

# Federal Estate Tax Returns Filed for Nonresident Aliens, 2009–2011

by Melissa J. Belvedere

**T**he estate tax, which is one part of the Federal transfer tax system, is a tax on the right to transfer property at death. It applies to tangible and intangible assets of U.S. citizens, resident aliens, and nonresident aliens. A nonresident alien is a noncitizen of the United States who is not a lawful permanent resident and has not spent a substantial amount of time in the United States.<sup>1</sup>

Estates of nonresident aliens who held more than \$60,000 in assets in the United States at their time of death are required to file Form 706-NA, *United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States*. Forms 706-NA are used to report U.S.-held assets and to compute estate tax liability. Returns filed in 2009, 2010, and 2011 were predominantly for estates of decedents who died between 2007 and 2010.

## Background

The estates of nonresident aliens can be composed of many different types of property and assets. To be considered as part of the decedent's U.S. gross estate, tangible personal property and real property must be physically located in the United States. Different criteria apply to financial assets, such as stocks or debt obligations. Stock issued by U.S. corporations is included in the decedent's U.S. gross estate, as are debt obligations issued by a U.S. citizen, resident, business, trust, or Government organization. The executor may value the decedent's estate at the date of death or at a date up to 6 months after the date of death, if doing so reduces both the estate's value as well as the estate tax liability.

The United States maintains estate and gift tax treaties with 16 countries to minimize double taxation, which occurs when assets are taxed in both the U.S. and the decedent's home country.<sup>2</sup> Estates of decedents domiciled in treaty countries have options available to reduce their U.S. taxable estate and estate tax liability, which are unavailable to other estates. These options include greater unified credit amounts, different deductions, and changes to what constituted their U.S. gross estate. Because the

tax law applicable to decedents domiciled in, or who are a citizens of, treaty countries varies so greatly from the tax law applicable to the general population of nonresident alien decedents, the data from Forms 706-NA identified as treaty returns are presented separately from the data from regular (nontreaty) returns.

## Form 706-NA Filing Population

The number of Forms 706-NA filed declined significantly in the 3-year period from 2009 to 2011, from 824 returns filed in 2009, to only 438 filed in 2011 (Figure A). This may have been the result of economic conditions during this time. Nontaxable returns made up an increasingly larger majority of all returns filed between 2009 and 2011, from 54.2 percent of the total returns in 2009 to 67.4 percent of the total in 2011. However, this overall percentage masks the different characteristics of treaty and nontreaty returns. Treaty returns, which comprised about three-quarters of all returns filed during this time, were mostly nontaxable. In 2009, some 67.6 percent of treaty returns were nontaxable; this percentage increased to 81.2 percent of treaty returns in 2011. In comparison, nontreaty returns were overwhelmingly taxable; more than 80 percent of nontreaty returns filed in were taxable.

When considered in terms of the sex of the decedent, the majority of returns were filed for male decedents (Figure B). The percentage of returns filed for the estates of male decedents remained essentially the same throughout the 3-year period. Returns were slightly more likely to be filed for female decedents residing in treaty countries than in nontreaty countries.

## Total Gross Estate, Taxable Estate, and Net Estate Tax by Country of Domicile

Nontreaty returns filed in 2009 reported \$125.6 million in U.S. total gross estate, which is the total value of assets held in the United States, either at the time of death or at an alternative valuation date within 6 months thereafter (Figure C). The alternative valuation method is allowed in cases where the value of assets declined within 6 months of a decedent's death. This amount decreased a total of 63.1 percent over the next 2 years, to \$46.4 million in 2011. Some of the decrease is attributable to the decreasing number of returns filed between 2009 and 2011, which declined by 51.7 percent over the 3-year period. However, the mean amounts also decreased. The

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<sup>1</sup> These conditions are known as the "Green Card test" and the "substantial presence test," as described in IRS Publication 519, *U.S. Tax Guide for Aliens*.

<sup>2</sup> For Filing Years 2009, 2010, and 2011, the United States had reciprocal taxation treaties in effect with Australia, Austria, Canada, Denmark, Finland, France, Germany, Greece, Ireland, Italy, Japan, Netherlands, Norway, South Africa, Switzerland, and the United Kingdom.

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**Figure A**

## Number of Form 706-NA Returns, by Filing Year, Treaty Status, and Tax Status

Treaty status, tax status [1]	2009		2010		2011	
	Number of returns	Percentage of total	Number of returns	Percentage of total	Number of returns	Percentage of total
	(1)	(2)	(3)	(4)	(5)	(6)
<b>All returns</b>	<b>824</b>	<b>100.0</b>	<b>625</b>	<b>100.0</b>	<b>438</b>	<b>100.0</b>
Nontaxable	447	54.2	365	58.4	295	67.4
Taxable	377	45.8	260	41.6	143	32.6
<b>All treaty returns</b>	<b>623</b>	<b>100.0</b>	<b>477</b>	<b>100.0</b>	<b>341</b>	<b>100.0</b>
Nontaxable	421	67.6	338	70.9	277	81.2
Taxable	202	32.4	139	29.1	64	18.8
<b>All nontreaty returns</b>	<b>201</b>	<b>100.0</b>	<b>148</b>	<b>100.0</b>	<b>97</b>	<b>100.0</b>
Nontaxable	26	12.9	27	18.2	18	18.6
Taxable	175	87.1	121	81.8	79	81.4

[1] Tax status is determined by the balance (or refund) due as reported on the return. Taxable returns were those with estate tax liability after credits; nontaxable returns were those with no estate tax liability after credits.

NOTES: Detail may not add to totals due to rounding. Data have been altered to prevent disclosure of individual taxpayer information.

**Figure B**

## Number of Form 706-NA Returns, by Filing Year, Treaty Status, and Sex of Decedent

Treaty status, sex of decedent	2009		2010		2011	
	Number of returns	Percentage of total	Number of returns	Percentage of total	Number of returns	Percentage of total
	(1)	(2)	(3)	(4)	(5)	(6)
<b>All returns</b>	<b>824</b>	<b>100.0</b>	<b>625</b>	<b>100.0</b>	<b>438</b>	<b>100.0</b>
Female	283	34.3	225	36.0	161	36.8
Male	541	65.7	400	64.0	277	63.2
<b>All treaty returns</b>	<b>623</b>	<b>100.0</b>	<b>477</b>	<b>100.0</b>	<b>341</b>	<b>100.0</b>
Female	220	35.3	177	37.1	128	37.5
Male	403	64.7	300	62.9	213	62.5
<b>All nontreaty returns</b>	<b>201</b>	<b>100.0</b>	<b>148</b>	<b>100.0</b>	<b>97</b>	<b>100.0</b>
Female	63	31.3	48	32.4	33	34.0
Male	138	68.7	100	67.6	64	66.0

NOTES: Detail may not add to totals due to rounding. Data have been altered to prevent disclosure of individual taxpayer information.

average total gross estate declined a total of 23.5 percent for the same period.

The total taxable estate, which is the value of the estate after expenses, charitable and marital deductions, and credits for State death taxes, also decreased between 2009 and 2011. From the total of \$89.3 million in taxable estate reported in 2009, the total decreased to \$46.2 million in 2010 and to only \$31.6 million in 2011. Unlike the mean amount of U.S. total gross estate, however, the average total taxable estate for all returns decreased be-

tween 2009 and 2010, but then increased for returns filed in 2011.

The net estate tax, which is the amount of tax liability based on the total taxable estate, after credits for foreign death taxes, taxes on prior transfers, and Federal gift taxes previously paid were subtracted from gross estate tax, also decreased between 2009 and 2011. From the total net estate tax of \$29.5 million reported in 2009, this amount decreased to \$8.4 million in 2011, an overall decrease of 71.3 percent. The average net estate tax

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**Figure C**

## Form 706-NA Nontreaty Returns Filed in 2009, 2010, and 2011: Number of Returns, U.S. Total Gross Estate, and Net Estate Tax, by Measures of Central Tendency

Measures of central tendency, tax status	2009				2010	
	Number of returns	U.S. total gross estate [1]	Taxable estate	Net estate tax	Number of returns	U.S. total gross estate [1]
	(1)	(2)	(3)	(4)	(5)	(6)
<b>Total</b>	<b>201</b>	<b>125,572,730</b>	<b>89,325,255</b>	<b>29,415,102</b>	<b>148</b>	<b>73,785,104</b>
<b>Mean values:</b>						
All returns	N/A	624,740	444,404	146,344	N/A	498,548
Taxable returns	N/A	579,641	506,098	168,086	N/A	400,459
Nontaxable returns	N/A	928,290	29,157	0	N/A	938,133
<b>Median values:</b>						
All returns	N/A	235,197	157,104	27,400	N/A	233,744
Taxable returns	N/A	235,197	202,000	42,440	N/A	217,500
Nontaxable returns	N/A	237,017	24,819	0	N/A	281,099
Measures of central tendency, tax status	2010—continued		2011			
	Taxable estate	Net estate tax	Number of returns	U.S. total gross estate [1]	Taxable estate	Net estate tax
	(7)	(8)	(9)	(10)	(11)	(12)
<b>Total</b>	<b>46,183,083</b>	<b>12,395,908</b>	<b>97</b>	<b>46,383,671</b>	<b>31,646,465</b>	<b>8,428,630</b>
<b>Mean values:</b>						
All returns	312,048	83,756	N/A	478,182	326,252	86,893
Taxable returns	353,634	102,446	N/A	386,218	363,774	106,692
Nontaxable returns	125,680	0	N/A	881,804	161,575	0
<b>Median values:</b>						
All returns	167,726	29,629	N/A	209,348	181,650	25,800
Taxable returns	196,605	40,713	N/A	199,260	190,659	37,880
Nontaxable returns	59,691	0	N/A	267,341	95,407	0

N/A—Not applicable.

[1] Gross estate is shown at the value used to determine estate tax liability. The value can be calculated either at the date of death or within 6 months thereafter (i.e., alternative valuation method). Total U.S. gross estate may not equal the sum of the detail, due to reporting discrepancies arising from different tax law interpretations.

NOTES: Detail may not add to totals due to rounding. Data have been altered to prevent disclosure of individual taxpayer information.

per taxable return decreased from \$168,086 in 2009 to \$102,446 in 2010, before increasing slightly to \$106,692 in 2011. In comparison, the median values for net estate tax were significantly less than the average values, but decreased in each subsequent year during this time for taxable returns.

Decedents with nontreaty Forms 706-NA were most frequently domiciled in Brazil, China, Israel, Mexico, Puerto Rico, Taiwan, or Venezuela at the time of death. Returns filed for the estates of decedents domiciled in these seven countries accounted for 56.3 percent and 62.2 percent of all nontreaty returns filed in 2009 and 2010, respectively, yet only 45.4 percent of all nontreaty returns

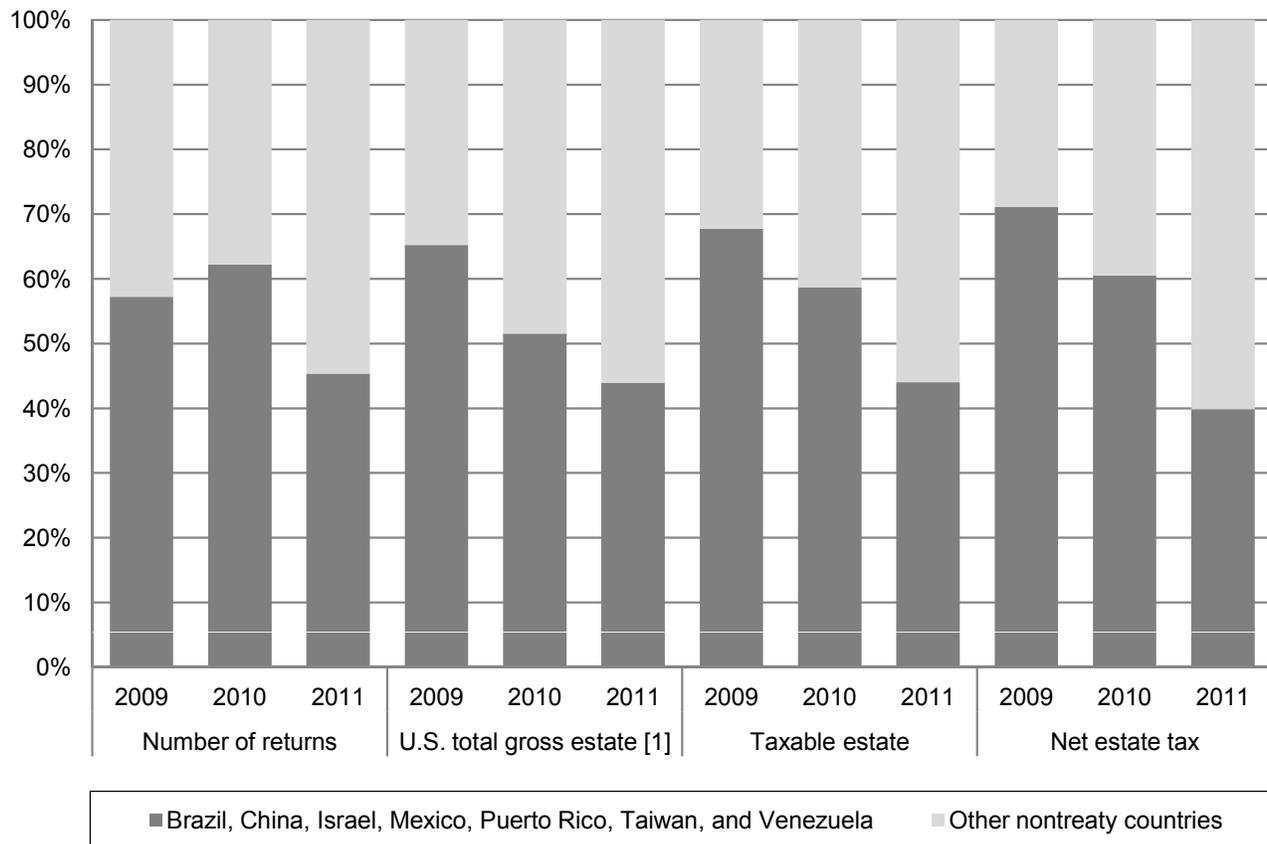
filed in 2011 (Figure D). These returns accounted for 65.2 percent of the total U.S. total gross estate reported on all nontreaty returns in 2009, yet decreased such that they amounted to only 43.9 percent in 2011. The percentage of both the total taxable estate and net estate tax reported on these returns followed a similar pattern. In 2009, approximately 67.8 percent of all taxable estate was attributable to these returns; this percentage decreased to only 44.0 percent of the total in 2011. In 2009, these returns accounted for 71.1 percent of the total net estate tax reported, declining to only 39.9 percent of the total net estate tax reported in 2011. Of the most frequently represented countries listed above, in 2009, the majority

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**Figure D**

## Form 706-NA Nontreaty Returns Filed in 2009, 2010, and 2011: Percentage of Selected Items Attributable to Selected Domicile at Death



[1] Gross estate is shown at the value used to determine estate tax liability. The value can be calculated either at the date of death or within 6 months thereafter (i.e., alternative valuation method). Total U.S. gross estate may not equal the sum of the detail, due to reporting discrepancies arising from different tax law interpretations.

of U.S. total gross estate, taxable estate, and net estate tax was reported on returns for decedents domiciled in Mexico, followed by Brazil and China (Figure E).

The total amount of U.S. total gross estate reported on treaty status returns filed in 2009 was \$247.9 million (Figure F). This amount decreased a total of 56.7 percent over 3 years. As with nontreaty returns, the declining number of treaty returns filed likely contributed to this decrease as, overall, treaty return filings fell by 45.3 percent between 2009 and 2011. However, the average amount of total gross estate reported on each return also decreased over the same time. In 2009, the average

total gross estate for all returns was \$397,961; in 2011, the average was \$314,818. The average total gross estate was greater on taxable returns than nontaxable returns for all years.

The total taxable estate amount reported on treaty returns was \$180.4 million in 2009, but declined 51.4 percent to \$87.6 million in 2011. However, while the average taxable estate amount decreased from 2009 to 2010, it then increased in 2011.

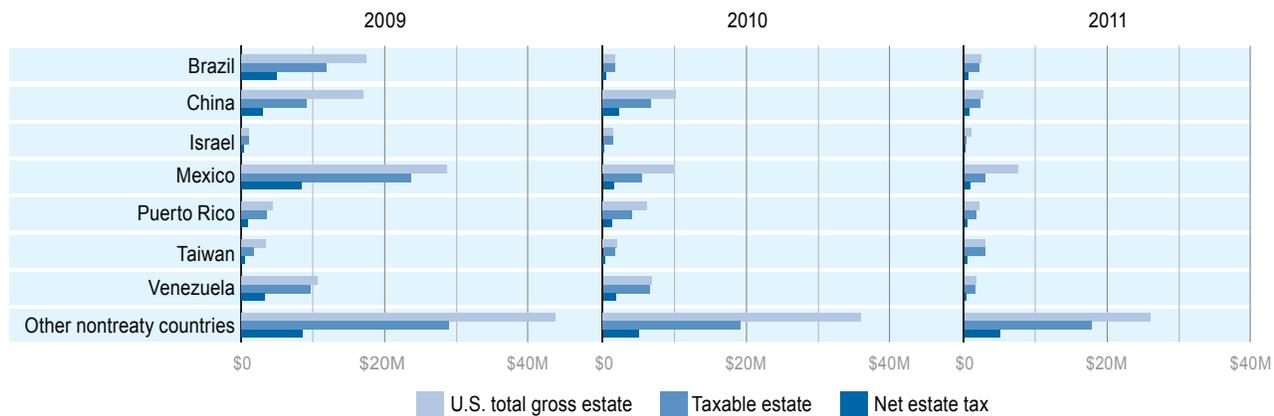
The total amount of net estate tax reported on treaty status returns decreased 71.0 percent from 2009 to 2011. While the average amount of net estate tax reported on all

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**Figure E**

**Form 706-NA Nontreaty Returns Filed in 2009, 2010, and 2011: U.S. Total Gross Estate and Net Estate Tax, by Selected Domicile at Death**



**Figure F**

**Form 706-NA Treaty Returns Filed in 2009, 2010, and 2011: Number of Returns, U.S. Total Gross Estate, and Net Estate Tax, by Measures of Central Tendency**

Measures of central tendency, tax status	2009				2010	
	Number of returns	U.S. total gross estate [1]	Taxable estate	Net estate tax	Number of returns	U.S. total gross estate [1]
	(1)	(2)	(3)	(4)	(5)	(6)
<b>Total</b>	<b>623</b>	<b>247,929,750</b>	<b>180,351,306</b>	<b>23,654,243</b>	<b>477</b>	<b>155,987,614</b>
<b>Mean values:</b>						
All returns	N/A	397,961	289,488	37,968	N/A	327,018
Taxable returns	N/A	563,610	505,135	117,100	N/A	399,909
Nontaxable returns	N/A	318,481	186,019	0	N/A	297,042
<b>Median values:</b>						
All returns	N/A	175,500	135,000	0	N/A	149,900
Taxable returns	N/A	279,472	246,301	31,961	N/A	171,750
Nontaxable returns	N/A	153,350	95,000	0	N/A	140,737
Measures of central tendency, tax status	2010—continued		2011			
	Taxable estate	Net estate tax	Number of returns	U.S. total gross estate [1]	Taxable estate	Net estate tax
	(7)	(8)	(9)	(10)	(11)	(12)
<b>Total</b>	<b>114,350,263</b>	<b>12,330,467</b>	<b>341</b>	<b>107,352,887</b>	<b>87,634,620</b>	<b>6,852,468</b>
<b>Mean values:</b>						
All returns	239,728	25,850	N/A	314,818	256,993	20,095
Taxable returns	367,552	88,708	N/A	499,574	467,700	107,070
Nontaxable returns	187,161	0	N/A	272,130	208,310	0
<b>Median values:</b>						
All returns	114,159	0	N/A	148,932	132,034	0
Taxable returns	168,000	24,963	N/A	175,010	164,090	29,435
Nontaxable returns	95,562	0	N/A	143,352	122,796	0

N/A—Not applicable.

[1] Gross estate is shown at the value used to determine estate tax liability. The value can be calculated either at the date of death or within 6 months thereafter (i.e., alternative valuation method). Total U.S. gross estate may not equal the sum of the detail, due to reporting discrepancies arising from different tax law interpretations.

NOTES: Detail may not add to totals due to rounding. Data have been altered to prevent disclosure of individual taxpayer information.

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returns decreased during this period, the average amount of net estate tax reported on taxable treaty status returns decreased from 2009 to 2010, before increasing in 2011. As with nontreaty returns, the median value followed the same trend, decreasing in 2010 before increasing again in 2011, but was significantly less than the corresponding mean.

The countries of domicile most frequently represented among treaty status returns filed during 2009, 2010, and 2011, were Canada, France, Germany, Japan, and the United Kingdom. Returns filed for decedents domiciled in these five countries accounted for between 83.6 and 87.5 percent of all treaty status returns filed annually for the 3-year period (Figure G). The amount of U.S. total gross estate reported on these returns accounted for approximately 79.8 percent of the total for all treaty returns in 2009. This percentage increased slightly in 2010 before decreasing to only 72.3 percent of the total in 2011. The percentage of taxable estate and net estate

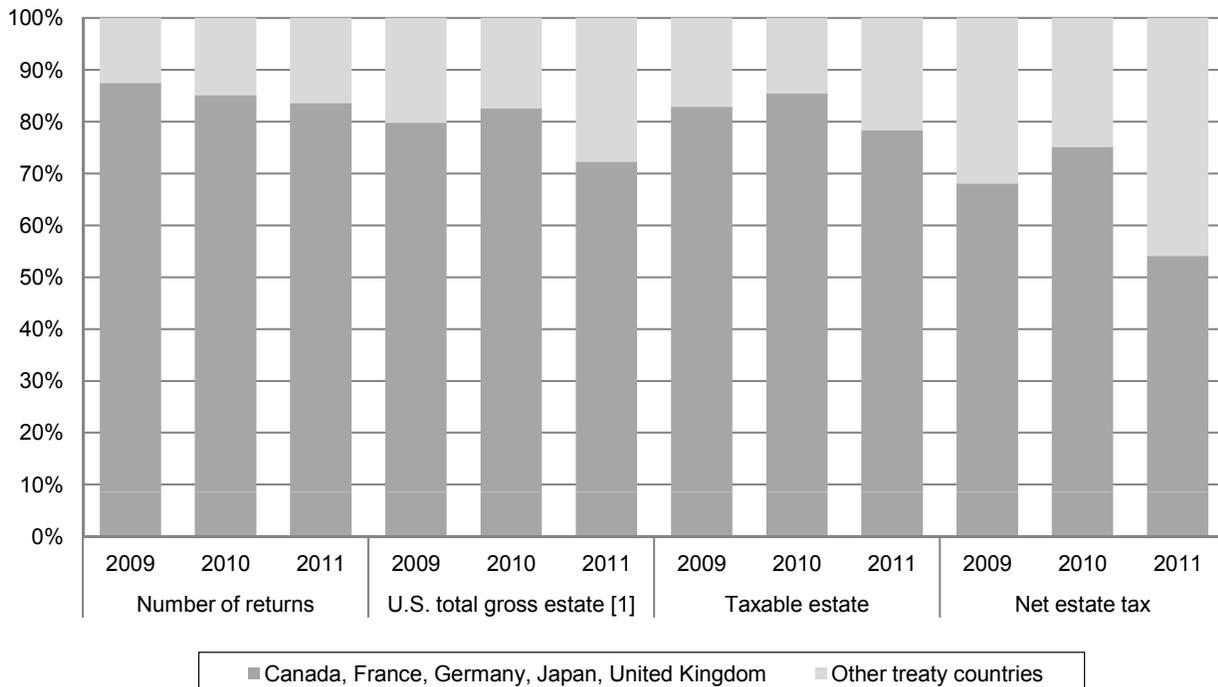
tax attributable to these returns followed the same pattern as for U.S. total gross estate, increasing slightly between 2009 and 2010, only to decrease in 2011. Of the countries mentioned above, returns for Canadian decedents reported the greatest amount of U.S. total gross estate and taxable estate, followed by those from the United Kingdom, Germany, and Japan (Figure H). Returns filed by the estates of decedents domiciled in Japan tended to report the greatest amount of net estate tax.

## U.S.-Based Assets

The amount of U.S. assets reported on Forms 706-NA can differ from the amount of U.S. total gross estate due to various reporting inconsistencies. While Form 706-NA requires the decedent's U.S. total gross estate and U.S.-based assets to be reported, in some instances the decedent's assets are not subject to taxation. It is not uncommon to have a detailed breakout of the decedent's assets on supporting schedules and documentation, but

**Figure G**

**Form 706-NA Treaty Returns Filed in 2009, 2010, and 2011: Percentage of Selected Items Attributable to Selected Domicile at Death**



[1] Gross estate is shown at the value used to determine estate tax liability. The value can be calculated either at the date of death or within 6 months thereafter (i.e., alternative valuation method). Total U.S. gross estate may not equal the sum of the detail, due to reporting discrepancies arising from different tax law interpretations.

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## Figure H

Form 706-NA Treaty Returns Filed in 2009, 2010, and 2011: U.S. Total Gross Estate and Net Estate Tax, by Selected Domicile at Death



then report \$0 in U.S. total gross estate on the form itself. While this situation occurs on both nontreaty and treaty returns, often a result of the way title to the assets is held, the situation is more pronounced on treaty returns due to treaty provisions. The amount of U.S.-based assets is an accurate representation of the value of the assets held (valued either at death or at an alternative date), regardless of the taxability of the assets.

The amount of U.S.-based assets reported on nontreaty returns was \$127.9 million in 2009, compared to \$75.1 million in 2010, and \$47.6 million in 2011. These amounts are slightly more than the amount of U.S. total gross estate for each corresponding year. Real estate assets and stock accounted for the majority of the value of the assets every year (Figure I). However, in 2009 and 2011 real estate made up the highest share of assets (57.2 percent and 44.9 percent, respectively), while in 2010 stock contributed the greatest asset amount (39.3 percent). Cash assets accounted for approximately 12.2 percent of the total in 2010, compared to less than 10.0 percent in 2011.

The amount of U.S.-based assets reported on treaty status returns was \$353.2 million in 2009, some \$191.5 million in 2010, and \$123.2 million in 2011. These amounts represented 42.5 percent, 22.8 percent, and 14.8 percent differences, respectively, from the amount of U.S. total gross estate for the corresponding years. As with nontreaty returns, real estate and stock accounted for the majority of the total asset value, and the percentage of the total asset value attributable to each type of asset

increased between 2009 and 2011 (Figure J). Similarly, the percentage of the total asset value held in bonds increased significantly over the 3-year period. In comparison, “other assets,” defined as those assets not specifically included in any of the other categories (such as art, farm asset or farm land, hedge or private equity funds, and non-corporate business assets), made up 28.8 percent of the total asset value in 2009, but declined to only 8.1 percent of the total in 2011.

### Summary

Forms 706-NA are filed by the estates of nonresident alien decedents to report assets held in the U.S. at the time of death and to calculate tax liability. There were 824 Forms 706-NA filed in 2009, although this number dropped sharply in subsequent years. The majority of returns filed were from decedents domiciled in treaty countries, and most returns were nontaxable (although nontreaty returns were overwhelmingly taxable). Most decedents were male, regardless of treaty or tax status. The total amount of U.S. total gross estate, taxable estate, and net estate tax declined over the 3-year period. Some of the cause of the decline is attributable to the decreasing number of returns filed; however, the corresponding mean values also decreased. For all returns, the majority of assets held were real estate and stock.

### Data Sources and Limitations

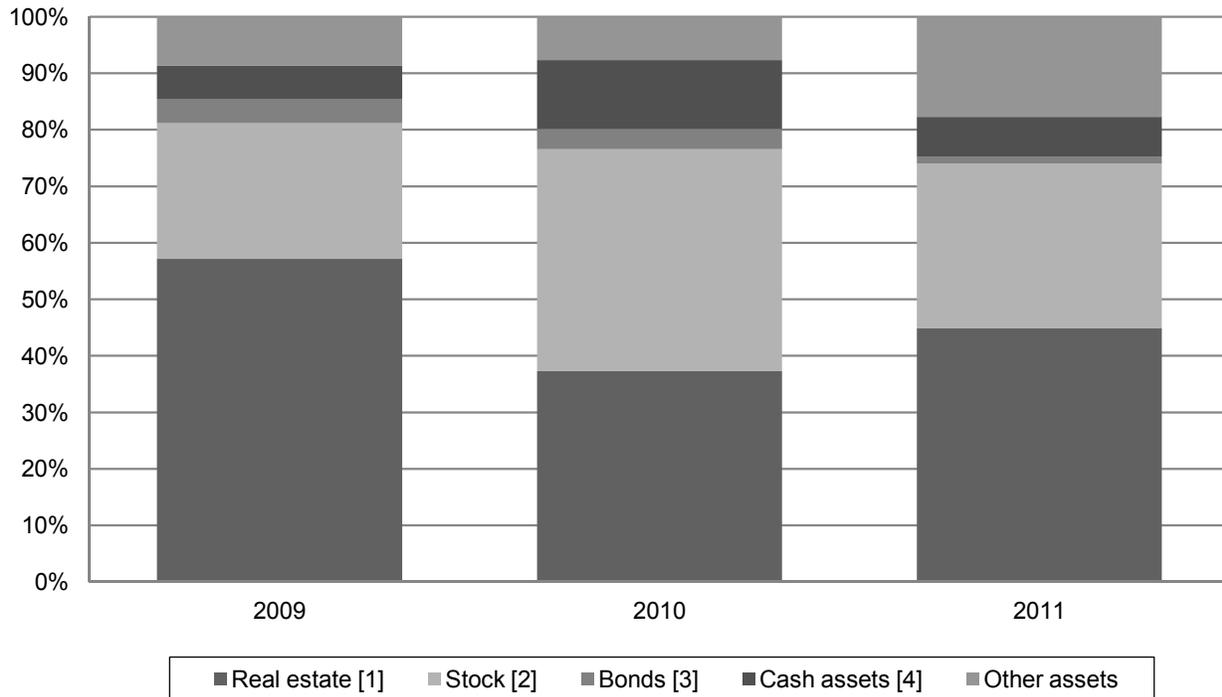
Since 1995, SOI has conducted an annual study of Federal estate tax returns filed for nonresident aliens

# Federal Estate Tax Returns Filed for Nonresident Aliens, 2009–2011

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**Figure I**

## Form 706-NA Nontreaty Returns: Composition of U.S.-Held Assets, 2009–2011



[1] "Real estate" includes the value of all real estate, real estate partnerships, mutual funds comprising primarily real estate, and real estate investment trusts (REITs).

[2] "Stock" includes corporate stock, stock in closely held corporations, mutual funds comprising mainly stock, as well as futures, options, puts and calls.

[3] "Bonds" includes Federal, State, and local Government bonds, as well as mutual funds comprising primarily these types of bonds.

[4] "Cash assets" includes cash, cash management accounts, other banking- or checking-type accounts held in brokerage accounts, as well as mortgages and notes.

(Forms 706-NA). Demographic, financial, and asset information were extracted from the population of non-rejected Forms 706-NA filed during 2009, 2010, and 2011. Returns could be rejected for having gross U.S. assets below the filing threshold; having too many reporting errors to edit; being incomplete, amended, or tentative; or having been previously edited for SOI. The amounts shown are pre-audit population figures.

### Explanation of Selected Terms

*All other assets*—Includes items that cannot be assigned to one of the other asset categories, such as precious metals and household or personal items like furniture, clothing, jewelry, and automobiles.

*Bonds*—Includes Federal, State, and local Government bonds, as well as mutual funds comprising primarily these types of bonds.

*Cash assets*—Includes cash, cash management accounts, other banking- or checking-type accounts held in brokerage accounts, as well as mortgages and notes.

*Gross estate tax*—The gross estate tax is calculated by applying the graduated tax rates to the decedent's adjusted taxable estate, reduced by the amount of Federal gift taxes previously paid. It is a tentative tax amount, before any credits are taken into account to reduce the amount.

*Mixed mutual funds*—This category comprises funds containing assets not identified. Therefore, this category may include stock, bonds, and other types of assets all held in mutual funds.

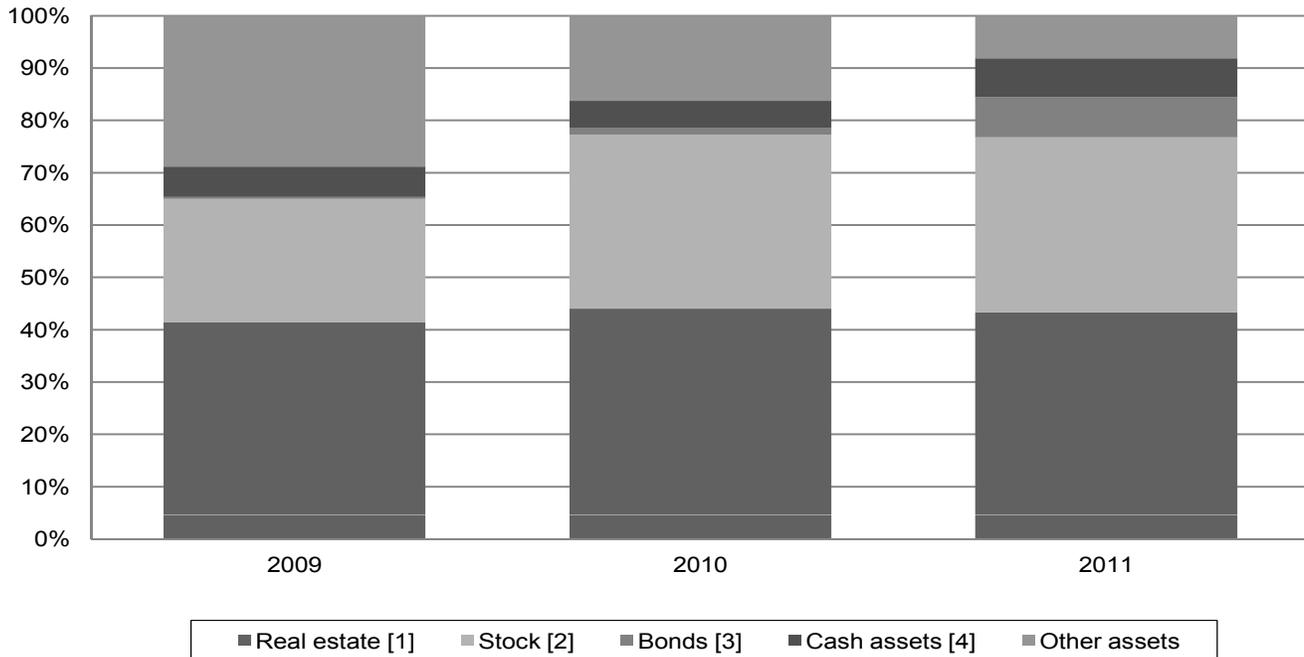
*Net estate tax*—The estate's tax liability after credits for State death taxes, foreign death taxes, tax on prior transfers, and Federal gift taxes previously paid were subtracted from gross estate tax. In addition to these

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**Figure J**

## Form 706-NA Treaty Returns: Composition of U.S.-Held Assets, 2009–2011



- [1] "Real estate" includes the value of all real estate, real estate partnerships, mutual funds comprising primarily real estate, and real estate investment trusts (REITs).
- [2] "Stock" includes corporate stock, stock in closely held corporations, mutual funds comprising mainly stock, as well as futures, options, puts and calls.
- [3] "Bonds" includes Federal, State, and local Government bonds, as well as mutual funds comprising primarily these types of bonds.
- [4] "Cash assets" includes cash, cash management accounts, other banking- or checking-type accounts held in brokerage accounts, as well as mortgages and notes.

credits, a "unified credit," graduated according to the year of death and a "credit" for gift taxes paid on post-1976 gifts, is allowed (see also "unified credit").

**Real estate**—Real estate includes the value of all real estate, real estate partnerships, mutual funds composed primarily of real estate assets, as well as real estate investment trusts (REITs).

**Real property**—Real property is defined as land, property directly attached to land (such as buildings), or natural resources such as oil, gas, or timber. Both rental and residential property are considered real property.

**State death tax deduction**—Decedents who died in 2005 or later are allowed a deduction for estate, legacy, or succession taxes actually paid to any State or the District of Columbia as a result of the decedent's death.

**Stock**—Stock includes corporate stock, stock in closely held corporations, mutual funds composed mostly of stock, as well as futures, options, puts, and calls.

**Tax status**—Returns can be either taxable or nontaxable, as determined by the balance (or refund) due. Taxable returns were those with estate tax liability after credits; nontaxable returns were those with no estate tax liability after credits.

**Taxable estate**—Taxable estate is the base to which the graduated Federal estate tax rates are applied in computing the estate tax before credits. Taxable estate is equal to the value of the U.S. total gross estate less deductions for the following: funeral and administrative expenses (prorated by the amount of the estate located within the U.S.); debts, mortgages, and other claims

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against the estate (also prorated by the amount of the estate located within the U.S.); charitable deductions; and marital deductions.

*Total gross estate, U.S. estate tax purposes*—The value of all assets held within the U.S. Assets may be valued at the date of death, or at an alternative date up to 6 months thereafter (the alternative value).

*Treaty countries*—The United States maintains reciprocal taxation treaties with the some countries in order

to reduce or eliminate the effects of double taxation. For Filing Years 2009 through 2011, there were treaties 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. The decedent must have been either domiciled in, or been a citizen of, one of these countries to qualify for the tax protections under the treaty.