of Claim

When an expense that was the subject of a section 2053 protective claim for refund is finally determined, the estate must notify the IRS that the claim for refund is ready for consideration. The notification should provide facts and evidence substantiating the deduction under section 2053 and the resulting recomputation of the estate tax liability. A separate notice of final resolution must be filed with the IRS for each resolved section 2053 protective claim for refund.

There are two means by which the estate may notify the IRS of the resolution of the uncertainty that deprived the estate of the deduction when Form 706 was filed. The estate may file a supplemental Form 706 with an updated Schedule PC and including each schedule affected by the allowance of the deduction under section 2053. Page 1 of Form 706 should contain the notation "Supplemental Information – Notification of Consideration of Section 2053 Protective Claim(s) for Refund" and include the filing date of the initial notice of protective claim for refund. A copy of the initial notice of claim should also be submitted.

Alternatively, the estate may notify the IRS by filing an updated Form 843, Claim for Refund and Request for Abatement. Form 843 must contain the notation "Notification of Consideration of Section 2053 Protective Claim(s) for Refund," including the filing date of the initial notice of protective claim for refund, on page 1. A copy of the initial notice of claim must also be submitted.

The estate should notify the IRS of resolution within 90 days of the date the claim or expense is paid or the date on which the amount of the claim becomes certain and no longer subject to contingency, whichever is later. Separate notifications must be submitted for every section 2053 protective claim for refund that was filed.

If the final section 2053 claim or expense involves multiple or recurring payments, the 90-day period begins on the date of the last payment. The estate may also notify the IRS (not more than annually) as payments are being made and possibly qualify for a partial refund based on the amounts paid through the date of the notice.

Specific Instructions

Part 1. General Information

Complete Part 1 by providing information that is correct and complete as of the time Schedule PC is filed. If filing an updated Schedule PC with a supplemental Form 706 or as notice of final resolution of the protective claim for refund, be sure to update the information from the original filing to ensure that it is accurate. Be particularly careful to verify that contact information (addresses and telephone numbers) and the reason for filing Schedule PC are indicated correctly. If the fiduciary is different from the executor identified on page 1 of Form 706 or has changed since the initial notice of protective claim for refund was filed, attach letters testamentary, letters of administration, or similar documentation evidencing the fiduciary's authority to file the protective claim for refund on behalf of the estate. Include a copy of Form 56, Notice Concerning Fiduciary Relationship, if it has been filed.

Part 2. Claim Information

For a protective claim for refund to be properly filed and considered, the claim or expense forming the basis of the potential 2053 deduction must be clearly identified. Using the check boxes provided, indicate whether you are filing the initial claim for refund, a claim for partial refund or a final claim. On the chart in Part 2, give the Form 706 schedule and item number of the claim or expense. List any amounts claimed under exceptions for ascertainable amounts (Regulations section 20.2053-1(d)(4)), claims and counterclaims in related matters (Regulations section 20.2053-4(b)), or claims under $500,000 (Regulations section 20.2053-4(c)). Provide all relevant information as described including, most importantly, an explanation of the reasons and contingencies delaying the actual payment to be made in satisfaction of the claim or expense. Complete columns E and F only if filing a notice of partial or final resolution. Show the amount of ancillary or related expenses to be included in the claim for refund and indicate whether this amount is estimated, agreed upon, or has been paid. Also show the amount being claimed for refund.

Note. If you made partial claims for a recurring expense, the amount presently claimed as a deduction under section 2053 will only include the amount presently claimed, not the cumulative amount.

Part 3. Other Schedules PC and Forms 843 Filed by the Estate

On the chart in Part 3, provide information on other protective claims for refund that have been previously filed on behalf of the estate (if any), whether on other Schedules PC or on Form 843. When the initial claim for refund is filed, only information from Form(s) 843 need be included in Part 3. However, when filing a partial or final claim for refund, complete Part 3 by including the status of all claims filed by or on behalf of the estate, including those filed on other Schedules PC with Form 706. For each such claim, give the place of filing, date of filing and amount of the claim.

Continuation Schedule

When you need to list more assets or deductions than you have room for on one of the main schedules, use the Continuation Schedule at the end of Form 706. It provides a uniform format for listing additional assets from Schedules A through I and additional deductions from Schedules J, K, L, M, and O.

Please remember to:

- Use a separate Continuation Schedule for each main schedule you are continuing. Do not combine assets or deductions from different schedules on one Continuation Schedule.
- Make copies of the blank schedule before completing it if you expect to need more than one.
- Use as many Continuation Schedules as needed to list all the assets or deductions.
- Enter the letter of the schedule you are continuing in the space at the top of the Continuation Schedule.
- Use the Unit value column **only** if continuing Schedule B, E, or G. For all other schedules, use this space to continue the description.
- Carry the total from the Continuation Schedules forward to the appropriate line on the main schedule.

DRAFT AS OF June 6, 2016

If continuing	Report	Where on Continuation Schedule
Schedule E, Pt. 2	*Percentage includible*	*Alternate valuation date*
Schedules J, L, M	*Continued description of deduction*	*Alternate valuation date* ***and*** *Alternate value*
Schedule O	*Character of institution*	*Alternate valuation date* ***and*** *Alternate value*
Schedule O	*Amount of each deduction*	*Amount deductible*

DRAFT AS OF June 16, 2016

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. Subtitle B and section 6109, and the regulations require you to provide this information.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential as required by section 6103. However, section 6103 allows or requires the Internal Revenue Service to disclose information from this form in certain circumstances. For example, we may disclose information to the Department of Justice for civil or criminal litigation, and to cities, states, the District of Columbia, and U.S. commonwealths or possessions for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal non-tax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism. Failure to provide this information, or providing false information, may subject you to penalties.

The time needed to complete and file this form and related schedules will vary depending on individual circumstances. The estimated average times are:

Form	Recordkeeping	Learning about the law or the form	Preparing the form	Copying, assembling, and sending the form to the IRS
706	1 hr., 25 min.	1 hr., 50 min.	3 hr., 42 min.	48 min.
Schedule A	- - - -	15 min.	12 min.	20 min.
Schedule A-1	33 min.	31 min.	1 hr., 15 min.	1 hr., 3 min.
Schedule B	19 min.	9 min.	16 min.	20 min.
Schedule C	19 min.	1 min.	13 min.	20 min.
Schedule D	6 min.	6 min.	13 min.	20 min.
Schedule E	39 min.	6 min.	36 min.	20 min.
Schedule F	26 min.	8 min.	18 min.	20 min.
Schedule G	26 min.	21 min.	12 min.	13 min.
Schedule H	26 min.	6 min.	12 min.	13 min.
Schedule I	13 min.	30 min.	15 min.	20 min.
Schedule J	26 min.	6 min.	16 min.	20 min.
Schedule K	13 min.	9 min.	18 min.	20 min.
Schedule L	13 min.	4 min.	15 min.	20 min.
Schedule M	13 min.	34 min.	25 min.	20 min.
Schedule O	19 min.	12 min.	21 min.	20 min.
Schedule P	6 min.	15 min.	18 min.	13 min.
Schedule Q	- - - -	12 min.	15 min.	13 min.
Worksheet for Schedule Q	6 min.	6 min.	58 min.	20 min.
Schedule R	19 min.	45 min.	1 hr., 10 min.	48 min.
Schedule R-1	6 min.	46 min.	35 min.	20 min.
Schedule U	19 min.	26 min.	29 min.	20 min.
Schedule PC	- - - -	2 min.	12 min.	20 min.
Continuation Schedule	19 min.	1 min.	13 min.	20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form simpler, we would be happy to hear from you. You can send us comments from *www.irs.gov/formspubs/*. Click on “More Information” and then on “Give us feedback.” You can also send your comments to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Do not send the tax form to this address. Instead, see Where To File.

Index

2032A 11
2044 16
6163 15
6166 13

A
Address, executor 5
Administration Expenses 32
Alternate valuation 10
Amending Form 706 4
Annuities 29
Applicable Credit Adjustment 9
Applicable Credit Amount 9
Authorized Representative 15

B
Bonds 22

C
Canadian marital credit 10
Charitable Deduction 38
Claim for refund 49
Close Corporations 16
Conservation Easement 47
Continuation Schedule 50
Credit for foreign death taxes 39
Credit for tax on prior transfers 40

D
Death certificate 4
Debts of the decedent 33
Deductions 17
Direct skips 43
Disclaimer, qualified 39
Documents, supplemental 4
DSUE 18

E
Election 13, 15
Election, lump sum distribution 31
Estimated Values 18
Executor 3, 5

F
Foreign Accounts 16
Foreign Death Taxes 39
Forms and publications, obtaining 5
Funeral Expenses 32

G
General Information 15
General Instructions 2
Gross estate 2, 17
GST 43

I
Inclusion ratio for trust 46
Installment payments 13
Insurance 24

J
Joint Property 25

L
Liens 34
Losses 34
Lump sum distribution election 31

M
Marital Deduction 34
Material participation 12
Member of family 12
Mortgages and liens 34

N
Nonresident Noncitizens 3

P
Part 1. Decedent and Executor 5
Part 2. Tax Computation 5
Part 3. Elections by the Executor 10
Part 4. General Information 15
Part 5. Recapitulation 17
Part 6. Portability of Deceased Spousal Unused Exclusion 18
Partnership Interests 16
Paying the Tax 3
Penalties 4
Portability 18
Powers of appointment 29
Private delivery services 3
Protective Claim for Refund 49
Publications, obtaining 5
Purpose of Form 2

Q
QDOT 37
QTIP 36
Qualified heir 12
Qualified real property 11

R
Recapitulation 17
Residents of U. S. Possessions 3
Reversionary or Remainder Interests 15
Rounding off to whole dollars 4

S
Schedule A, Real Estate 19
Schedule A-1, Section 2032A Valuation 20
Schedule B, Stocks and Bonds 22
Schedule C, Mortgages, Notes, and Cash 24
Schedule D, Insurance on Decedent's Life 24
Schedule E, Jointly Owned Property 25
Schedule F, Miscellaneous Property 26
Schedule G, Transfers During Decedent's Life 27
Schedule H, Powers of appointment 29
Schedule I, Annuities 29
Schedule J, Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims 32
Schedule K, Debts of the Decedent and Mortgages and Liens 33
Schedule L, Net Losses During Administration and Expenses Incurred in Administering Property Not Subject to Claims 34
Schedule M, Bequests to Surviving Spouses 34
Schedule O, Charitable, Public, and Similar Gifts and Bequests 38
Schedule P, Credit for Foreign Death Taxes 39
Schedule PC, Protective Claim for Refund 49
Schedule Q, Credit for Tax on Prior Transfers 40
Schedules R and R-1, Generation-Skipping Transfer Tax 43
Schedule U, Qualified Conservation Easement Exclusion 47
Section 2035(a) transfers 27
Section 2036 transfers 27
Section 2037 transfers 27
Section 2038 transfers 27
Signature and verification 4
Social security number 5
Special Rule – Portability 18
Special-Use Valuation 11, 20
Specific Instructions 5
Stocks 22

T
Table A, Unified Rate Schedule 5
Table of Estimated Values 17
Tax Computation 5
Terminable Interests 35
Total Credits 9
Transfers, valuation rules 28
Trusts 16

U
U. S. Citizens or Residents 3
Unified Credit (Applicable Credit Amount) 9
Unified credit adjustment 9

V
Valuation methods 12
Valuation rules, transfers 28

W
What's New 1
When To File 3
Which Estates Must File 2
Worksheet, inclusion ratio for trust 46
Worksheet for Schedule Q 41
Worksheet TG-Taxable Gifts Reconciliation 6

DRAFT AS OF June 16, 2016

Checklists for Completing Form 706

To ensure a complete return, review the following checklists before filing Form 706.

Attachments . . .

- ☐ Death Certificate
- ☐ Certified copy of the will—if decedent died testate, you must attach a certified copy of the will. If not certified, explain why.
- ☐ Appraisals—attach any appraisals used to value property included on the return.
- ☐ Copies of all trust documents where the decedent was a grantor or a beneficiary.
- ☐ Form 2848 or 8821, if applicable.
- ☐ Copy of any Form(s) 709 filed by the decedent.
- ☐ Copy of Line 7 worksheet, if applicable.
- ☐ Form 712, if any policies of life insurance are included on the return.
- ☐ Form 706-CE, if claiming a foreign death tax credit.

DRAFT AS OF June 16, 2016

Have you . . .

- ☐ Signed the return at the bottom of page 1?
- ☐ Had the preparer sign, if applicable?
- ☐ Obtained the signature of your authorized representative on Part 4, page 2?
- ☐ Entered a Total on all schedules filed?
- ☐ Made an entry on every line of the Recapitulation, even if it is a zero?
- ☐ Included the CUSIP number for all stocks and bonds?
- ☐ Included the EIN of trusts, partnerships, and closely held entities?
- ☐ Included the first 4 pages of the return and all required schedules?
- ☐ Completed Schedule F? It must be filed with all returns.
- ☐ Completed Part 4, line 4, on page 2, if there is a surviving spouse?
- ☐ Completed and attached Schedule D to report insurance on the life of the decedent, even if its value is not included in the estate?
- ☐ Included any QTIP property received from a predeceased spouse?
- ☐ Entered the decedent's name, SSN, and “Form 706” on your check or money order?
- ☐ Completed Part 6, section A if the estate elects not to transfer any deceased spousal unused exclusion (DSUE) amount to the surviving spouse?
- ☐ Completed Part 6, section C if the estate elects portability of any DSUE amount?
- ☐ Completed Part 6, section D and included a copy of the Form 706 of any predeceased spouse(s) from whom a deceased spousal unused exclusion (DSUE) amount was received and applied?

DRAFT AS OF June 16, 2016