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## **2023 Estate and Gift Tax Conference**

IRS Target List - Avoiding Audit: How the Transfer Tax Spaghetti is Made

Thursday, March 9, 2023  
11:15 am - 12:15 pm

Speakers:

Stephanie Loomis-Price

Robin Klomparens

Lisa Piehl

### **Conference Reference Materials**

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# Recent Developments in Estate & Gift Tax

October 2022 Revision



## **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.**



- **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



- **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



## 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 through October 31, 2023
- Form 709, all Form 706-series, Form 1127, Form 4768, and Form 8971 are among the included forms
- See [www.irs.gov/newsroom/details-on-using-e-signatures-for-certain-forms](https://www.irs.gov/newsroom/details-on-using-e-signatures-for-certain-forms) for more information



- **Electronic Correspondence Tools Include:**
  - E-signatures
  - E-fax
  - Third-party websites such as:
    - Hightail
    - ShareFile
    - Dropbox
  - 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
  - Secure access
  - Form submission
- **You may still submit these forms via fax or mail if you are unable to submit them online**



# 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**



## 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

- **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 Gift Tax Return, Form 709**
- **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:**
  - 2021: \$11,700,000
  - 2022: \$12,060,000
  - 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**



## 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		

- **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 include 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**
  - \$12,060,000 in 2022 and \$12,920,000 in 2023
- **Annual Exclusion for certain present interest transfers**
  - \$15,000 in 2018-2021, \$16,000 in 2022, and \$17,000 in 2023
  - \$164,000 for gifts to a nonresident, non-U.S. citizen spouse in 2022 and \$175,000 in 2023
- **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**



## Basic Tips for Return Assembly

- **Spiral binding, two and three hole punch document fasteners and/or covers on the return are not necessary and are likely to be removed and destroyed at the Service Center**
- **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?

