



# Recent Developments in Estate & Gift Tax

December 2024



# Disclaimer

**The information presented in this handout from the Internal Revenue Service is for educational purposes only and shall not be cited or relied upon as authority.**



- **Basis Consistency Final Regulations (TD 9991)**
- Published September 16, 2024; applicable September 17, 2024
- Most provisions remain the same:
  - When Form 8971 is and is not required
  - The initial Form 8971 due date
  - Schedule A provides basis information to certain beneficiaries
- Provisions that have significantly changed:
  - Due date for when certain Schedules A are required to be furnished to beneficiaries (also filed with IRS)
  - Reporting of subsequent transfers has been narrowed
  - The zero-basis rule has been removed



- **Revenue Procedure 2022-32**
  - Effective July 8, 2022
  - Provides a simplified method to obtain an extension of time to make a portability election
  - Executor must file Form 706 within five years of the decedent's death and indicate "FILED PURSUANT TO REV. PROC. 2022-32 TO ELECT PORTABILITY UNDER § 2010(c)(5)(A)" at the top of the return
  - Available only if there was no requirement to file an estate tax return under Section 6018 of the Internal Revenue Code



- **Proposed Regulations [REG-130975-08] under Section 2053 of the Internal Revenue Code**
  - Published in the Federal Register on June 28, 2022
  - Guidance on the proper use of present-value principles in determining the amount deductible by an estate for funeral expenses, administration expenses, and certain claims against the estate
  - Guidance on the deductibility of certain types of interest expense
  - Clarification of substantiating the value of certain claims
  - Guidance on the deductibility of amounts paid under a decedent's personal guarantee



- **Proposed Regulations [REG-119683-22] under Section 2056A of the Internal Revenue Code - QDOTs**
- Published in the Internal Revenue Bulletin on September 30, 2024
- Reg. 20.2056A-2, 20.2056A-4 and 20.2056A-11 required updates to references to a publication, to IRS officials and offices and to procedures and addresses to be used by certain trustees to provide a security instrument for QDOT purposes.
- Note: Security instruments are to be sent directly to Collection Advisory, not attached to the Form 706. See Publication 4235.



- **Publication 904, Interrelated Computations for Estate and Gift Taxes**
- Explains and illustrates the methods to use when an interrelated computation is necessary for determining estate or gift taxes
- Published on September 28, 2022
- Updated revision posted in February 2023



## Use of Electronic or Digital Signatures on Certain Forms

- **The IRS is allowing taxpayers to use electronic or digital signatures on certain paper forms that cannot be filed electronically**
- The policy has been extended indefinitely
- Form 709, all Form 706-series, Form 1127, Form 4768, and Form 8971 are among the included forms
- **See [IRS.gov](#) for more information: [IRS extends popular flexibilities set to expire; electronic signatures and encrypted email enhance the taxpayer experience | Internal Revenue Service](#)**





- **Electronic Correspondence Tools Include:**
  - E-signatures
  - E-fax
  - Third-party websites such as:
    - Hightail
    - ShareFile
    - Dropbox
  - Document Upload Tool
  - Email encrypted documents
    - See [www.irs.gov/help/sign-and-send-documents-electronically](http://www.irs.gov/help/sign-and-send-documents-electronically) for more information



## Online Submission of Form 2848 and Form 8821

- On IRS.gov, search “Form 2848” or “Form 8821” and scroll to “Submit Forms 2848 and 8821 Online”
- Review the instructions and the FAQs regarding:
  - Electronic signatures
  - Authentication and secure access
  - Form submission
- You may still submit these forms via fax or mail if you are unable to submit them online
- The box at Line 2, Representatives (Form 2848) must be checked for representative to receive estate notices and correspondence



# Form 706 Authorization

## Part 4 – General Information

**Note:** Please attach the necessary supplemental documents. **You must attach the death certificate.** See instructions.

Authorization to receive confidential tax information under Reg. section 601.504(b)(2)(i); to act as the estate’s representative before the IRS; and to make written or oral presentations on behalf of the estate:

Name of representative (print or type)	State	Address (number, street, and room or suite no., city, state, and ZIP code)
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I declare that I am the  attorney/  certified public accountant/  enrolled agent (check the applicable box) for the executor. I am not under suspension or disbarment from practice before the Internal Revenue Service and am qualified to practice in the state shown above.

Signature	CAF number	Date	Telephone number
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- **The authorization on page 2 of the Form 706 is not as expansive as the Form 2848**
- **Form 2848, Power of Attorney, is a more flexible document**
- **NOTE: The section 601 authorization is being removed from the form. Form 2848 should be used.**



## Transcript Delivery Service

- **Transcript Delivery Service is available for Form 706 Estate Tax return accounts**
- **Authenticated and Registered users receive instant account transcripts**
  - Two step process
  - Users may need to re-authenticate their accounts
- **Notice 2017-12 confirms transcripts can substitute for an estate tax closing letter**
- **See [www.irs.gov/businesses/small-businesses-self-employed/transcripts-in-lieu-of-estate-tax-closing-letters](http://www.irs.gov/businesses/small-businesses-self-employed/transcripts-in-lieu-of-estate-tax-closing-letters) for more information**



## Requesting an Estate Tax Closing Letter (ETCL)

- **New Estate Tax Closing Letter User Fee Regulations were issued effective October 28, 2021**
- Requests are made through Pay.gov; the fee is \$67
- ***FAQs on the Estate Tax Closing Letter* is available on [www.irs.gov](http://www.irs.gov) providing detailed instructions for requesting an estate tax closing letter on Pay.gov**
- Go to: [www.irs.gov/etcl](http://www.irs.gov/etcl)
- **Not available for Form 709 (gift tax) or Form 1041 (estate income tax)**
- **The closing letter will be prepared and issued to the executor at the address of record and other authorized representatives**



# Estate and Gift Tax Basics

- **The Federal estate tax is a tax on the transfer of property at death**
- **The Federal gift tax is a tax on the transfer of property by gift during life**
- **Federal gift and estate tax liability is imposed only when the cumulative value of lifetime transfers and transfers at death (less any applicable deductions) exceeds a taxpayer's exclusion amount**
- **The most recent basic exclusion amounts are:**
  - 2025: \$13,990,000
  - 2024: \$13,610,000
  - 2023: \$12,920,000



## Estate Tax Filing Information

- The current version of Form 706 was released August 2019 for decedents dying after December 31, 2018
- The executor is responsible for filing the estate tax return
- The executor may elect portability of any Deceased Spousal Unused Exclusion (DSUE) by timely filing a complete and properly prepared estate tax return
- Certain returns filed only to elect portability may report certain assets by using a good-faith estimate of value
- Review [www.irs.gov/businesses/small-businesses-self-employed/filing-estate-and-gift-tax-returns](https://www.irs.gov/businesses/small-businesses-self-employed/filing-estate-and-gift-tax-returns) for additional filing information



# Completing Form 706

Form **706**

(Rev. August 2019)

Department of the Treasury  
Internal Revenue Service

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

► Estate of a citizen or resident of the United States (see instructions). To be filed for decedents dying after December 31, 2018.

► Go to [www.irs.gov/Form706](http://www.irs.gov/Form706) for instructions and the latest information.

OMB No. 1545-0015

<b>Decedent and Executor</b>	<b>1a</b> Decedent's first name and middle initial (and maiden name, if any)	<b>1b</b> Decedent's last name	<b>2</b> Decedent's social security no.	
	<b>3a</b> City, town, or post office; county; state or province; country; and ZIP or foreign postal code	<b>3b</b> Year domicile established	<b>4</b> Date of birth	<b>5</b> Date of death
	<b>6a</b> Name of executor (see instructions)	<b>6b</b> Executor's address (number and street including apartment or suite no.; city, town or post office; state or province; country; and ZIP or foreign postal code) and phone no.		

**Line 3a is the decedent's information at the date of death.**

**Line 3b relates to when the address in Line 3a was established.**

**Line 6a is the executor that receives the estate tax closing letter (ETCL).**

**Line 6b is the estate's official address of record, where the ETCL will be mailed.**





## Gift Tax Filing Information

- **Form 709 is an annual return with a new version released each year**
- **The donor is responsible for filing the return and paying any gift tax due**
- **The return is due April 15<sup>th</sup> of the year after the gift was made**
- **Review [www.irs.gov/businesses/small-businesses-self-employed/filing-estate-and-gift-tax-returns](http://www.irs.gov/businesses/small-businesses-self-employed/filing-estate-and-gift-tax-returns) for additional filing information**



## Extensions to File

- **Use Form 4768, *Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes*, to apply for an extension to file a Form 706 and/or pay estate and GST taxes**
  - Automatic 6-month extension to file if Form 4768 is timely filed by the due date of the Form 706
  - Estate tax is due 9 months after death unless an extension to pay is granted
- **Use Form 8892, *Payment of Gift/GST Tax and/or Application for Extension of Time To File Form 709*, if extending only gift tax**
- **Use Form 4868, *Application for Automatic Extension of Time To File U.S. Individual Income Tax Return*, if extending the filing date of both income tax and gift tax**
  - Gift tax is due April 15<sup>th</sup> of the year after the gift was made



# Prior Gift Information

## Form 706, Page 2, Part 4, Prior Gift Information

8a Have federal gift tax returns ever been filed? . . . . .  
 If "Yes," attach copies of the returns, if available, and furnish the following information.

b Period(s) covered	c Internal Revenue office(s) where filed
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- **Gift tax returns filed by the decedent must be disclosed**
- **You may request return information from the IRS using Forms 4506 or 4506-T**
- Detailed instructions for completing these forms are provided at [www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-gift-taxes](http://www.irs.gov/businesses/small-businesses-self-employed/frequently-asked-questions-on-gift-taxes)



# Gross Estate Tax Computation

## Form 706, Page 1, Part 2

1	Total gross estate less exclusion (from Part 5—Recapitulation, item 13) . . . . .	1	
2	Tentative total allowable deductions (from Part 5—Recapitulation, item 24) . . . . .	2	
3a	Tentative taxable estate (subtract line 2 from line 1) . . . . .	3a	
b	State death tax deduction . . . . .	3b	
c	Taxable estate (subtract line 3b from line 3a) . . . . .	3c	
4	Adjusted taxable gifts (see instructions) . . . . .	4	
5	Add lines 3c and 4 . . . . .	5	
6	Tentative tax on the amount on line 5 from Table A in the instructions . . . . .	6	
7	Total gift tax paid or payable (see instructions) . . . . .	7	
8	Gross estate tax (subtract line 7 from line 6) . . . . .	8	

- **Gross estate tax is computed using Lines 1 through 8 of Part 2 on the first page of the Form 706**
- **There are worksheets available in the Instructions for Form 706 to assist with Line 4 and Line 7**
  - All gifts since 1976 must be included
  - Line 7 includes amounts “paid or payable”



# Portability

- **The executor elects portability of the Deceased Spousal Unused Exclusion (DSUE) amount, if any, by completing and timely filing Form 706**
- **The executor opts out of electing portability by checking the box in Section A of Part 6 on page 4 of the Form 706**
- **Section B of Part 6 contains “Yes” and “No” checkboxes for the executor to indicate whether any assets of the estate are being transferred to a Qualified Domestic Trust (QDOT)**
  - Note: A portability election may not be made if the decedent was not a U.S. Citizen or Resident at the time of death
- **The executor will use Section C of Part 6 to compute the DSUE amount portable to the surviving spouse**
- **Section D of Part 6 is used to compute any DSUE amount received from a predeceased spouse**



## Gift Tax Reminders

- **Basic Exclusion is the same as for Estate Tax**
  - \$13,610,000 in 2024 and \$13,990,000 in 2025.
- **Annual Exclusion for certain present interest transfers**
  - \$15,000 in 2018-2021, \$16,000 in 2022, \$17,000 in 2023, \$18,000 in 2024, and \$19,000 in 2025
  - \$175,000 for gifts to a nonresident, non-U.S. citizen spouse in 2023, \$185,000 in 2024 and \$190,000 in 2025
- **If the donor has DSUE that was received from their last predeceased spouse, it must be used before the donor's own exclusion is applied**



## Basis Consistency and Reporting

- **Section 1014(f) requires a recipient's basis in certain property acquired from a decedent to be consistent with the value of the property as finally determined for Federal estate tax purposes**
- **Section 6035 requires estates to provide basis information to the IRS and the recipients of certain property acquired from a decedent**
- **Form 8971 and Schedule A are used to satisfy the reporting requirements under Section 6035**



## Form 8971 Due Dates

- **When required, the initial Form 8971 and each Required Schedule A must be filed and furnished 30 days after Form 706 is filed or due, whichever is earliest.**
- **File supplemental Forms 8971 and Schedules A when:**
  - A beneficiary acquires property (not Excepted Property) not previously reported, or
  - There is a change to the form or schedule info that was previously reported, or that caused it to be incorrect or incomplete.
  - The due date for supp. filings is generally Jan. 31 the year following the beneficiary's acquisition of the property.
- **Acquired means title has vested in the beneficiary and the beneficiary has sufficient control over the property (related to Federal income tax purposes).**





## Basic Tips for Return Assembly

- **DO NOT USE Spiral binding, two and three-hole punch document fasteners and/or covers on the return.**
- **DO NOT USE tabbed separators.**
- **Exhibits should be indexed and placed at the back of the tax return - not behind each individual schedule**
  - Copies of tax returns filed with Form 706 must be identified as exhibits to the Form 706
- **Include copies of all wills, trusts, disclaimers, agreements, appraisals, and other explanatory documents, referred to in the return or in the supporting documents**



## Corresponding with the IRS

- **Keep Official IRS Record current**
- **Substantiate person authorized to receive information**
- **File one original Form 2848**
- **Keep CAF current**



- Visit [www.IRS.gov](http://www.IRS.gov) and type keywords “estate and gift taxes” to find:
  - What’s New
  - FAQs
  - Pub 559, Survivors, Executors and Administrators
  - Filing Information
- **Consult the Estate and Gift Tax pages on IRS.gov for questions about return accounts, lien discharges, extensions and closing letters**
- **If further assistance is needed, call (866) 699-4083**



# Questions?

