

Instructions for Trustee for Form 706GS(D-1)

(February 1990)

Notification of Distribution From a Generation-Skipping Trust

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

Paperwork Reduction Act Notice.—We ask for this information to carry out the Internal Revenue laws of the United States. 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. You are required to give us this information.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:

Recordkeeping	1 hr 33 min.
Learning about the law or the form	1 hr 38 min.
Preparing the form	40 min.
Copying, assembling, and sending the form to IRS	20 min.

If you have comments concerning the accuracy of these time estimates or suggestions for making this form more simple, we would be happy to hear from you. You can write to the **Internal Revenue Service**, Washington, DC 20224, Attention: IRS Reports Clearance Officer, T:FP; or the **Office of Management and Budget**, Paperwork Reduction Project (1545-1143), Washington, DC 20503.

General Instructions

Purpose of Form

Form 706GS(D-1) is used by a trustee to report certain distributions from a trust which are subject to the generation-skipping transfer tax and to provide the skip-person distributee with information needed to figure the tax due on the distribution.

When To File

Generally, the trustee must file Copy A of Form 706GS(D-1) with the IRS and send Copy B to the distributee by the 15th day of the 4th month of the year following the calendar year when the distribution was made. For distributions occurring after September 25, 1985, and before January 1, 1990, the return must be filed on or before August 15, 1990.

Where To File

Copy A—The trustee must send this copy to the Internal Revenue Service. For Forms 706GS(D-1) filed in 1990 **only**, send all Copies A to the Internal Revenue Service Center, Philadelphia, PA 19255. For forms filed after 1990, send Copy A to the Internal Revenue Service Center at which an estate or gift tax return of the settlor must be filed.

Copy B—The trustee must send this copy to the skip-person distributee.

The trustee should retain a copy of the form for the trust records.

Who Must File

In general, the trustee of any trust which makes a taxable distribution after October 22, 1986, must file a Form 706GS(D-1) for each skip-person. See "Distributions Subject to GST Tax" below for a discussion of what constitutes a taxable distribution.

The trustee must file a return for each skip-person even if the inclusion ratio applicable to the distribution is zero. See the instructions for line 3, column d, on page 2 for a discussion of inclusion ratio.

Trusts.—*Non-Explicit Trusts.*—An arrangement that has substantially the same effect as a trust will be treated as a trust even though it is not an explicit trust. Examples of such arrangements are insurance and annuity contracts, arrangements involving life estates and remainders, and estates for years. "Non-explicit trusts" do not include decedents' estates.

In the case of a non-explicit trust, the person in actual or constructive possession of the property involved is considered the trustee and is liable for filing Form 706GS(D-1).

If you are filing this return for a non-explicit trust, be certain to see the instructions for line 2a on page 2.

Separate Trusts.—You must treat as separate trusts portions of a trust which are attributable to transfers from different transferors and substantially separate and independent shares of different beneficiaries in a trust.

Distributions Subject to GST Tax

In general, all "taxable distributions" are subject to the GST tax. A "taxable distribution" is any distribution from a trust to a skip person (other than a taxable termination or a direct skip.)

If any GST tax imposed on a distribution is paid out of the trust from which the distribution was made, the amount of tax paid by the trust is also a taxable distribution.

A distribution is not considered a taxable distribution if, had it been made inter vivos by an individual, it would not have been a taxable gift because of section 2503(e) (relating to transfers made for certain educational or medical expenses).

Also, a distribution (or any portion thereof) is not a taxable distribution to the extent that the property distributed was

previously subject to GST tax and the distributee in the prior distribution is assigned to a generation the same as or lower than the distributee in the current distribution. This rule does not apply if the transfers have the effect of avoiding GST tax for any transfer.

Effective Dates.—The rules below apply only for purposes of determining if a transfer is a "taxable distribution" that must be reported on Form 706GS(D-1).

In General.—The GST tax is effective for all taxable distributions made after October 22, 1986.

Certain Earlier Distributions Deemed Made After October 22, 1986.—If an inter vivos transfer that was subject to gift tax was made to a trust after September 25, 1985, and before October 23, 1986, then any distribution from such trust that occurred before October 23, 1986, is treated as if it occurred after October 22, 1986.

Exceptions.—*Irrevocable Trusts.*—The GST tax does not apply to any distribution from a trust that was irrevocable on September 25, 1985. Any trust in existence on September 25, 1985, will be considered irrevocable unless:

1. On September 25, 1985, the settlor held a power with respect to such trust that would have caused the value of the trust to be included in the settlor's gross estate for Federal estate tax purposes by reason of section 2038 if the settlor had died on September 25, 1985, or

2. Regarding a policy of life insurance that is treated as a trust under section 2652(b), the insured possessed an incident of ownership on September 25, 1985, that would have caused the insurance proceeds to be included in the insured's gross estate for Federal estate tax purposes if the insured had died on September 25, 1985.

For more information, see Temp. Regs. section 26.2601-1(b).

Trusts Containing Qualified Terminable Interest Property.—If an irrevocable trust in existence on September 25, 1985, holds qualified terminable interest property (QTIP) (as defined in section 2056(b)(7)) as a result of an election under section 2056(b)(7) or 2523(f), the trust will be treated for purposes of the GST tax as if the QTIP election had not been made. Thus, transfers from such a trust will not be subject to the GST tax.

Additions to Irrevocable Trusts.—To the extent that a distribution from a trust is from additions to an irrevocable trust made after September 25, 1985, such distribution is subject to the GST tax. Additions include constructive additions described in Temp. Regs. section 26.2601-1(b)(1)(v).

For purposes of computing the inclusion ratio (as defined below), use only the value of the total additions made to the trust after September 25, 1985.

Distributions From Trusts to Which Additions Have Been Made.—As described above, when an addition is made after September 25, 1985, to an irrevocable trust, only the portion of the trust resulting from the addition is subject to the GST tax. For distributions, this portion is the product of the allocation fraction and the value of the property distributed (including accumulated income and appreciation).

The allocation fraction is a fraction, the numerator of which is the value of the addition as of the date it was made (regardless of whether it was subject to gift or estate tax). The denominator of the fraction is the fair market value of the entire trust immediately after the addition, less any trust amount that is similar to expenses, indebtedness, or taxes that would be allowable as a deduction under section 2053.

When there is more than one addition, the allocation fraction is revised after each addition. The numerator of the revised fraction is the sum of:

1. The value of the trust subject to the GST tax immediately before the last addition, and
2. The amount of the latest addition.

The denominator of the revised fraction is the total value of the entire trust immediately after the latest addition. If the addition results from a generation-skipping transfer, reduce the numerator and denominator by the amount of any GST tax imposed on the transfer and recovered from the trust. Round off the allocation fraction to five decimal places.

Transition Rule for Revocable Trusts.—In General.—The GST tax will not apply to any distributions from a revocable trust, provided:

1. The trust was executed before October 22, 1986;
2. The trust as it existed on October 21, 1986, was not amended after October 21, 1986, in any way which created or increased the amount of a generation-skipping transfer;
3. Except as provided below, no addition was made to the trust; and
4. The settlor died before January 1, 1987

A revocable trust is any trust which on October 22, 1986, was not an irrevocable trust (as defined above) and would not have been an irrevocable trust had it been created before September 25, 1985.

The instructions under "Irrevocable Trusts" above regarding qualified terminable interest property apply also to revocable trusts covered by these transition rules.

Amendments to Revocable Trusts.—An amendment to a revocable trust in existence on October 21, 1986, will not be considered to result in the creation of, or an increase in the amount of a generation-skipping transfer where: (1) the amendment is administrative or clarifying in nature, or (2) it is designed to perfect a marital or charitable deduction for an existing transfer and it only incidentally increases the amount transferred to a skip person.

Addition to Revocable Trusts.—In general.—If an addition (including a constructive addition) to a revocable trust is made after October 21, 1986, and before the death of the settlor, all subsequent distributions from the trust will be subject to the GST tax, provided the other requirements of taxability are met. For settlors dying before January 1, 1987, any addition made to a revocable trust after the death of the settlor will be treated as if made to an irrevocable trust.

See Temp. Regs. section 26.2601-1(b)(2)(vi) for examples demonstrating the operation of these rules.

Transition Rule in Case of Mental Disability.—If the settlor was under a disability on October 22, 1986, the GST tax may not apply. See Temp. Regs. section 26.2601-1(b)(3) for a definition of mental disability and details on the application of this rule.

Exceptions to Additions Rule.—Do not treat as an addition to a trust any addition which is made pursuant to an instrument or arrangement which is covered by the two transition rules discussed above. This also applies to inter vivos transfers if the same property would have been added to the trust by such an instrument. For examples illustrating this rule, see Temp. Regs. section 26.2601-1(b)(4)(ii).

Skip-persons.—For GST tax purposes, skip-person means:

1. a natural person assigned to a generation which is two or more generations below the settlor's generation, or
2. a trust which meets the following conditions:

- a. all interests in the trust are held by skip persons, or
- b. no person holds an interest in the trust, and at no time after the transfer to the trust may a distribution be made to a nonskip-person.

Nonskip-person.—A nonskip-person is any person who is not a skip-person.

Generation Assignment.—The generation of a lineal descendent of the grandparent of the settlor (or a spouse or former spouse of the settlor) is determined by comparing the number of generations between that individual and the grandparent to the number of generations between the grandparent and the settlor (or the spouse or former spouse of the settlor).

For this purpose, a relationship by adoption is considered a blood relationship. A relationship by half-blood is considered a relationship by whole blood.

The spouse or former spouse of a settlor or lineal descendent is considered to belong to the same generation as the settlor or lineal descendent, as the case may be.

Any individual not described above is considered in the same generation as the settlor if born not more than 12½ years after the settlor. Individuals born more than 12½ but not more than 37½ years after the settlor are considered in succeeding generations, with a new generation every 25 years. If an entity such as a partnership, corporation, trust, or estate has an interest in property, each individual with a beneficial interest in the entity is treated as having an interest in the property. The individual is then assigned to a generation using the rules described above.

Governmental entities and certain charitable organizations are assigned to the settlor's generation. Transfers to them will never be generation-skipping transfers. For more information, see section 2651(e)(3).

Multiple Skips.—If after a generation-skipping transfer the property transferred is held in trust, then for the purpose of determining the taxability of subsequent distributions from the trust involving that property the settlor of the property is assigned to the first generation above the highest generation of any person who has an interest in the trust immediately after the initial transfer.

Signature

Form 706GS(D-1) must be signed by the trustee or by an authorized representative.

If someone prepares your return and does not charge you, that person should not sign the return. Generally, anyone who is paid to prepare your return must sign it in the space indicated.

Specific Instructions

Instructions for Part I.—General Information

Line 1a.—Distributee's Identifying Number.—Enter here the social security number of an individual distributee. (If the number is unknown or the individual has no number, please indicate "unknown" or "none.") If the distributee is a trust, enter the trust's employer identification number.

Line 2a.—Trust's Identifying Number.—Enter here the employer identification number of the trust from which the distribution is made.

A non-explicit trust as described on page 1 under "Who Must File" must have an EIN which is separate from any other entity's EIN and which will be used only by the non-explicit trust.

A trust or non-explicit trust which does not have an EIN should apply for one on **Form SS-4, Application for Employer Identification Number**. This form may be obtained from most IRS and Social Security Administration offices. Send Form SS-4 to the same Internal Revenue Service Center at which Form 706GS(D-1) is filed. If the EIN has not been received by the filing time for the GST form, write "Applied for" on line 2a. See **Pub. 583** for more information.

Instructions for Part II.— Distributions

Line 3.—

Report here all distributions from any given trust to a single skip-person distributee during the calendar year

Column a.—Assign consecutive numbers to each distribution made during the year. Different items of property having different inclusion ratios must be listed separately in Part II. Any properties having the same inclusion ratio may be included under a single item number even if they were distributed at different times.

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

Stocks and Bonds.—For stocks indicate:

- Number of shares
- Whether common or preferred
- Issue
- Par value where needed for valuation
- Price per share
- Exact name of corporation
- Principal exchange upon which sold, if listed on an exchange
- CUSIP number if available

For bonds indicate:

- Quantity and denomination
- Name of obligor
- Date of maturity
- Interest rate
- Interest due date
- Principal exchange, if listed on an exchange
- CUSIP number if available

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

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 the CUSIP number is not printed on the certificate, it may be obtained through the company's transfer agent.

Other Personal Property.—Any personal property distributed must be described in enough detail that its value can be ascertained by IRS.

Column d.—Inclusion Ratio.—The trustee must provide the inclusion ratio for every distribution. All distributions, or any parts of a single distribution, which have different inclusion ratios must be listed as separate items in column a.

In General.—The inclusion ratio is the excess of 1 over the 'applicable fraction' determined for the trust from which the distribution was made.

Applicable Fraction.—The applicable fraction is a fraction, the numerator of which is the amount of the GST exemption

allocated to the trust. The denominator of the fraction is:

1. The value of the property transferred to the trust, less
2. The sum of:

a. any Federal estate tax or state death tax actually recovered from the trust attributable to the property, and

b. any charitable deduction allowed under section 2055 or 2522 with respect to the property

Numerator —GST Exemption.—Every individual settlor is allowed a lifetime GST exemption of \$1 million against property which the individual has transferred. The exemption may be allocated by the individual to inter vivos transfers or by an executor to transfers made by will. Once made, allocations are irrevocable.

Denominator —Valuation of Trust Assets.—In general, the value to be used in the applicable fraction is the gift tax value for an inter vivos transfer as long as the allocation of the \$1,000,000 exemption was made on a timely filed gift tax return. The value of a testamentary transfer is generally the estate tax value.

If the allocation of the exemption to an inter vivos transfer is not made on a timely filed gift tax return, the value for purposes of the applicable fraction is the value of the property transferred at the time the allocation is filed with IRS.

For qualified terminable interest property (QTIP) which is included in the estate of the surviving spouse of the settlor because of section 2044, unless a special QTIP election has been made under section 2652(a)(3), the surviving spouse is considered the transferor under section 2652(a) for GST purposes, and the value is the estate tax value in the estate of the surviving spouse.

A special QTIP election allows property for which a QTIP election was made for estate or gift tax purposes to be treated for GST tax purposes as if the QTIP election had not been made. If the special QTIP election has been made, the pre-deceased settlor spouse is the transferor and the value is that spouse's estate or gift tax value under the rules described above. The executor of the settlor spouse's estate or the settlor spouse must make the special QTIP election.

Multiple Transfers Into a Trust.—When a transfer is made to a pre-existing trust, the applicable fraction must be recomputed. The numerator of the new fraction is the sum of:

1. The exemption allocated to the current transfer and
2. The nontax portion of the trust immediately before the current transfer (the product of the applicable fraction and the value of all of the property in the trust immediately before the current transfer).

The denominator of the new fraction is the sum of:

1. The value of the current transfer (less any Federal estate tax or state death tax actually paid by the trust attributable to such property and any charitable deduction allowed with respect to such property), and

2. The value of all property in the trust immediately before the current transfer

Charitable Lead Annuity Trusts.—For distributions from a charitable lead annuity trust after October 13, 1987, the numerator of the applicable fraction is the 'adjusted GST exemption' as defined below. The denominator is the value of the trust immediately after termination of the charitable lead annuity.

The 'adjusted GST exemption' is the sum of:

1. The exemption allocated to the trust, and
2. Interest on the exemption determined at the interest rate used to figure the estate or gift deduction for the charitable lead annuity and for the actual period of the charitable lead annuity.

Nontaxable Gifts.—In general, a direct skip which is not taxable as a gift by reason of section 2503(b) (The \$10,000 annual exclusion) or because it is a qualified medical or educational gift as defined in section 2503(e) has an inclusion ratio of zero.

If such a direct skip is to a trust for the benefit of an individual, however, the inclusion ratio will be zero only if the trust meets the following requirements:

1. During the life of the beneficiary, none of the corpus or income of the trust may be distributed to (or for the benefit of) anyone other than that individual; and
2. If the individual dies before the trust is terminated, the trust assets will be included in the gross estate of the individual.

Column e.—Value.—Enter the value of the property distributed from the trust at the time of distribution. The trustee is only required to provide the value of property which has an objectively identifiable value such as cash, stocks or bonds. For other property, the trustee may provide the value but must at least provide the distributee with all information the trustee has which will help the distributee determine the value of the distribution.

Instructions for Part III.—Trust Information

Line 4.—An arrangement that has substantially the same effect as a trust will be treated as a trust even though it is not an explicit trust. Examples of such arrangements are insurance and annuity contracts, arrangements involving life estates and remainders, and estates for years. Non-explicit trusts do not include decedent's estates.

In the case of a non-explicit trust, the trustee is the person in actual or constructive possession of the property involved.

Line 5.—Whenever property is transferred into a pre-existing trust, the inclusion ratio must be recalculated. See the instructions under 'Multiple Transfers Into a Trust' on page 2 for the rule on how to recalculate the inclusion ratio.