Practical Problems Encountered in Federal Estate and Gift Tax Audits

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PRACTICAL PROBLEMS ENCOUNTERED IN FEDERAL ESTATE AND GIFT TAX AUDITS

by

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I. ESTATE TAX INTRODUCTION

The Federal estate tax return of each Virginia decedent currently is filed with the Philadelphia Service Center where the return enters the Internal Revenue Service "pipeline" in what begins an extremely labor-intensive process.

A. The 706 "Pipeline"

1. **Mail Opened.** Processing starts with opening and extracting envelopes containing returns, bills, notices, and payments.

2. **Returns Sorted.** Tax returns are sorted by type of return.

3. **Checks Deposited.** Payments are identified immediately and credited to taxpayer's account. When a check accompanies an estate tax return, the return is assigned a number at this point.

4. **Returns Batched.** Tax returns are put in groups of approximately 100 similar returns which then continue through the pipeline as a single computer controlled batch.

5. **Returns Coded and Edited.** Each return is individually checked for completeness and accuracy and then coded for data entry. All schedules on the return are math verified and any corrected amounts are carried over to the recapitulation schedule and the tax computation on page 1. If the return contains a request for a § 6166 installment payment, the Code and Edit Manager calls Nelson Blakely, the Estate Tax Attorney assigned to the Service Center who computes the deferred and non-deferred amounts and the amount of the installments. A copy of these computations then goes to the accounting section.

The authors wish to acknowledge IRS Estate and Gift Tax Group Manager William F. Branch, former IRS Estate and Gift Tax Group Manager Russell C. Johnson, and IRS Estate Tax Attorneys Michael J. deLeeuw and Janna Levinstein whose resources and "hours" of consultation have been invaluable in connection with the preparation of these materials.
6. **Returns Numbered.** Each return is assigned a unique 14 digit number to enable it to be tracked anywhere in the system.

7. **Data Entered.** Information from the return is entered into the computer system, verified, and then entered onto magnetic tape.

8. **Computer Checked.** The Service Center computer checks the accuracy of all mathematical calculations and all identification numbers.

9. **Errors Corrected.** Tax returns found to be in error are identified on a computerized error register and then reviewed by tax examiners who enter the correct information into the system.

10. **Returns to Files.** Estate tax returns are matched up with gift tax returns previously filed, and labels and charge out sheets are prepared.

11. **Classification.** The returns are sent to the Classification Unit where they await arrival of Virginia-West Virginia District Estate Tax Attorneys who come to the Service Center for a week, either monthly or bimonthly, to classify returns. Returns are reviewed and either selected for examination or accepted as filed.

12. **No More District Classification.** Accepted returns have their closing letters issued in the Classification Unit in the Philadelphia Service Center. Returns selected for review are sent to William F. Branch, the Estate and Gift Tax Group Manager in Richmond, to be assigned.

13. **Closing Letters.** Closing letters (Letter 627) for the accepted returns are prepared in the Service Center. Closing letters for the returns selected for examination are issued within a few weeks of completion of the examination.

14. **Examination of Returns.** Returns selected for examination are assigned by William F. Branch, the Estate and Gift Tax Group Manager in Richmond, according to post of duty (i.e., Richmond, Norfolk, Baileys Crossroads, or Roanoke) and on the basis of inventory capacity of the Estate Tax Attorneys. Returns containing the greatest potential for adjustment and claims for refund are assigned first. In reviewing the selected returns, the Manager can "survey the return" prior to assignment. If then accepted by the Manager, a closing letter is issued in Richmond. The Estate Tax Attorneys also have the option of surveying the return if they feel that the return is substantially correct. If accepted by an Estate tax Attorney, with the Manager's concurrence, a closing letter is issued out of Richmond.

15. **Unagreed Cases.** If the Estate Tax Attorney and the estate cannot reach an agreement, a 30-day letter (Letter 950) is issued if at least eight months
remain on the statute of limitations. In this case, the estate responds to the 30-day letter and has the opportunity for an administrative hearing by an Appeals Officer. If less than eight months remain on the statute at closing, a 90-day letter (Letter 902) or statutory notice is issued, in which case the estate must file a petition or pay the tax. After filing the petition, the estate has an opportunity to meet with Counsel and settle the case before going to trial.

16. **Federal Records Center.** After closing letters have been issued, estate tax returns are forwarded to the Federal Records Center. If no additional action is taken on the return, it is shipped to the Federal Records Center within one year of issuance of the closing letter.

17. **Amended Returns.** If the amended return results in an increase in tax, the assessment is made by the Service Center and an amended closing letter is issued. Approximately 90 percent of all claims are handled by the Service Center Estate Tax Attorney. The remainder are shipped to the District Office for review.

18. See Appendix 1 for copy of "Pipeline" Processing Flow Chart.

**B. Recent IRS Field Reorganization**

In October 1995, the IRS embarked on its first major field reorganization since 1952, reducing the number of regional offices and consolidating the management and support structure of district offices. Prior to March 1996, Virginia returns were handled through the Richmond District in the Mid-Atlantic Region. In February 1996, the Richmond and Parkersburg (West Virginia) Districts were certified to form the new "Virginia-West Virginia District," headquartered in Richmond and part of the Southeast Region headquartered in Atlanta. The four IRS Offices in Virginia still include Richmond, Baileys Crossroads, Norfolk, and Roanoke. For a current list of the IRS Offices and Estate Tax Attorneys located in Virginia, see Appendix 2.

**C. The Audit "Lottery"**

Of the roughly 2,000 to 2,500 federal estate tax returns filed for Virginia estates each year, approximately 400 to 450 are selected for audit, meaning that at least 1,600 returns are accepted as filed. Of the fewer than one-fourth returns selected for audit, approximately 20 percent are "surveyed" and the remaining 80 percent are subjected to either limited or full blown audit. Returns that are actually audited almost always result in change (and it should be noted that the IRS will initiate change in favor of the taxpayer). For comparative data showing the number of estate, gift, fiduciary income, and individual income tax returns filed in the Virginia-West Virginia District annually, see Appendix 3.
II. TECHNIQUES FOR AVOIDING THE ESTATE TAX AUDIT

A. Neatness, completeness, and accuracy count.

B. Use whole (rounded off) dollar reporting.

C. Check accuracy.
   1. Mathematical
   2. Raw data

D. Answer all the questions.

E. Attach all required documents.

F. Attempt to explain and/or document controversial or technical issues apparent from the return.
   1. Closely held business valuation
   2. Special use valuation
   3. Large sums of cash
   4. Extremely valuable collections
   5. Q-Tip provisions
   6. Discounted notes
   7. Partial interests
   8. Foreign assets
   9. Claims by heirs against the estate
   10. Assets disclosed but not included in the estate (for example, certain life insurance policies or assets in decedent's safe deposit box owned by someone else)

G. Watch specific language.

H. Avoid internal inconsistencies.
1. No real estate is disclosed on the return but real estate deductions are claimed on Schedule K

2. Items specifically bequeathed under decedent's will are not included on the return

3. Debt claim for large income tax liability when the nature and size of the return's assets would not indicate a large income tax

4. Claiming a deduction for an insurance premium payment without disclosing any insurance on the return

5. Failure to disclose power of appointment assets when the will specifically exercises a power of appointment

6. Deducting personal debt without a corresponding asset (for example, automobile loan but no automobile)

7. Failure to disclose items that would be expected to appear based on the decedent's occupation
   a. Physician or attorney without accounts receivable
   b. Corporate executive without company benefits
   c. Life insurance salesman without deferred commissions
   d. Bank director without bank stock holdings
   e. Farmer without unsold crops

III. IRS EXAMINATION TECHNIQUE HANDBOOK FOR ESTATE TAX EXAMINERS

The IRS Examination Technique Handbook for Estate Tax Examiners, I.R.M. MT 4350-31, § 333(8) (December 16, 1987) ("Handbook") provides instructions, suggestions, and techniques to guide estate tax examiners through the audit process. The current edition was published in December 1987 and is designed to be used in conjunction with other material published by the Internal Revenue Service. While detailing policies and procedures for handling estate and gift tax audits, the manual is not binding. Thus, actual practice may deviate from stated IRS policy.

Following are some schedule-by-schedule tips from the Handbook (see Appendix 4 for copy of Handbook index):

A. Schedule A—Real Estate

2. The sales price of real property sold within a reasonable time of the valuation date in a bona fide arm's-length transaction, in the absence of some unusual intervening event, probably reflects the fair market value. *Id.*, § 630(2).

3. Check local assessments, which may or may not reflect fair market value, depending on local conditions. *Id.*, § 630(3).

4. For all types of real estate, the examiner is instructed to request the following:
   
a. Taxpayer's basis for valuation, including comparable sales relied upon;

   b. Assessor's parcel number;

   c. If no street address, address or map showing exact location;

   d. Copy of most recent local tax bill;

   e. Dimensions or area and topography;

   f. Description of type, size, age, and condition of all improvements;

   g. Written permission to examine the local assessor's files on the parcel;

   h. Copies of all appraisals made within five years of the valuation date;

   i. Copies of all listings and names of realtors handling within the past three years;

   j. Details of all offers made;

   k. Copy of closing statement for any property purchased within five years of valuation date; and

   l. Details of special conditions or restrictions relating to valuation. *Id.*, §§ 630(4)(a)-(l).

5. Examiners are reminded that it is a good idea to review deeds to determine how title is held at date of death. *Id.*, § 630(6).
6. Examiners are cautioned to scrutinize professional appraisals, taking into account the reliability of the appraiser and the valuation approach employed. *Id.*, § 641(2).

7. With respect to valuation, rather than explain the classical approaches to real estate valuation, the *Handbook* discusses the appropriateness of various approaches and suggests certain specific techniques. *Id.*, §§ 651, *et seq.*

   a. Market data or comparable sales
   b. Income multipliers
   c. Income capitalization
   d. Residual methods of valuation (rare)
   e. Replacement cost
   f. Leases
   g. Leasehold interests

B. **Schedule B—Stocks and Bonds**

1. Listed securities

   a. Generally not difficult to value. *Id.*, § 720.
   b. Blockage issue (not applicable to an unlisted security). *Id.*, § 741.

2. Closely held stock (not publicly traded)

   a. The best criterion of market value are actual sales made in reasonable amounts at arm's-length in the normal course of business within a reasonable time before or after the valuation date. *Id.*, § 760(1).
   b. Burden is on the taxpayer. *Id.*, § 760(3).

3. United States government securities

   a. If traded, value is market value plus accrued interest, if any. *Id.*, § 770.
   b. If redeemable, value is redemption value plus interest, if any. *Id.*
4. Mutual funds are valued at bid price. *Id.*, § 780.

5. Accruals. *Id.*, § 790.

6. Foreign securities. If foreign tax credit is claimed, examiner should review valuation accepted by the foreign country. *Id.*, § 7(10)0(2).

7. Stock in closely held corporations
   a. One of the more difficult assets to value. Approach to valuation is detailed in Rev. Rul. 59-60, 1959-1 C.B. 237. *Id.*, § 7(11)1(1).
   b. Financial data
      (1) Review balance sheets and profit and loss statements. If not available from the estate's representative, may be advisable to obtain the information from the corporation. *Id.*, § 7(11)2(1).
      (2) Consider adjustments to balance sheet values. *Id.*, § 7(11)2(2).
      (3) Request copies of corporation's Federal income tax returns (five years). *Id.*, §§ 7(11)2(3) and 7(11)3.
   c. Discount for minority interests, lack of marketability. Examiners are advised:

   "Watch for any 'discount' claimed! Quite frequently you will be confronted with the contention by the estate's representative that the decedent's stock constituted a minority holding and therefore would not appeal to a potential purchaser who would have no voice in the management of the corporation's affairs. Before accepting this contention, determine if any one stockholder had control of the corporation. It is possible that the owner of the decedent's stock would have as much voice in management as anyone else. Also, bearing in mind the definition of fair market value, you should ask yourself whether there would be a willing seller at the suggested valuation price, or whether a seller would insist on a higher price. You may, by adroit questioning, discover that the decedent while alive had rejected an offer to purchase the stock or that the executor had rejected an offer from other stockholders. All of these possibilities should be explored before any discount is made in the valuation of a minority stockholding."
A rejected offer generally sets the lower limit in the range of value." *Id.*, § 7(11)6(1).

d. Restrictive agreements and options. To be considered as controlling for estate tax purposes, such restrictions generally must be effective both during lifetime and at death and represent a valid business purpose. *Id.*, § 7(11)7(2).

e. Intangible assets. Key to valuation issue is excess net earnings over and above a fair return on the net tangible assets. *Id.*, § 7(11)8(1).

f. Subchapter S corporations. To avoid distortion in valuation if you are comparing an S corporation's stock to similar publicly traded firms, remember to adjust net income for income taxes using the corporate tax rates applicable for each year in question. *Id.*, § 7(11)9(2).

C. **Schedule C—Mortgages, Notes, and Cash**

1. Examiners are cautioned to compare the returned cash items with a decedent's "cash flow" during his or her lifetime. *Id.*, § 810(2).

2. The examiner should request all cancelled checks, bank statements, check registers, savings account books, ledgers, and records of cash receipts and disbursements for the period three years before death continuing until the date of audit. *Id.*, § 821(1).

3. Search for omitted bank accounts. *Id.*, § 822.

4. Examine unusual withdrawals immediately prior to the date of death. *Id.*, § 823.

5. Cash on hand and in safety deposit box
   a. Timing of date of death (sudden death vs. long term illness) may be an issue. *Id.*, § 830(1).
   b. "It is not prudent to antagonize members of the decedent's family by reason of pocket money...." *Id.*, § 830(2).
   c. Review procedure for opening safety deposit box (confirm who was present at the opening). *Id.*, § 830(5).
   d. Obtain affidavits from interested parties claiming ownership of funds in safety deposit box. *Id.*, § 830(3).
6. Mortgages and Notes

a. Discount for low or no interest rates

   (1) Demand notes are not subject to a discount based on interest rate and no reduction should be allowed for a broker's fee. *Id.*, § 842(1).

   (2) If discounted for noncollectibility, the examiner will determine whether the collateral, if any, is sufficient to secure the debt and whether all possible legal action has been taken to collect the debt. *Id.*, § 842(2).

   (3) Watch discounted receivables from children or other related entities. *Id.*, § 842(4).

b. Notes of decedent's beneficiaries. Forgiveness is a question of fact, and decedent's treatment will be material. *Id.*, § 843(1).

c. Notes and mortgages collected subsequent to the date of decedent's death are a frequent source of assets omitted through oversight. *Id.*, § 845.

d. Contracts for the sale of real estate. Sale price rather than date of death value of the realty controls. (Frequently subject to discount). *Id.*, § 850(1).

e. Credit balances in brokerage accounts

f. Other funds in the hands of decedent's agents

   (1) Rental agents

   (2) Partnership accounts

   (3) Unpaid salary and expense accounts

   (4) Uncollected fees and commissions

   (5) Claims for damages, receivables, or rights of action in the hands of attorneys

   (6) Receivables in the hands of collection agents

   (7) Cash advances to decedent's business
(8) Federal and state income tax refunds

D. **Schedule D—Insurance on the Decedent's Life**

1. Form 712's are required for all policies on the decedent's life.

2. If insurance is disclosed but the proceeds are not includable, inspect a copy of the original application for an assignment to prove ownership. *Id.*, § 911(3).
   a. Confirm that any assignment has been acknowledged by the insurance company.
   b. Check dates for the three-year rule.
   c. If payable to a trust, secure a copy of the trust instrument.

3. Incidents of ownership. *Id.*, § 913.2.

4. Watch proceeds where a corporation or partnership owns the insurance on decedent's life. Proceeds should be reflected in the value of the decedent's interest in the business. *Id.*, § 913.3.

5. Undisclosed insurance
   a. Watch for company group policies. *Id.*, § 950(2)(a).
   b. Scrutinize closely held business records and buy/sell agreements. *Id.*, § 950(2)(b).
   c. Review trusts which the executor claims are not includable in the estate. *Id.*, § 950(2)(c).
   d. Watch for creditor life insurance or "mortgage insurance." *Id.*, § 950(2)(d).
   e. Review gift tax records. *Id.*, § 950(2)(g).

E. **Schedule E—Jointly Owned Property**

1. Two different rules govern the proportion of joint tenancy property included in the gross estate, *i.e.*, property owned exclusively by a husband and wife and joint tenancy between all others. *Id.*, § (10)10(1).
2. The effect of state law governing concurrent estates must be considered. 
   *Id.*, § (10)10(2.)
   
a. Rules creating joint estates
   
b. Rules governing rights of the parties during the existence of the joint estate
   
c. Rules governing severance or termination of joint estates

3. Claims of contribution. *Id.*, § (10)10(3) and §§ (10)40-(10)60.

4. Assets improperly scheduled on Form 706. *Id.*, § (10)10(4).

5. Property erroneously assumed not includable in the gross estate because not includable in the probate estate. *Id.*, § (10)20(1).

   
a. Joint tenancy vs. tenancy in common
   
b. Severance of tenancies and gift tax implications. *Id.*, § (10)20(8).

7. Spousal joint tenancies
   
a. Joint tenancy or tenancy by the entireties solely between a husband and wife results in the inclusion in the gross estate of one-half of the value of the property, regardless of when the property was acquired or who furnished the consideration. IRC § 2040.
   

8. Nonspousal joint tenancies
   
a. Presumption that 100% includable in decedent's estate. *Id.*, § (10)33.
   
b. Watch improper inclusion to gain step-up in basis.


F. Schedule F—Other Miscellaneous Property Not Reportable Under Any Other Schedule
Schedule F is the "catch all" schedule for property interests not properly returnable under another schedule. The Handbook stresses that the most significant noncompliance problems pertaining to Schedule F involve "lack of consistency" because the items reflected on the schedule frequently are not consistent with the decedent's financial and social position as otherwise disclosed by the return as a whole. *Id.*, § (11)10. The Handbook cautions examiners that the lack of consistency is by no means confined to larger estates. "If we considered the items returned on Schedule F as truly reflecting the decedent's standard of living, we would in many cases have to conclude that the decedent owned but one suit, no wristwatch, and used orange crates for furniture." *Id.*, § (11)10(4).

1. Items relating to decedent's home and personal life
   
a. Household goods. To determine whether household goods are properly reflected, consider:

   (1) Decedent's social standing
   (2) Inspection of decedent's residence and its furnishings
   (3) Submitted appraisals
   (4) Personal property tax records
   (5) Insurance coverage, including endorsements for particularly valuable items
   (6) Cancelled checks
   (7) Sales
   (8) Magazine or newspaper coverage
   (9) Specific bequests in decedent's will
   (10) Probate records
   (11) Gifts to charity disclosed on decedent's income tax returns
   (12) Charitable deductions taken by decedent's beneficiaries. *Id.*, §§ (11)21(2)(a)-(l).

   b. Clothing
The *Handbook* acknowledges that the examiner should not be overly concerned if utilitarian personal effects are returned at very nominal values, if they are disclosed at all. "There is little to be gained by inquiring into such items; on the contrary, needless antagonism may be generated by such personal probes." *Id.*, § (11)22(1). Exceptions exist, of course, for expensive clothing and furs which may be revealed by examination of homeowner's insurance policies and cancelled checks.

c. Automobiles, boats, and aircraft

(1) Fair market value is required. *Id.*, § (11)23(2).

(2) Value at which a member of the general public could purchase a comparable automobile (not the price a dealer in used automobiles would pay). *Id.*, § (11)23(1).

(3) Check title and insurance records to determine ownership. *Id.*, § (11)23(3).

(4) Sailboats and motor boats are frequently overlooked. Check licensing and marina fees. *Id.*, § (11)23(4).

d. Jewelry and gems

(1) Watch the use of "estate value" or "purchase value" in appraisals, which is not necessarily reflective of fair market value. *Id.*, § (11)24(2).

(2) Disclosure problems. Review insurance policies and look for bequests under the will. *Id.*, § (11)24(3).

e. Antiques, objects of art, and collections

(1) Insist on appraisals where the property appears to have significant value. *Id.*, § (11)25(3).

(2) Sales price is the best evidence of value. *Id.*, § (11)25(2).

(3) The fact of their ownership is sometimes noted in the decedent's obituary. *Id.*, § (11)25(1).

2. Items relating to decedent's business or occupation

(1) Accrued salary

(2) Loans to business entities

(3) Commissions

b. Individual proprietorships. Upon the death of the decedent, value will always equal at least the liquidation value. *Id.*, § (11)32.2(1).

c. Professional practices. *Id.*, § (11)32.3.

d. Farm machinery. *Id.*, § (11)33.1.

e. Livestock. *Id.*, § (11)33.2.

f. Growing crops. *Id.*, § (11)33.3.

g. Patronage dividends from cooperatives. *Id.*, § (11)33.4.

h. Joint ventures. *Id.*, § (11)34.

i. Partnership interests. *Id.*, § (11)35. (See discussion below.)

j. Patents and copyrights. *Id.*, § (11)36.

k. Accumulated and postmortem dividends on life insurance policies. *Id.*, § (11)41.

l. Insurance on the life of another. *Id.*, § (11)42.

m. Remainder or revisionary interests. *Id.*, § (11)43.

n. Interest in trust funds. *Id.*, § (11)44.

o. Interest in estate of another decedent. *Id.*, § (11)45.

p. Miscellaneous refunds. *Id.*, § (11)50.

3. Partnership interests

The same general factors apply to the valuation of a partnership as a closely held corporation, with such additional elements as the partnership agreement and the partners' capital accounts. *Id.*, § (11)35.1(1).

a. Partnership agreements
(1) Determine whether obligations arising under the agreement are binding at decedent's death on both sides or whether the agreement merely creates options on either side, in which case the contract price is merely one of the elements of valuation but nothing more. *Id.*, § (11)35.2(3).

(2) Analyze financial statements to determine whether a price is "bona fide" bearing in mind that even binding obligations to buy and sell may be unconscionable. *Id.*, § (11)35.2(4).

b. Balance sheet—asset valuation

(1) The value of the decedent's capital account on the date of death is not necessarily the value of the decedent's interest in the partnership. *Id.*, § (11)35.3(1).

(2) Adjustments need to be made to the balance sheet. Securities and real estate owned by the partnership should be adjusted to reflect market value. *Id.*, § (11)35.3(2).

(3) Watch discounts on receivables or inventory and whether the allowance for bad debts is realistic. *Id.*, § (11)35.3(3).

c. Partners' capital accounts

(1) The agreement may confer rights or impose restrictions that impact valuation. *Id.*, § (11)35.4(1).

(2) It is recommended that the examiner trace earnings over several years to determine whether all of the decedent's share of income that was not withdrawn was credited to the proper capital account. This is particularly important with family partnerships where there is an increased potential for "unreported gifts." *Id.*, § (11)35.4(2).

d. Goodwill or going concern value

In valuing partnership interests, executors frequently argue that the decedent's death legally dissolves the partnership which, thus, is no longer a "going concern," and any goodwill attributable personally to the decedent disappeared at decedent's death. Examiners are advised that these arguments do not necessarily negate the existence of goodwill or going concern value. *Id.*, § (11)35.5(4).

G. Schedule G—Transfers During Decedent's Life
1. Examiners are cautioned always to be on alert for undisclosed transfers, which should involve a consideration of all post-1976 transfers (even those made more than three years prior to death). *Id.*, § (12)10(2).

2. Transfers within three years of death
   a. Life insurance. *Id.*, § (12)30.
   c. Incomplete transfers completed within three years of death. *Id.*, § (12)50.

3. Incomplete transfers. *Id.*, § (12)60.

   a. Void because ineffective from the beginning
   b. Voidable because a party to the transaction may rescind or nullify the transfer (person under legal disability, fraud, etc.)
   c. Uniform Transfers to Minors Act transfers
   d. Lack of mental capacity
   e. Effect of fraud
   f. Effect of failure to transfer legal title
   g. Effect of failure to deliver property
   h. Effect of failure of donee to accept gifts
   i. Transfer with retention of some right or control
   j. Transfer where transferor has retained a life interest
   k. Transfer where transferor reserved a reversionary interest
   l. Transfers where retained interests or "strings" are/are not limited to administrative powers
   m. Transfer where decedent had retained broad trustee powers
   n. Reciprocal gifts, transfers, trusts
5. A gift can be included either in adjusted taxable gifts or on Schedule G, but never in both places.

   a. A transfer after 1977 included on Schedule G is reported at the date of death or alternate valuation date value. *Id.*, § (12)10(6)(b).

   b. A transfer included in adjusted taxable gifts is reported at date of gift value. *Id.*

   c. A transfer on Schedule G will not receive an annual gift tax exclusion while a transfer included in adjusted taxable gifts is after the annual exclusion. *Id.*, § (12)10(6)(d).

6. There can be no gift splitting for transfers included on Schedule G while a transfer included in adjusted taxable gifts may be after gift splitting. *Id.*, § (12)10(6)(e).

7. Full state death tax credit may be allowable with respect to a transfer included on Schedule G while none is allowed for adjusted taxable gifts. Thus, in pick-up tax states such as Virginia, moving a transfer from adjusted taxable gifts to Schedule G would result in a change solely for the benefit of the Virginia taxing authority. *Id.*, § (12)10(6)(f).

H. Schedule H—Powers of Appointment

1. Determining existence of general power of appointment. *Id.*, § (13)20.

   a. Review of decedent's will or prior wills

   b. Review of a previous estate may reveal a power in favor of the present decedent.

   c. Inspection of insurance policies

2. In addition to general powers of appointment enumerated in Treas. Reg. § 20.2041-1, general powers of appointment may include:

   a. Options to designate or change beneficiaries or type of payment under profit sharing or retirement plans;

   b. Settlement options under insurance policies;

   c. An unrestricted right of a trustee to distribute income or principal of a trust if the trustee is also a beneficiary;
d. An unrestricted right of a trustee to distribute income or add it to corpus if the trustee also has a vested remainder interest in the trust corpus; and

e. An unrestricted right of a trustee to terminate a trust if the trustee also has a vested remainder interest in such trust. *Id.*, § (13)10(1).

3. Examiners are reminded that the requirements for including the value of property subject to a general power of appointment under IRC § 2041 are less stringent than those for allowing a marital deduction under IRC § 2056. *Id.*, § (13)10(2).

4. Complete copies of properly authenticated instruments (will, death certificate, etc.) relating to the power of appointment should be filed with the return.

5. Inclusion of power of appointment property may have other tax effects. *Id.*, § (13)40(5).
   a. New income tax basis
   b. Possible credit for tax on prior transfers
   c. Increased marital and/or charitable deduction

I. **Schedule I—Annuities**

1. Prior to 1985, most employment-related survivor benefits payable from a "qualified plan" were excluded from the gross estate. The fact that such benefits typically flow directly to the survivor outside of the probate estate causes many beneficiaries erroneously to assume that they are not includable in the gross estate. The IRC provides for virtually 100% inclusion of such benefits. *Id.*, § (14)10(4).

2. Survivorship annuities should be distinguished from life insurance proceeds. *Id.*, § (14)10(5).

3. Income tax returns should be reviewed to locate unreported annuities and to ascertain whether the decedent was claiming an IRA, Keogh, or 401(k) deduction. *Id.*, § (14)10(9)(a).

4. Determine whether decedent was working for an employer (such as the government) that would normally provide a post-death benefit.

5. Examine any annuity contracts or agreements.
a. If payments cease after decedent's death, generally nothing is includable. *Id.*, §(14)20(1).

b. Absent a legal obligation, understanding, or custom, a voluntary gift to the decedent's survivor under a post-death resolution will not be includable in the gross estate. *Id.*, §(14)20(2).


7. Qualified plans. Fully includable with two minor exceptions. *Id.*, §(14)34(1).

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

1. Since deductions are often easier for the examiner to verify than assets, some examiners find it advantageous to start their examination with Schedule J. This also gives the examiner an opportunity to size up the estate's representative and judge the type and accuracy of arguments possibly to be encountered later with more controversial issues. *Id.*, §(15)10(2).

2. Leave executor's commissions and attorney's fees for discussion at the end of the entire examination.

   a. If the executor is claiming full statutory commissions, he/she must perform the duties of executor. *Id.*, §(15)10(3).

   b. The deduction for attorney's fees should be limited to the amount customarily charged for legal services rendered, which generally cannot be ascertained until the examination is completed. *Id.*

3. Double deductions: Forms 706, 1041, and 1040

   a. Review all fiduciary income tax returns (Form 1041s) to confirm that deductions for any administration expenses are waived and not claimed on the estate tax return. Likewise, medical expenses should not be claimed on both Form 706 and the decedent's final 1040. *Id.*, §(15)30(1).

   b. Form 1041's and 1040's should be reviewed for sales of assets both to indicate value and whether any items have been taken both as an
administration expense or a loss on the estate tax and income tax returns. *Id.*, § (15)30(2).

4. Questionable expenses. In addition to actually being incurred, administration expenses must be allowable under local law to qualify as estate tax deductions. Allowance by the probate court is not necessarily determinative of deductibility (since probate court allowance may be based on the consent of all interested parties). *Id.*, § (15)41(1).

5. Watch expenses incurred in administering property not subject to claims, such as an *inter vivos* trust includable in the gross estate, which expenses should be claimed under Schedule L. *Id.*, § (15)41(2).

6. Expenses for the sale of assets are allowable when the sale is necessary to effect distribution of the estate or to raise money for the payment of debts, expenses, or taxes. The value of the assets being sold should not be reduced, however, for any such selling expenses if the expense is allowed as a deduction. *Id.*, § (15)41(5).

7. Accounting fees

   a. Expense of preparation of the decedent's final income tax return, the estate's inventory, and the Federal estate tax return are deductible, as is the expense of preparation of Form 1041's (if not claimed on the 1041 itself). *Id.*, § (15)42.

   b. However, a deduction for accounting fees for services rendered that are actually the executor's normal duties for which full executor's fees are claimed as a deduction will be disallowed. *Id.*

8. Estimates of expenses. Allowable for expenses which have not yet been paid to the extent reasonable. *Id.*, § (15)51(1).

9. Executor's commissions and attorney's fees

   a. Pose special problems because frequently estimated on the return and unpaid at the time of audit.

   b. Allowable pursuant to Treas. Reg. § 20.2053 provided that they are reasonable, in accordance with local practice, allowable under local law, and the examiner is reasonably satisfied that the amounts will be paid. *Id.*, § (15)52(2).

   c. ABA guidelines for determining the reasonableness of legal fees include:
(1) The time and labor required, the novelty and difficulty of the questions involved, and the skill requisite to perform the legal service properly;

(2) The likelihood, if apparent to the client, that the acceptance of the particular employment will preclude other employment by the lawyer;

(3) Fees customarily charged in the locality for similar legal services;

(4) Amounts involved and the results obtained;

(5) Time limitations imposed by the client or by the circumstances;

(6) The nature and length of the professional relationship with the client;

(7) The experience, reputation, and ability of the lawyer(s) performing the services; and

(8) Whether the fee is fixed or contingent. Id., §§ (15)52(4)(a)-(h).

To substantiate the reasonableness of fees, the attorney's time records, itemized bills, and fee arrangements should be examined. Id., § (15)52(5).

K. Schedule K—Debts of the Decedent, and Mortgages and Liens

1. "The term 'debts of decedent' means exactly what it says. What was the decedent obliged to pay at the moment he/she died?" Id., § (16)10(1).

2. Only claims enforceable against the estate are allowable. Id.

3. Contingent liabilities are not deductible. (A claim for refund may be filed if and when the alleged liability is later determined.) Id., § (16)10(3).

4. Watch statutes of limitation.

5. Allowance by the court is not conclusive as to deductibility of a claimed debt. Id., § (16)10(5).

6. Types of claims

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a. Claims based upon personal services. (Note that the Handbook points out that "ordinarily, the husband is responsible for the maintenance of the family and, accordingly, will be looked to for payment of domestic services, e.g., services of a maid, cook, etc.") *Id.*, § (16)33(1).

b. Watch voluntary payments by the heirs for services rendered for care of the decedent or for services performed for the decedent over an extended period of time, which would be a gift by the heirs to such individual(s). *Id.*, § (16)33(2).

c. Watch claims presented by relatives of the decedent. *Id.*, § (16)33(3).

7. Claims based upon outstanding checks and notes

a. Make sure that the returned amount of the bank account balance has not also been reduced by any outstanding checks taken as deductions. *Id.*, § (16)34(1).

b. Ascertain whether there is an enforceable obligation based upon adequate consideration to support a claim based upon a note. *Id.*, § (16)34(2).

c. Watch claims based on promissory notes from the decedent to members of decedent's family. *Id.*, § (16)34(3).

d. Watch deductions where the decedent was merely an accommodation endorser of a note, unless the estate is required to make payment. *Id.*, § (16)34(4).

8. Claims based upon contract. *Id.*, § (16)35.


a. Delinquent taxes

b. Proration of local property taxes

c. Proration of joint income tax liability

10. Miscellaneous claims

a. A claim based upon judgment liability is deductible (if the estate must satisfy the judgment). *Id.*, § (16)37(1).
b. Deduction for alimony or support payments. Id., § (16)37(2).

11. Watch double deductions.

L. Schedule L—Net Losses During Administration and Expenses Incurred in Administering Property Not Subject to Claims

1. Generally, Schedule L includes the same types of expenses allowable on Schedule J as administration expenses, except that expenses taken on Schedule L are usually incurred by a trustee in connection with the administration or termination of a trust, while Schedule J expenses are incurred in the administration of the probate estate. Id., § (15)62(1).

2. Deduction should be limited to expenses necessitated by the decedent’s death and should not include expenses that would have been incurred in the ordinary course of administering the trust. Id., § (15)62(2).

3. Watch double deductions.

M. Schedule M—Bequests, Etc., to Surviving Spouse

1. The examiner should determine whether:

a. The will or trust instrument is valid;

b. The surviving spouse was legally married to the decedent; and

c. The "surviving" spouse actually survived the decedent. Id., § (17)20(1).

2. Ascertain who is legally responsible for the payment of debts, i.e., if the administration expenses and/or taxes are payable out of the residue of the estate and the residue passes to the surviving spouse, then the marital deduction must reflect any charges against the bequest if the executor claims all or a portion of the expenses as income tax deductions. Id., § (17)20(2).

3. When claiming a marital deduction for property passing to the surviving spouse as a result of a qualified disclaimer, make sure that the disclaimed property passes to the spouse under state law. Id., § (17)20(4).

4. Make sure that a "Q-Tip" election is valid, and watch for disqualifying conditions. Id., § (17)20(5).
5. Examiners are cautioned never to assume that a return showing "no tax due" because of "an unlimited marital" cannot involve issues of significant tax consequences. *Id.*, § (17)20(7).

N. **Schedule A-I—Section 2032A Valuation**

1. IRC § 2032A allows the estate to elect to have the decedent's real estate valued according to its actual use, subject to stringent requirements to qualify for special use valuation.

2. Issues involved in the examination of § 2032A cases tend to fall into three areas:
   
   a. Qualification of the property for special use valuation;
   
   b. Election for special use valuation in a manner consistent with the IRC and regulations; and
   
   c. Computation of the special use value. *Id.*, §§ (18)10(3)(a)-(c).

3. "IRC 2032A is a very detailed area of estate tax law as evidenced by the fact that it encompasses more pages of the Code than all of the other inclusion statutes combined." *Id.*, § (18)10(4).

O. **Schedule O—Charitable, Public, and Similar Gifts and Bequests**

1. The deduction is allowable only for transfers made by the decedent, whether by will or *inter vivos* transfer, rather than by the decedent's estate or the beneficiaries of the estate. *Id.*, § (19)10.

2. Note that a charitable pledge or subscription made by the decedent during lifetime is *not* deductible as a charitable deduction; however, the pledge may be deducted as a debt of the decedent if the decedent's promise is enforceable against the estate (in which case the deduction is limited to the amount that would have been allowed as a charitable deduction if the pledge had been a bequest). *Id.*

3. Make sure that the amount passing to charity is ascertainable. Administration expenses may affect a residuary bequest to charity. *Id.*, § (19)20(3).

4. Scrutinize split-interest gifts for conformity with the strict requirements of the IRC and regulations.
5. Confirm that the designated charitable organization will, in fact, receive the bequest claimed (for example, watch will contest that might preclude charity from receiving the property.) *Id.*, § (19)20(5).

6. The *Handbook* points out that "the computation required to determine the allowable charitable deduction is beyond the scope of this handbook. Refer to Publication 904 for illustrations involving interrelated computations." *Id.*, § (19)30.

P. Credits

As with deductions from the gross estate, the taxpayer has the burden of substantiating any amounts claimed as credits against Federal estate tax. The Federal estate tax return involves five credits.

1. Unified credit. *Id.*, § (21)20.

2. Credit for state death taxes. *Id.*, § (21)30.

3. Credits for gift tax. *Id.*, § (21)40.

4. Credit for tax on prior transfers. *Id.*, § (21)50.

5. Credit for foreign death taxes. *Id.*, § (21)60.

Q. Schedule R—Generation-Skipping Transfer Tax

The *Handbook* does not address Schedule R or the issue of generation-skipping transfer tax.

R. Adjusted Taxable Gifts

1. The primary audit issues involved in determining the correct adjusted taxable gifts include the valuation of gifts reported on Form 709's and the discovery of additional gifts. *Id.*, § (20)10.

2. In calculating the value of adjusted taxable gifts for estate tax purposes, the examiner is precluded from changing the values of gifts previously reported on Form 709 if the usual statute of limitations has run. See Article V. D of this outline.

3. Undisclosed gifts. Examiners are cautioned to watch for indirect gifts such as:

   a. Distributions from living trusts which may have been gifts from the grantor-decedent;
b. Transactions with family members that may have been part-sale and part-gift;

c. Payment of life insurance premiums for policies on the decedent which are owned by others;

d. Preferred stock recapitalizations of family-owned corporations; and

e. Unreported transfers of real estate. *Id.*, § (20)30(3).

4. Records for brokerage accounts, stock record books for family corporations, Form 1040's, and checking account records should be examined for at least three years prior to death. *Id.*, § (20)30(4).

S. Penalties

1. IRC § 7269 penalty. Not to exceed $500, plus costs of suit, for failure to produce records which may contain information concerning the decedent's estate. A personal representative may also be subject to this penalty. *Id.*, § (22)21(2).

2. Civil penalties. "Ad valorem" penalties proportionate to the amount of tax involved. Assessed and collected in the same manner as the tax. *Id.*, § (22)21(1).

3. Delinquency penalties. IRC § 6651 failure to file tax return or to pay tax. *Id.*, § (22)22.1.

4. Negligence penalty. IRC § 6653 failure to pay tax (applicable only to income and gift tax situations). *Id.*, § (22)23.

5. Valuation understatement penalty. For estate tax returns filed after 1984, IRC § 6660 imposes a penalty in the case of a tax underpayment of $1,000 or more that is attributable to a valuation understatement when the value stated is 66 2/3 percent (or less) of the determined correct value. The examiner has responsibility for imposing the penalty but may waive it in whole or in part if the taxpayer can demonstrate both a reasonable basis for the reported value and that a good faith effort was made in determining the correct value. *Id.*, § (22)23.2.

6. Civil fraud penalties

   a. IRC § 6653(b)(1) imposes a 50 percent civil penalty if any part of an underpayment is due to fraud.
b. IRC § 6653(b)(2) imposes an additional penalty equal to 50 percent of the interest due on any deficiency resulting from fraud.

c. When these penalties are assessed, neither the delinquency penalty nor the negligence penalty may be assessed. *Id.*, § (22)24(1).

d. The exact line between civil fraud and criminal fraud may be difficult to draw; however, one distinction is the degree of proof required. The government bears the burden of proof in all fraud cases. In addition, in civil fraud cases, the tax and penalties may be assessed at any time, whereas, the statute of limitation on prosecution of a criminal fraud case (usually six years) runs from the time the offense was committed. *Id.*, § (22)24(3).

7. Criminal fraud

a. For *Handbook* checklist of 30 indications of fraud, see §§ (22)32(1)(a)1-30.

b. Aiding and abetting understatement of tax liability. Note that pursuant to IRC § 6701, penalty may be assessed against representatives and third parties who advise the taxpayer in connection with the preparation of any portion of the return. *Id.*, § (22)40.

IV. HOW TO HANDLE AN ESTATE TAX AUDIT

A. **Timeframe**

1. **Statute of Limitations**

   a. Unlike income and gift tax returns, which may be extended by agreement, there is no provision for extension of the statute of limitations in estate tax cases. *Id.*, § 220(1).

   b. Any deficiency must either be assessed, or a statutory notice of deficiency must be mailed to the taxpayer, within three years from the due date of the return or the time the return was filed, whichever is later. *Id.*

   c. The only exceptions include:

      (1) No statute of limitations when a false or fraudulent return has been filed with intent to evade tax. *Id.*, §.220(1)(a).
(2) Statute of limitations is extended to six years in cases in which omissions from the gross estate exceed 25 percent of the value of the gross estate reported in the return. Id., § 220(1)(b).

(3) IRC § 6901 allows an extra one-year period for assessment against a transferee. Id., § 220(1)(c).

2. Because of the review process involved and the possibility that a case will be unagreed, the examiner is urged to conclude the audit report within ample time to allow for the issuance of a 30-day letter and referral of the case to Appeals upon request of the taxpayer. Id., § 220(2). The stated IRS policy is to complete audit action within 18 months from the date of filing of the estate tax return to avoid difficulty with the statute of limitations. Id., § 220(3).

3. IRC § 2204 entitles the executor of the estate to discharge from personal liability for the Federal estate tax within nine months after making written application for discharge (if the executor pays any amount of tax of which he is notified within the nine-month period). Although the estate is not relieved of liability for payment of the tax, discharging the executor from personal liability does create the possibility that a deficiency might not be collectible if all of the estate's assets are distributed. Id., § 220(5).

B. Familiarize Yourself With IRS Terminology.

1. "Classification" describes the IRS process of selecting returns for audit.

2. Some returns are merely "surveyed," in which case they are reviewed without contact with the taxpayer (other than to request documentation that was required to be filed with the return) and accepted as filed.

3. The terms "audit" and "examination" are used interchangeably.
   a. Sometimes conducted entirely by telephone and mail.
   b. Limited audit vs. a full field audit (formal review).

4. "Estate and Gift Tax Attorney" ("ETA") is an attorney at law who represents the IRS in auditing estate, gift, generation-skipping transfer, and fiduciary income tax returns. ("Revenue agents" or "tax auditors," who generally are not attorneys, audit individual income tax returns.)

C. Contact with the ETA

1. Always remember that the ETA is a professional!
2. Has the option of surveying the return or conducting an audit.

3. In the case of an audit, "pre-contact analysis" precedes formal review.

4. Initial contact with the fiduciary or the fiduciary's representative occurs after the "pre-contact analysis" generally between six months and one year after the return was filed.

   a. Return preparer who completed the authorization on page 2 of the 706 or
   b. Person(s) designated in Form 2848 Power of Attorney and Declaration of Representative filed with the return. See Appendix 6 for copy of Form 2848 and instructions.

5. Initial contact frequently by telephone to review information and documentation to be produced and to discuss meeting schedule.

6. Follow-up "opening letter" (Letter 1030) commonly requests such items as:

   a. Copies of the decedent's Federal and state individual income tax returns for the prior three years and the year of death
   b. Copies of any income tax returns (Form 1041's) filed by the estate
   c. Copies of any gift tax returns not filed with the estate tax return or not associated with the return at the Service Center
   d. Estate checkbook records
   e. Decedent's bank records, including cancelled checks, from three years before death
   f. Copies of any trust agreements not attached to the return
   g. Copies of any appraisals not attached to the return
   h. Copies of closing statements if any real estate has been sold
   i. Copies of five years of financial records for any closely held business interest or partnership interest reported in the return
   j. Copies of buy-sell and partnership agreements
k. An inventory of the decedent's safe deposit box
l. Copies of any homeowner's insurance policy riders

7. See Appendix 7 for copy of opening letter (Letter 1030).
8. Make photocopies of records that the ETA wants for the IRS file, and retain the originals.
9. Be cooperative. While the audit process might be viewed as "adversarial," it is not the same as "litigation."
10. Always keep in mind the inflexible time constraints on the estate tax audit process. Unnecessary delay could hinder the ability to settle a case.

D. **Audit Strategy**
1. The best defense is a complete and accurate Form 706!
2. Generally, the fiduciary's representative, rather than the fiduciary, should handle the audit.
3. Consider bringing to the relevant portion of the meeting any expert who has appraised an asset when its value is being negotiated.
4. Prepare thoroughly for meetings.
5. Volunteer information concerning after-discovered assets or assets that have been sold and additional deductions. (The ETA is going to ask.)
6. Be Reasonable. Don't "fight" obvious changes.
7. "No-change cases"
8. Keep track of what is discussed at each meeting and during telephone conversations.
9. Keep the client apprised of the progress of the audit.

E. **Negotiation**
1. Bear in mind that the IRS's stated objective is to determine the correctness of the tax, not to obtain large deficiencies.
2. Policy is not to "split" or "trade" issues (see Handbook, § 562); however, in practice, some do.
a. Legal point vs. a factual question

b. Adjusting the value of an asset likely to be sold vs. not adjusting an asset likely to be retained so that the increase in estate taxes will be partially offset by the savings in income taxes

3. Remember that the ETA is bound on questions of law but has considerable latitude to make factual determinations; thus, open issues should be cast as "factual" questions when feasible.

4. In order to force an agreement, the ETA is not supposed to threaten imposing penalties or auditing related returns. (The ETA can, however, report the facts involving a penalty issue in the most or least favorable light possible or submit or refrain from submitting an information report that would lead to the audit of a related return.)

5. The audit will be concluded on an "agreed," "partially agreed," or "unagreed" basis.

6. The ETA's work is subject to review by the Group Manager.

   a. Regional Review Staff (Jacksonville, FL) reviews all unagreed cases in which it will issue a 90-day letter.

   b. Regional Review Staff reviews some 30-day letter cases and some agreed cases. Selection for formal review is generally on a random basis and depends on staffing and workload.

F. Concluding the Audit on an Agreed Basis

1. All proposed adjustments are agreed to:

   a. A deficiency results in an increase in estate taxes.

   b. An overassessment results in a decrease in estate taxes.

2. Form 890, Waiver of Restrictions on Assessment and Collection of Deficiency and Acceptance of Overassessment Estate, Gift, and Generation-Skipping Transfer Tax. See Appendix 8 for copy of Form 890.

   a. The ETA prepares the waiver for the fiduciary or the fiduciary's authorized representative to execute. (It is recommended that the fiduciary sign.)
b. Any deficiency (plus interest) may be paid when the waiver is submitted or the estate can wait to be billed by the IRS.

3. Note that even when agreement has been reached with the ETA, the Group Manager or Regional Review Staff can return the case to the ETA for additional information or documentation, in which event the estate may have to renegotiate issues or negotiate new ones.
   a. The estate's representative may request a meeting with the Group Manager.
   b. Upon request, the IRS must provide a written statement setting forth the basis on which any valuation is proposed and containing a copy of any expert appraisal made by or for the IRS.

4. Although the case is not closed upon submission of the executed waiver, if the case is not returned to the ETA by the Group Manager or the Regional Review Staff, then the IRS will process the case within four to eight weeks from the submission of the waiver, at which time a "closing letter" (Letter 627) is issued.
   a. Review the closing letter for typographical errors.
   b. After a closing letter has been issued, the IRS will only reopen a case under extraordinary circumstances. Id., § 23(40).
   c. The estate may request that a case be reopened after the closing letter has been issued (but before the statutory period for assessment has expired). Id., § 23(40)(1). If a decrease in estate tax will result, however, the safer course would be to file a claim for refund.
   d. See Appendix 9 for copy of closing letter (Letter 627).

G. Concluding the Audit on a Partially-Agreed Basis

1. Substantial agreement has been reached on all but an isolated issue (for example, the estate agrees to the proposed increase in estate taxes but objects to the imposition of a penalty).
   a. The ETA modifies Form 890.
   b. Administrative appeal
2. For matters that cannot be resolved during the audit (for example, a deduction claimed in connection with a contingent liability), filing a "protective" claim for refund is the recommended procedure.

H. Concluding the Audit on an Unagreed Basis

1. A case is "unagreed" when the estate intends to contest some (or all) of the ETA's proposed adjustments.

2. The option chosen at this point will affect the type of judicial appeal later available.
   a. Option 1: the estate consents to the assessment by executing a waiver, paying the amount of the deficiency, and filing a claim for refund. Note: if the case is not settled in an administrative appeal within the IRS, the estate is precluded from appealing in Tax Court.
   b. Option 2: the estate requests that the ETA write the case up on an unagreed basis. Note: With this option, if the estate is not successful with an administrative appeal, the estate can pay the deficiency to stop interest from running and litigate in Tax Court (if payment is made after issuance of the 90-day letter) or in a U.S. District Court or the U.S. Claims Court.

3. Try to settle a case with Regional Appeals before litigating.
   a. Appeals officers have more settlement authority than ETA's, and "settlement" is their function.
   b. The ETA is not expected to obtain agreement in every case. See Handbook, § 562(4).

4. Once a case is written up on an unagreed basis
   a. If at least eight months remain in the statutory period for assessment, the ETA mails the estate's representative:
   
      (1) 30-day letter (Letter 950) or "preliminary notice of deficiency." See Appendix 10 for copy of Letter 950.
      (2) Copy of the ETA's written report of proposed adjustments which is referred to as an "RAR" ("Revenue Agent's Report")
      (3) Publication guide to the preparation of a protest
(4) Form 890 ("just in case" the estate decides to agree to the assessment)

b. Regional Review Staff will select some 30-day letter cases for review after the ETA prepares the RAR and before a 30-day letter is issued.

c. If less than eight months remain on the statute of limitations:

(1) The Regional Review Staff will issue a "90-day letter" (Letter 902) and "statutory notice of deficiency (Form 4089)." See Appendix 11 and Appendix 12 for copies of Letter 902 and Form 4089.

(2) The estate can file a petition with the Tax Court for review of the deficiency determination (within 90 days of the date of the notice of deficiency) or settle the matter in an appeals conference (but not the identical procedure after a 30-day letter).

I. Filing a Claim for Refund—Form 843

1. Discovery that estate tax was overpaid on a return that was not audited

2. Remaining unresolved factual or legal issues arising during the audit

3. Determination that estate taxes may have been overpaid after a closing letter has been received

4. The estate seeks a forum other than the Tax Court to dispute the deficiency determination made on audit

5. See Appendix 13 for copy of Form 843 Claim for Refund and Request for Abatement.

V. GIFT TAX RETURNS IN GENERAL

A. Form 709-A

1. This short-form return (copy attached as Appendix 15) may be used only by married couples who are U.S. citizens and in situations where no donee received gifts in excess of $20,000 and all gifts will be split by the spouses.
2. The form may not be used if any gift was of closely held stock, partnership interests, fractional interests in real estate, or gifts for which the value has been reduced to reflect a valuation discount. Form 709 must be used in that event.

3. The due date of April 15 may be automatically extended with an extension of the donor's income tax return. Form 709-A may not be filed later than April 15 (or the extension due date). Instead, Form 709 must be used.

4. This form is not revised annually as is the case with Form 709.

5. Unless otherwise noted, the balance of this outline relates to Form 709 and may not be applicable to Form 709-A.

B. Form 709

1. This form (copy of 1998 version attached as Appendix 16) is being revised annually to reflect the current unified credit.

2. Spouses cannot file a "joint" Form 709. Each must file a separate return, even if they are splitting gifts, if the consenting spouse is also required to file a return.

3. The due date of April 15 may be extended in two ways, but neither method extends the time to pay the gift or GST tax – an extension of time to pay must be requested separately in accordance with Treas. Reg. § 25.6161-1.

   a. A letter requesting an extension may be sent to the district director or service center for the donor's area. The letter must explain the reasons for the delay. The letter method can be used unless the donor is also requesting an extension of time to file an income tax return.

   b. Any form for the extension of time granted for filing the income tax return may also extend the time to file any gift tax return. Forms used for this purpose are Forms 4868, 2688, and 2350, which have checkboxes for Form 709. One of these forms may be used to extend the gift tax return only if the taxpayer is also requesting an extension of time to file the income tax return.

4. For split-gift purposes, the consenting spouse must consent no later than April 15 following the end of the year in which the gifts were made unless the late or extended return is the first return filed for the year by either spouse.
5. A consenting spouse must file a separate gift tax return unless all the requirements of either Exception 1 or Exception 2 are met.

a. Exception 1.

(1) Only one spouse made any gifts.

(2) The total value of these gifts to each third-party donee does not exceed $20,000.

(3) All of the gifts were of present interests.

b. Exception 2.

(1) Only one spouse (the donor spouse) made gifts of more than $10,000 but not more than $20,000 to any third-party donee.

(2) The only gifts made by the other spouse (the consenting spouse) were gifts of not more than $10,000 to third-party donees other than those to whom the donor spouse made gifts.

(3) All of the gifts by both spouses were of present interests.

C. Instructions

1. The instructions to the forms, particularly Form 709, are quite detailed and of great help both in preparing returns and in dealing with an audit situation.

2. Because Form 709 and its instructions change each year, it is suggested that a copy of the instructions be placed in the preparer’s file along with the copy of the return itself.

D. Statute of Limitations

1. Gifts may not be revalued by the IRS for estate tax purposes once the gift tax statute of limitations has run. IRC § 6501(c)(9).

2. In order for this rule to apply, the value of the gift must be shown on the applicable gift tax return or disclosed in such return, or in a statement attached to the return, in a manner adequate to apprise the IRS of the nature of the gift. This rule, as enacted by the Taxpayer Relief Act of 1997 and the Internal Revenue Service Restructuring and Reform Act of 1998, applies to gifts made after August 5, 1997.
3. If the gift is not shown on the gift tax return, the gift tax statute of limitations will not run on the ability of the IRS to assess the tax at a later date. This rule applies to gifts made any time during calendar year 1997 and thereafter.

4. To take advantage of this prohibition on revaluation it is not necessary to pay any gift tax (as had been the case).

5. Intrafamily sales and other transactions, including corporate buy-sell agreements and compensatory arrangements, may require disclosure to prevent the IRS from arguing by hindsight that a bargain element was involved in the transaction.

6. However, in a somewhat controversial ruling, the IRS held in Technical Advice Memorandum 199930002 that the unified credit available for an unreported gift must be reduced to reflect use of the credit against gifts in a later, closed year.

E. Adequate Disclosure Proposed Regulations (REG-106177-98)

1. In December of 1998, the IRS released proposed regulations to give effect to the provisions of the Taxpayer Relief Act of 1997 and the Internal Revenue Service Restructuring and Reform Act of 1998 providing that the gift tax statute of limitations does not begin to run on any gift made after December 31, 1996 unless and until that gift is adequately disclosed on a gift tax return. While most routine gifts, particularly year-end gifts of cash or marketable securities, are not affected, more complicated gifts will require more care in the preparation of gift tax returns and may require more use of formal appraisals.

2. In general, the information that is required in order to constitute adequate disclosure includes the usual detail that would be expected to be included with any well done appraisal, or otherwise included in a complete gift tax return. Examples of such appraisal data cited in the proposed regulations, in the case of nonmarketable property, are relevant financial data and descriptions of discounts. Examples of ordinary gift tax return information cited are the identity of the donee and the donee's relationship to the donor and the tax identification number and summary of the terms of any trust if the gift is made in trust.

3. The wording of the proposed regulations seems preoccupied with valuation discounts. The regulations under the narrower "unlimited statute of limitations" enacted in 1990 with respect to certain "chapter 14" transfers required disclosure of "discount rates," which are commonly used in various income methods of valuation. But the new proposed
regulations really labor the point of discounts. The following excerpt is an example:

A detailed description of the method used to determine the fair market value of property transferred, including any relevant financial data and a description of any discounts, such as discounts for blockage, minority or fractional interests, and lack of marketability, claimed in valuing the property. In the case of the transfer of an interest in an entity (for example, a corporation or partnership) that is not actively traded, a description of any discount claimed in valuing the entity or any assets owned by such entity, including a statement regarding the fair market value of 100 percent of the entity (determined without regard to any discounts in valuing the entity or any assets owned by the entity), the pro rata portion of the entity subject to the transfer, and the fair market value of the transferred interest as reported on the return.

4. In a sense, this is an expansion of the requirement added to the December 1996 version of the gift tax return form to check a box if any values on the return “reflect any valuation discount.” Without saying so, it is clear that the emphasis of the proposed regulations reflects years of IRS frustration with what it views as excessively aggressive use of valuation discounts. It may be assumed that the unnamed source, and target, of this frustration is the widespread use of family limited partnerships and similar estate planning techniques.

5. Unfortunately, the proposed regulations apply very broadly and are by no means limited to aggressive transactions. For example, the requirement that disclosure include "any" relevant financial data seems reasonable on its face, but if it were construed to allow the IRS many years later to argue that an old gift tax return may be examined and adjusted merely because some financial data the IRS views as relevant was not thought by the appraiser to be important enough to cite, this requirement would do great mischief. Similarly, the proposed regulations include the somewhat surprising requirement that even transactions in the ordinary course of business cannot be adequately disclosed simply by describing the course of business; they apparently must be individually analyzed with all the detail of a major estate planning gift.

6. Some of the requirements of the proposed regulations will be particularly hard to meet in some cases. For example, in the case of transfers of fractional interests in an entity, “the fair market value of 100 percent of the entity” is often an intermediate step in valuing the fractional interests, but sometimes it is not. It is not clear whether the proposed regulations require this 100 percent value and the other listed information to be disclosed only when it is used in determining the value of the transferred
interest, or whether the regulations will be construed as imposing an affirmative duty to develop that information even when an appraiser would not otherwise need or use it.

7. The new proposed regulations, however, do not request financial statements of the entity for the last five years, as do the “chapter 14” regulations under the 1990 legislation, although such financial statements or comparable data will often form part of the basis of a well done appraisal in any event. (The requirements of the “chapter 14” regulations continue to apply to gifts within their scope.)

8. A final disclosure requirement in the proposed regulations goes well beyond what has customarily been provided with gift tax returns in the past:

A statement of the relevant facts affecting the gift tax treatment of the transfer that reasonably may be expected to apprise the Internal Revenue Service of the nature of any potential controversy concerning the gift tax treatment of the transfer, or in lieu of this statement, a concise description of the legal issue presented by the facts. In addition, a statement describing any position taken that is contrary to any temporary or final Treasury regulations or revenue rulings.

9. In addition to imposing these disclosure requirements, the 1997 legislation dropped the requirement that a current gift tax must have been paid to achieve finality of valuation for gift tax purposes in future years, thus extending the finality of valuation provided by that statute to gifts that merely use some or all of the donor’s applicable exclusion amount (or unified credit). The legislation also precludes such revaluation even for estate tax purposes, and it empowers the Tax Court to issue declaratory judgments regarding the value of gifts, including use of the exclusion amount or unified credit.

10. The greatest significance of these "relief" provisions of the 1997 legislation is that they will help persons with middle-sized estates, who cannot afford to make gifts of such magnitude that they are in the top bracket and who cannot necessarily even afford to make gifts that use up their applicable exclusion amounts and generate some current tax. Such a person is now able to make a moderate-sized gift and know that three years after filing a gift tax return reporting that gift the IRS will not be able to revalue the gift for purposes of computing the tax on future gifts or the tax on that person’s estate. If the gift does not use all of the donor’s applicable exclusion amount, the exclusion amount which the donor assumes will be available for future transfers really will be. If the IRS disagrees with that, it must say so within three years, and the donor can
appeal such a determination to the Tax Court even if no gift tax deficiency is actually assessed.

11. Nevertheless, the statute repealing the statute of limitations except for disclosed gifts is a tremendously significant departure from long-settled policies of repose in the administration of the tax system. Under the new statute, it had been thought that the IRS will apparently be free at any time to impose gift tax (with interest and possibly penalties) on the most insignificant or dubious gift that is inadvertently or for good cause omitted from a gift tax return. The proposed regulations, which basically carry out the questionable policy of the statute, do not give much comfort.

12. Ominously, the proposed regulations confirm the implication of the legislation that even the rules for increased repose in future years and for estate tax purposes extend only to pure issues of valuation, not to “legal” issues such as whether a transaction constitutes a gift in the first place. Thus, in the case of legitimate legal issues, a taxpayer will face the cruel choice between failing to disclose and thereby forgoing all benefit of a statute of limitations and providing detailed disclosure which could be the basis for an IRS attack many years or even decades later in the calculation of subsequent taxable gifts or in the calculation of estate tax.

13. It is clear that these regulations will require more care in the preparation of gift tax returns and will probably require more use of formal appraisals for gift tax purposes. The regulations may also result in more gift returns merely to fix the value of nontaxable gifts, such as gifts of less than $10,000 in any single year, for which the proposed regulations specifically allow returns to be filed. With respect to transactions such as transfers of interests in family limited partnerships, it will continue to be important for the value of those interests to be determined responsibly, with moderation, and to be well documented.

14. The proposed regulations state that they are to be effective with respect to gift tax returns filed after the regulations are issued in final form.

15. The proposed regulations were the subject of an IRS hearing on April 28, 1999, and extensive (and mostly critical) comments have been submitted by The American College of Trust and Estate Counsel, by members of the American Institute of Certified Public Accountants’ Trust, Estate & Gift Tax Committee, by members of the American Bar Association’s Section of Real Property, Probate and Trust Law, and by various practitioners.

VI. TECHNIQUES FOR AVOIDING A GIFT TAX AUDIT

A. File a Complete Return
1. Be sure to check all boxes and answer all questions in Part 1.

2. Do not overlook answering the question at line A of Schedule A regarding valuation discounts, and if discounts are claimed, be sure to answer in the manner required by the instructions.

3. If a gift was made to an IRC § 529 prepaid tuition plan, check the box in line B of Schedule A if the donor desires to treat the gift as made ratably over five years and attach the required explanation.

4. Provide all information requested in column B of Schedule A, Parts 1 and 2.
   a. Address as well as name of donee.
   b. Relationship to donor.
   c. Description of gift.
   d. For a gift to a trust, attach a copy of the trust and provide its tax identification number.
   e. Provide the CUSIP number for marketable stocks and bonds.

5. Insert the donor's adjusted basis in the gift property in column C of Schedule A, Parts 1 and 2.

6. Specify the exact date of the gift in column D of Schedule A, Parts 1 and 2.

7. Attach Form 712 for each gift of life insurance showing the interpolated terminal reserve. Do not use the cash surrender value as the value of the gift.

8. Attach all appraisals and valuation reports. Do not use tax assessment values for gifts of real estate.

9. Obtain copies of all prior gift tax returns in order to complete fully Schedule B.

10. Do not overlook the need to report certain charitable gifts. Gifts qualifying for the gift tax charitable deduction under IRC § 2522 need not be reported on gift tax returns if the transfer is of the donor's entire interest in the property and no part of the gift passes to a noncharitable person or if the charitable gift is of a conservation easement. IRC § 6019.
a. Although the creation of a charitable remainder trust for the benefit of the donor and/or the donor's spouse has no potential for gift taxes because all transferred interests qualify for either the marital deduction or the charitable deduction, the reporting of such a trust continues to be required. *Id.*

b. Reporting is also required for a charitable gift annuity transfer and for an outright gift of an undivided interest by the donor (unless that is all the donor owned). *Id.*

B. **Be Accurate**

1. Use the correct address. If the client is a Virginia resident but winters in Florida, do not use the Florida address.

2. Double check to make sure you have the correct Social Security numbers.

3. Review all prior gift tax returns and make sure you are carrying forward accurate information. If you identify errors in prior periods, consider filing amended returns or making adjustments and footnotes on the return for the current period.

C. **Accurately Report GST Gifts and Allocate GST Exemption**

1. Part 1 of Schedule A is used to report all gifts other than direct skips. This means that all dynasty trusts as well as simple GST trusts (for example, income to child for life, remainder to grandchild) are reported on Part 1 even if the trust will have an inclusion ratio of other than zero. This is because these gifts are only subject to gift tax at the present time. The fact that a GST tax may be payable upon a taxable distribution or taxable termination is disregarded for purposes of Schedule A.

2. Part 2 of Schedule A is used to report direct skips. This means outright gifts to skip persons (for example, grandchildren) or to trusts in which skip persons are the only beneficiaries.

3. Schedule C is used to report GST transfers and to allocate GST exemption. Review carefully all prior returns to determine whether void allocations have been made in past years.

4. Be certain to attach a notice of allocation to allocate GST exemption to transfers not shown on Part 3 of Schedule C. Such transfers include the customary Crummey insurance trusts.

5. If a direct skip occurs during the transferor's lifetime, the transferor's unused GST exemption is automatically allocated to the transferred
property. The transferor may elect out of the automatic allocation by filing a timely filed gift tax return and describing the transfer and the extent to which the automatic allocation does not apply. Payment of GST tax is a sufficient election out. Failure to file a timely election to prevent the allocation is fatal. The election becomes irrevocable. The automatic allocation is effective as of the date of the transfer. Treas. Reg. § 26.2632-1(b).

6. All GST exemption allocations made during the transferor’s lifetime that are not direct skips must be made on the gift tax return. The allocation may be made by a formula. For example, the allocation may be expressed in terms of the amount necessary to produce an inclusion ratio of zero.

7. Even though an allocation is irrevocable, an allocation is void to the extent the amount exceeds the amount necessary to obtain a zero inclusion ratio. Except as noted below, a timely allocation is effective as of the date of the transfer to which it applies. Treas. Reg. § 26.2632-1(b)(2).

8. For a late allocation to a lifetime gift, the effective date is the date of allocation. The transferor may elect, solely for the purposes of determining the fair market value of the assets, in a late allocation to treat the allocation as having been made on the first day of the month during which the late allocation is filed. However, this election is not available for valuing life insurance held individually or in trust if the insured individual has died before the tax return is filed. The election is made on the gift tax return stating the applicable valuation date and the fair market value of the assets on that date. Treas. Reg. § 26.2642-2(a)(2).

D. Give Attention to Detail

1. Be sure the client actually receives and mails (with return receipt requirement) the return timely.

2. Make sure the consenting spouse in fact signs the return on the consenting spouse’s signature line.

3. Consider attaching copies of all Crummey notices.

4. Be alert to unintended gifts such as a child’s automobile or college expenses or the expenses associated with a significant other.

5. Recognize that certain outright gifts are future interests and do not qualify for the annual exclusion (for example, a life insurance policy or other nonpartitionable property given jointly to children).
6. File the return with the correct service center. If the client maintains a home in Virginia but is now a Florida resident, do not continue to show a Virginia address or file the return in Philadelphia.

VII. GIFT TAX PORTION OF IRS EXAMINATION TECHNIQUE HANDBOOK FOR ESTATE TAX EXAMINERS

A. The Examination

1. The examination of gift tax returns includes the verification of the total taxable gifts for all prior periods, probing for any additional gifts, and determining the taxable gifts of the assigned tax year. *Handbook § (24)11(1).*

2. The donor’s historical gift tax file is to be reviewed, but if the donor has been examined before, it will only be necessary to examine taxable gifts from the last examination. *Id., § (24)11(2).*

B. Taxable Gifts for Preceding Periods

1. Because not all gift tax returns are examined, prior gift tax returns should be reviewed. *Id., § (24)12(1).*

2. Corrections should be made on prior year returns, even though the statute of limitations has run, to put the open years in the correct tax bracket. *Id., § (24)12(2).*

C. Unreported Gifts

1. The examination should include a probe for unreported gifts. *Id., § (24)21(1).*

2. County real estate records should be inspected for appraisal information and comparable sales, and the grantor index may be reviewed for additional gifts. This is particularly important in the case of a donor who owns a substantial amount of real estate or who has made gifts of real estate in previous gift tax periods. *Id., § (24)21(2).*

3. In the case of a closely held business interest, if the financial information discloses that the donor’s family owns interests in the business not reflected on the gift tax return, the examiner should obtain information on how and when the ownership was transferred. *Id., § (24)21(3).*

4. For a trust executed in a prior year, the examiner should inquire about any fundings of the trust in the year the trust was created or in intervening years. *Id., § (24)21(4).*
5. If life insurance is transferred, the examiner should make certain that any premium payments made by the donor subsequent to the transfer are treated as gifts. *Id.*, § (24)21(5).

6. If the donor makes a gift to nieces or nephews, the examiner should consider requesting the Form 709 file for the donor’s sibling, as reciprocal gifts may be a cross-gift requiring disallowance of the annual exclusion. *Id.*, § (24)21(6).

D. Additional Gift Tax Returns

1. Where unreported gifts are found, gift tax returns should be obtained from the donor or the donor’s executor, as use of additional unified credit may generate gift tax liability in future years or increased estate taxes. In the case of a deceased unmarried donor, adjustments may be made without requiring the filing of a gift tax return. *Id.*, § (24)22(1).

2. If a gift tax return is solicited and the executor refuses to file the return, the examiner should prepare and process a substitute for the return. *Id.*, § (24)22(2).

E. Gift Tax Liability of a Decedent

1. During the examination of the estate tax return, the examiner must determine that the adjusted taxable gift figure is correct by reviewing the decedent’s gift tax liability in the same manner as discussed above. *Id.*, § (24)31(1).

2. The examiner must obtain the decedent’s gift tax file from the service center, but the examiner may rely upon a transcript if there is either no file or an incomplete file. *Id.*, § (24)31(2).

F. The Estate Tax Return as a Source for Unreported Gifts

1. Whenever assets normally owned by a decedent (for example, the decedent’s residence) are not owned at death or a closely held business is owned by family members, the examiner should make inquiry. *Id.*, § (24)32(1) and § (24)32(2).

2. The checking account for three years before death should be inspected not only for unreported cash gifts but also the payment of debts for others. If demand notes are part of the estate, the examiner should inspect the interest rate and interest payments. *Id.*, § (24)32(3).
3. Where the decedent created a trust that is not included in the gross estate, the examiner should verify additional transfers to the trust. The examiner should also check on the exercise by the decedent of any lifetime general powers of appointment. *Id.*, § (24)32(7).

4. Expenses and debts on the estate tax return without corresponding estate assets may indicate unreported gifts. Similarly, changes in income and deductions on the decedent’s income tax returns for the several years before death may indicate unreported gifts. *Id.*, § (24)32(8) and § (24)32(10).

5. If the heirs have agreed to share the decedent’s property in some way other than as provided in the will, this can constitute a gift among the heirs as can the payment by an heir of an estate liability or expense without subsequent reimbursement. *Id.*, § (24)32(11) and § (24)32(12).

VIII. GIFT TAX AUDITS

A. The Gift Tax “Pipeline”

1. Gift tax returns for Virginia residents are filed with the Philadelphia Service Center.

2. Processing, selection, etc. are similar to the “pipeline” for estate tax returns.

B. IRS Request for Additional Information

1. Once a return is selected for audit, the taxpayer generally receives an initial request for additional information based solely on a review of the return and its attachments.

2. The request may take any number of forms, depending on the examining agent and the nature of the gift property. See the sample requests attached as Appendix 17 through Appendix 20.

3. The initial submission of information typically leads to additional requests for detailed and specific information and documentation.

C. Instructions and Handbook

1. The instructions to the forms, particularly Form 709, are quite detailed and should be reviewed carefully at the outset of an audit to determine what information about the reported gifts should have been reported but is missing.
2. The gift tax portion of the *Handbook* should be consulted to determine the propriety of the questions asked and information sought by the examiner.

D. **Concluding the Audit**

1. If agreement is reached with the examining agent after submission of the agent's examination report, a letter from the District Director in the form of Appendix 21 will be furnished, after which a tax bill (see Appendix 22) will be received in the mail several weeks later.

2. A taxpayer who desires to reduce the interest expense on any deficiency may pay the deficiency amount and await the tax bill for the calculated interest. See Appendix 23.

3. Where agreement cannot be reached with the examining agent, the procedures are the same as for an unagreed estate tax case. See Article IV. H of this outline and the 90-day letter attached as Appendix 24.

E. **Declaratory Judgments on Value of Certain Gifts**

1. In the case of an actual controversy involving the value of a gift shown on the gift tax return, the Tax Court may issue a declaratory judgment on the value of the gift after the taxpayer has exhausted all available administrative remedies. IRC § 7477.

2. To start this procedure, the taxpayer must have received a final determination from the Internal Revenue Service finding that the value of the gift is more than claimed by the taxpayer. This applies to gifts made after August 5, 1997. *Id.*
PIPELINE PROCESSING

Mail Opened → Mail Sorted → Checks Deposited → Batching

Errors Corrected → Computer Checked → Data Entry → Numbering → Coding

Service Center Classification → Match-up

Federal Records Center → DISTRICT CLASSIFICATION
APPENDIX 2

RICHMOND
Internal Revenue Service
Federal Building
400 N. 8th Street
Richmond, VA 23240
Phone: (804) 771-2943 FAX: (804) 771-2443
William F. Branch, Estate and Gift Tax Group Manager (804) 771-2293
George M. Bosher, ETA (804) 771-2942
Walter P. Jones, ETA (804) 771-2945
Joseph B. Prince, ETA (804) 771-2942
Arnold Rosenbaum, ETA (804) 771-2944
David J. Simon, ETA (804) 771-2941
Rupert R. Winfree, ETA (804) 771-2941

BAILEYS CROSSROADS
Internal Revenue Service
One Skyline Place, Room 607
5205 Leesburg Pike
Baileys Crossroads, VA 22041
Phone: (703) 756-3002
M. Evan Brooks, ETA (Ext. 16)
Margaret B. Kimmell, ETA (Ext. 17)

NORFOLK
Internal Revenue Service
Norfolk Federal Building, Room 539
200 Granby Mall
Norfolk, VA 23510-1884
Phone: (757) 441-3030
Michael J. deLeeuw, ETA
Janna Levinstein, ETA

ROANOKE
Internal Revenue Service
P.O. Box 330
Roanoke, VA 24003
Phone: (540) 857-2360
Marshall N. Smith, ETA
## APPENDIX 3

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<td>United States</td>
<td>3.15*</td>
<td>3.25*</td>
<td>3.33*</td>
<td>3.42*</td>
<td>3.51*</td>
<td>3.61*</td>
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<tr>
<td><strong>FORM 1040</strong></td>
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<tr>
<td>Virginia/West Virginia District</td>
<td>2.99*</td>
<td>3.03*</td>
<td>3.10*</td>
<td>3.16*</td>
<td>3.24*</td>
<td>3.29*</td>
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<tr>
<td>United States</td>
<td>117*</td>
<td>119*</td>
<td>121*</td>
<td>123*</td>
<td>125*</td>
<td>127*</td>
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</tr>
</tbody>
</table>

*Million
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ALWAYS CHECK CURRENT MATTER (VOLUME 1)
**United States Estate (and Generation-Skipping Transfer) Tax Return**

**Estate of a citizen or resident of the United States (see separate instructions).**

To be filed for decedents dying after December 31, 1998

For Paperwork Reduction Act Notice, see page 1 of the separate instructions.

---

### Part 1—Decedent and Executor

<table>
<thead>
<tr>
<th>Field</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1a</td>
<td>Decedent’s first name and middle initial (and maiden name, if any)</td>
</tr>
<tr>
<td>1b</td>
<td>Decedent’s last name</td>
</tr>
<tr>
<td>1c</td>
<td>Decedent’s Social Security No.</td>
</tr>
<tr>
<td>2a</td>
<td>Legal residence (domicile) at time of death (county, state, and ZIP code, or foreign country)</td>
</tr>
<tr>
<td>2b</td>
<td>Year domicile established</td>
</tr>
<tr>
<td>2c</td>
<td>Date of birth</td>
</tr>
<tr>
<td>2d</td>
<td>Date of death</td>
</tr>
<tr>
<td>3a</td>
<td>Name of executor (see page 4 of the instructions)</td>
</tr>
<tr>
<td>3b</td>
<td>Executor's address (number and street including apartment or suite no. or rural route; city, town, or post office; state; and ZIP code)</td>
</tr>
<tr>
<td>3c</td>
<td>Executor’s social security number (see page 4 of the instructions)</td>
</tr>
<tr>
<td>4a</td>
<td>Name and location of court where will was probated or estate administered</td>
</tr>
<tr>
<td>4b</td>
<td>Case number</td>
</tr>
</tbody>
</table>

---

### Part 2—Tax Computation

<table>
<thead>
<tr>
<th>Field</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Total gross estate less exclusion (from Part 5, Recapitulation, page 3, item 12)</td>
</tr>
<tr>
<td>2</td>
<td>Total allowable deductions (from Part 5, Recapitulation, page 3, item 23)</td>
</tr>
<tr>
<td>3</td>
<td>Taxable estate (subtract line 2 from line 1)</td>
</tr>
<tr>
<td>4</td>
<td>Adjusted taxable gifts (total taxable gifts (within the meaning of section 2503) made by the decedent after December 31, 1976, other than gifts that are includible in decedent’s gross estate (section 2001(b)))</td>
</tr>
<tr>
<td>5</td>
<td>Add lines 3 and 4</td>
</tr>
<tr>
<td>6</td>
<td>Tentative tax on the amount on line 5 from Table A on page 12 of the instructions</td>
</tr>
<tr>
<td>7a</td>
<td>If line 5 exceeds $10,000,000, enter the lesser of line 5 or $17,184,000. If line 5 is $10,000,000 or less, skip lines 7a and 7b and enter -0- on line 7c</td>
</tr>
<tr>
<td>7b</td>
<td>Subtract $10,000,000 from line 7a</td>
</tr>
<tr>
<td>7c</td>
<td>Enter 5% (.05) of line 7b</td>
</tr>
<tr>
<td>8</td>
<td>Total tentative tax (add lines 6 and 7c)</td>
</tr>
<tr>
<td>9</td>
<td>Total gift tax payable with respect to gifts made by the decedent after December 31, 1976. Include gift taxes by the decedent’s spouse for such spouse’s share of split gifts (section 2513) only if the decedent was the donor of these gifts and they are includible in the decedent’s gross estate (see instructions)</td>
</tr>
<tr>
<td>10</td>
<td>Gross estate tax (subtract line 9 from line 8)</td>
</tr>
<tr>
<td>11</td>
<td>Maximum unified credit (applicable credit amount) against estate tax</td>
</tr>
<tr>
<td>12</td>
<td>Adjustment to unified credit (applicable credit amount). (This adjustment may not exceed $5,000. See page 4 of the instructions.)</td>
</tr>
<tr>
<td>13</td>
<td>Allowable unified credit (applicable credit amount) (subtract line 12 from line 11)</td>
</tr>
<tr>
<td>14</td>
<td>Subtract line 13 from line 10 (but do not enter less than zero)</td>
</tr>
<tr>
<td>15</td>
<td>Credit for state death taxes. Do not enter more than line 14. Figure the credit by using the amount on line 3 less $60,000. See Table B in the instructions and attach credit evidence (see instructions)</td>
</tr>
<tr>
<td>16</td>
<td>Subtract line 15 from line 14</td>
</tr>
<tr>
<td>17</td>
<td>Credit for Federal gift taxes on pre-1977 gifts (section 2012) (attach computation)</td>
</tr>
<tr>
<td>18</td>
<td>Credit for foreign death taxes (from Schedule(s) P). (Attach Form(s) 706-CE.)</td>
</tr>
<tr>
<td>19</td>
<td>Credit for tax on prior transfers (from Schedule Q)</td>
</tr>
<tr>
<td>20</td>
<td>Total (add lines 17, 18, and 19)</td>
</tr>
<tr>
<td>21</td>
<td>Net estate tax (subtract line 20 from line 16)</td>
</tr>
<tr>
<td>22</td>
<td>Generation-skipping transfer taxes (from Schedule R, Part 2, line 10)</td>
</tr>
<tr>
<td>23</td>
<td>Total transfer taxes (add lines 21 and 22)</td>
</tr>
<tr>
<td>24</td>
<td>Prior payments. Explain in an attached statement</td>
</tr>
<tr>
<td>25</td>
<td>United States Treasury bonds redeemed in payment of estate tax</td>
</tr>
<tr>
<td>26</td>
<td>Total (add lines 24 and 25)</td>
</tr>
<tr>
<td>27</td>
<td>Balance due (or overpayment) (subtract line 26 from line 23)</td>
</tr>
</tbody>
</table>

---

Under penalties of perjury, I declare that I have examined this return, including accompanying schedules and statements, and to the best of my knowledge and belief, it is true, correct, and complete. Declaration of preparer other than the executor is based on all information of which preparer has any knowledge.

**Signature(s) of executor(s)**

**Date**

**Signature of preparer other than executor**

**Address (and ZIP code)**

**Date**
## Estate of:

### Part 3—Elections by the Executor

Please check the "Yes" or "No" box for each question. (See instructions beginning on page 5.)

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Do you elect alternate valuation?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Do you elect special use valuation?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If &quot;Yes,&quot; you must complete and attach Schedule A-1.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Do you elect to pay the taxes in installments as described in section 6166?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>If &quot;Yes,&quot; you must attach the additional information described on page 8 of the instructions.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Do you elect to postpone the part of the taxes attributable to a reversionary or remainder interest as described in section 6163?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Part 4—General Information

(See instructions on page 9.)

Authorization to receive confidential tax information under Regs. sec. 601.504(b)(2); to act as the estate’s representative before the IRS; and to make written or oral presentations on behalf of the estate if return prepared by an attorney, accountant, or enrolled agent for the executor:

Name of representative (print or type) | State | Address (number, street, and room or suite no., city, state, and ZIP code)

I declare that I am the [ ] attorney/ [ ] certified public accountant/ [ ] enrolled agent (you must check the applicable box) for the executor and prepared this return 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

1. Death certificate number and issuing authority (attach a copy of the death certificate to this return).

2. Decedent’s business or occupation. If retired, check here [ ] and state decedent’s former business or occupation.

3. Marital status of the decedent at time of death:
   - [ ] Married
   - [ ] Widow or widower—Name, SSN, and date of death of deceased spouse
   - [ ] Single
   - [ ] Legally separated
   - [ ] Divorced—Date divorce decree became final

4a. Surviving spouse’s name | 4b. Social security number | 4c. Amount received (see page 9 of the instructions)

5. Individuals (other than the surviving spouse), trusts, or other estates who receive benefits from the estate (do not include charitable beneficiaries shown in Schedule O) (see instructions). For Privacy Act Notice (applicable to individual beneficiaries only), see the Instructions for Form 1040.

<table>
<thead>
<tr>
<th>Name of individual, trust, or estate receiving $5,000 or more</th>
<th>Identifying number</th>
<th>Relationship to decedent</th>
<th>Amount (see instructions)</th>
</tr>
</thead>
<tbody>
<tr>
<td>All unascertainable beneficiaries and those who receive less than $5,000</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Total

Please check the "Yes" or "No" box for each question.

6. Does the gross estate contain any section 2044 property (qualified terminable interest property [QTIP] from a prior gift or estate) (see page 9 of the instructions)?

(continued on next page)
### Part 4—General Information (continued)

Please check the "Yes" or "No" box for each question.

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>7a</td>
<td>Have Federal gift tax returns ever been filed?</td>
<td></td>
</tr>
<tr>
<td>7b</td>
<td>Period(s) covered</td>
<td>7c Internal Revenue office(s) where filed</td>
</tr>
</tbody>
</table>

If you answer "Yes" to any of questions 8-16, you must attach additional information as described in the instructions.

<table>
<thead>
<tr>
<th>Question</th>
<th>Answer</th>
</tr>
</thead>
<tbody>
<tr>
<td>8a</td>
<td>Was there any insurance on the decedent's life that is not included on the return as part of the gross estate?</td>
</tr>
<tr>
<td>b</td>
<td>Did the decedent own any insurance on the life of another that is not included in the gross estate?</td>
</tr>
<tr>
<td>9</td>
<td>Did the decedent at the time of death own any property as a joint tenant with right of survivorship in which (a) one or more of the other joint tenants was someone other than the decedent's spouse, and (b) less than the full value of the property is included on the return as part of the gross estate?</td>
</tr>
<tr>
<td>10</td>
<td>Did the decedent, at the time of death, own any interest in a partnership or unincorporated business or any stock in an inactive or closely held corporation?</td>
</tr>
<tr>
<td>11</td>
<td>Did the decedent make any transfer described in section 2035, 2036, 2037, or 2038 (see the instructions for Schedule G beginning on page 11 of the separate instructions)?</td>
</tr>
<tr>
<td>12</td>
<td>Were there in existence at the time of the decedent's death:</td>
</tr>
<tr>
<td>a</td>
<td>Any trusts created by the decedent during his or her lifetime?</td>
</tr>
<tr>
<td>b</td>
<td>Any trusts not created by the decedent under which the decedent possessed any power, beneficial interest, or trusteeship?</td>
</tr>
<tr>
<td>13</td>
<td>Did the decedent ever possess, exercise, or release any general power of appointment?</td>
</tr>
<tr>
<td>14</td>
<td>Was the marital deduction computed under the transitional rule of Public Law 97-34, section 403(e)(3) (Economic Recovery Tax Act of 1981)?</td>
</tr>
<tr>
<td>15</td>
<td>Was the decedent, immediately before death, receiving an annuity described in the &quot;General&quot; paragraph of the instructions for Schedule I?</td>
</tr>
<tr>
<td>16</td>
<td>Was the decedent ever the beneficiary of a trust for which a deduction was claimed by the estate of a pre-deceased spouse under section 2056(b)(7) and which is not reported on this return?</td>
</tr>
</tbody>
</table>

### Part 5—Recapitulation

<table>
<thead>
<tr>
<th>Item number</th>
<th>Gross estate</th>
<th>Alternate value</th>
<th>Value at date of death</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Schedule A—Real Estate</td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Schedule B—Stocks and Bonds</td>
<td>2</td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Schedule C—Mortgages, Notes, and Cash</td>
<td>3</td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>Schedule D—Insurance on the Decedent's Life (attach Form(s) 712)</td>
<td>4</td>
<td></td>
</tr>
<tr>
<td>5</td>
<td>Schedule E—Jointly Owned Property (attach Form(s) 712 for life insurance)</td>
<td>5</td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>Schedule F—Other Miscellaneous Property (attach Form(s) 712 for life insurance)</td>
<td>6</td>
<td></td>
</tr>
<tr>
<td>7</td>
<td>Schedule G—Transfers During Decedent's Life (att. Form(s) 712 for life insurance)</td>
<td>7</td>
<td></td>
</tr>
<tr>
<td>8</td>
<td>Schedule H—Powers of Appointment</td>
<td>8</td>
<td></td>
</tr>
<tr>
<td>9</td>
<td>Schedule I—Annuities</td>
<td>9</td>
<td></td>
</tr>
<tr>
<td>10</td>
<td>Total gross estate (add items 1 through 9)</td>
<td>10</td>
<td></td>
</tr>
<tr>
<td>11</td>
<td>Schedule J—Qualified Conservation Easement Exclusion</td>
<td>11</td>
<td></td>
</tr>
<tr>
<td>12</td>
<td>Total gross estate less exclusion (subtract item 11 from item 10)</td>
<td></td>
<td>Enter here and on line 1 of Part 2—Tax Computation</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Item number</th>
<th>Deductions</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>13</td>
<td>Schedule J—Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims</td>
<td>13</td>
</tr>
<tr>
<td>14</td>
<td>Schedule K—Debts of the Decedent</td>
<td>14</td>
</tr>
<tr>
<td>15</td>
<td>Schedule K—Mortgages and Liens</td>
<td>15</td>
</tr>
<tr>
<td>16</td>
<td>Total of items 13 through 15</td>
<td>16</td>
</tr>
<tr>
<td>17</td>
<td>Allowable amount of deductions from item 16 (see the instructions for item 17 of the Recapitulation)</td>
<td>17</td>
</tr>
<tr>
<td>18</td>
<td>Schedule L—Net Losses During Administration</td>
<td>18</td>
</tr>
<tr>
<td>19</td>
<td>Schedule L—Expenses Incurred in Administering Property Not Subject to Claims</td>
<td>19</td>
</tr>
<tr>
<td>20</td>
<td>Schedule M—Bequests, etc., to Surviving Spouse</td>
<td>20</td>
</tr>
<tr>
<td>21</td>
<td>Schedule O—Charitable, Public, and Similar Gifts and Bequests</td>
<td>21</td>
</tr>
<tr>
<td>22</td>
<td>Schedule T—Qualified Family-Owned Business Interest Deduction</td>
<td>22</td>
</tr>
<tr>
<td>23</td>
<td>Total allowable deductions (add items 17 through 22)</td>
<td>23</td>
</tr>
</tbody>
</table>
**Form 2848**

**Power of Attorney and Declaration of Representative**

See the instructions.

**Part I Power of Attorney**

(Please type or print.)

1. **Taxpayer information** (Taxpayer(s) must sign and date this form on page 2, line 9.)

<table>
<thead>
<tr>
<th>Taxpayer name(s) and address</th>
<th>Social security number(s)</th>
<th>Employer identification number</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

hereby appoint(s) the following representative(s) as attorney(s)-in-fact:

2. **Representative(s)** (Representative(s) must sign and date this form on page 2, Part II.)

<table>
<thead>
<tr>
<th>Name and address</th>
<th>CAF No.</th>
<th>Telephone No.</th>
<th>Fax No.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
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<tbody>
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<th>CAF No.</th>
<th>Telephone No.</th>
<th>Fax No.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

3. **Tax Matters**

<table>
<thead>
<tr>
<th>Type of Tax (Income, Employment, Excise, etc.)</th>
<th>Tax Form Number (1040, 941, 720, etc.)</th>
<th>Year(s) or Period(s)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

4. **Specific use not recorded on Centralized Authorization File (CAF).** If the power of attorney is for a specific use not recorded on CAF, check this box. (See instruction for Line 4-Specific uses not recorded on CAF.)

5. **Acts authorized.** The representatives are authorized to receive and inspect confidential tax information and to perform any and all acts that I (we) can perform with respect to the tax matters described on line 3, for example, the authority to sign any agreements, consents, or other documents. The authority does not include the power to receive refund checks (see line 6 below), the power to substitute another representative unless specifically added below, or the power to sign certain returns (see instruction for Line 5-Acts authorized). List any specific additions or deletions to the acts otherwise authorized in this power of attorney:

6. **Receipt of refund checks.** If you want to authorize a representative named on line 2 to receive, BUT NOT TO ENDORSE OR CASH, refund checks, initial here and list the name of that representative below.

Note: In general, an unenrolled preparer of tax returns cannot sign any document for a taxpayer. See Revenue Procedure 81-38, printed as Pub. 470, for more information.

Note: The tax matters partner of a partnership is not permitted to authorize representatives to perform certain acts. See the instructions for more information.

**For Paperwork Reduction and Privacy Act Notice, see the separate instructions.**
Form 2848 (Rev. 12-97)

7 Notices and communications. Original notices and other written communications will be sent to you and a copy to the first representative listed on line 2 unless you check one or more of the boxes below.
   a If you want the first representative listed on line 2 to receive the original, and yourself a copy, of such notices or communications, check this box.
   b If you also want the second representative listed to receive a copy of such notices and communications, check this box.
   c If you do not want any notices or communications sent to your representative(s), check this box.

8 Retention/revocation of prior power(s) of attorney. The filing of this power of attorney automatically revokes all earlier power(s) of attorney on file with the Internal Revenue Service for the same tax matters and years or periods covered by this document. If you do not want to revoke a prior power of attorney, check here.

YOU MUST ATTACH A COPY OF ANY POWER OF ATTORNEY YOU WANT TO REMAIN IN EFFECT.

9 Signature of taxpayer(s). If a tax matter concerns a joint return, both husband and wife must sign if joint representation is requested, otherwise, see the instructions. If signed by a corporate officer, partner, guardian, tax matters partner, executor, receiver, administrator, or trustee on behalf of the taxpayer, I certify that I have the authority to execute this form on behalf of the taxpayer.

IF NOT SIGNED AND DATED, THIS POWER OF ATTORNEY WILL BE RETURNED.

Signature Date Title (if applicable)

Print Name

Signature Date Title (if applicable)

Print Name

Part II Declaration of Representative

Under penalties of perjury, I declare that:

- I am not currently under suspension or disbarment from practice before the Internal Revenue Service;

- I am aware of regulations contained in Treasury Department Circular No. 230 (31 CFR, Part 10), as amended, concerning the practice of attorneys, certified public accountants, enrolled agents, enrolled actuaries, and others;

- I am authorized to represent the taxpayer(s) identified in Part I for the tax matter(s) specified there; and

- I am one of the following:
  a Attorney - a member in good standing of the bar of the highest court of the jurisdiction shown below.
  b Certified Public Accountant - duly qualified to practice as a certified public accountant in the jurisdiction shown below.
  c Enrolled Agent - enrolled as an agent under the requirements of Treasury Department Circular No. 230.
  d Officer - a bona fide officer of the taxpayer's organization.
  e Full-Time Employee - a full-time employee of the taxpayer.
  f Family Member - a member of the taxpayer's immediate family (i.e., spouse, parent, child, brother, or sister).
  g Enrolled Actuary - enrolled as an actuary by the Joint Board for the Enrollment of Actuaries under 29 U.S.C. 1242 (the authority to practice before the Service is limited by section 10.3(d)(1) of Treasury Department Circular No. 230).
  h Unenrolled Return Preparer - an unenrolled return preparer under section 10.7(c)(viii) of Treasury Department Circular No. 230.

IF THIS DECLARATION OF REPRESENTATIVE IS NOT SIGNED AND DATED, THE POWER OF ATTORNEY WILL BE RETURNED.

Designation - Insert above letter (a-h)

Jurisdiction (state) or Enrollment Card No.

Signature Date
Instructions for Form 2848
(Rev. December 1997)

Power of Attorney and Declaration of Representative

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

General Instructions

Purpose of Form

Use Form 2848 to grant authority to an individual to represent you before the IRS and to receive tax information. You may file this form ONLY if you want to name a person(s) to represent you and he or she is a "person recognized to practice before the Service." See Part II, Declaration of Representative, items a-h. Any person not listed in Part II is not authorized to practice before the IRS under the provisions of Treasury Department Circular No. 230 and cannot act as your representative. However, you can use Form 8821, Tax Information Authorization, to authorize any person or organization to receive and inspect confidential tax return information under the provisions of section 6103. For additional information about this or any other matter concerning practice before the IRS, get Pub. 216, Conference and Practice Requirements.

Fiduciaries

A fiduciary (trustee, executor, administrator, receiver, or guardian) stands in the position of a taxpayer and acts as the taxpayer. Therefore, a fiduciary does not act as a representative and should not file a power of attorney. Form 56, Notice Concerning Fiduciary Relationship, should be filed to notify the IRS of the existence of a fiduciary relationship. If a fiduciary wishes to authorize an individual to represent or perform certain acts on behalf of the entity, a power of attorney must be filed and signed by the fiduciary acting in the position of the taxpayer.

Authority Granted

This power of attorney authorizes the individual(s) named to perform any and all acts you can perform, such as signing consents extending the time to assess tax, recording the interview, or executing waivers agreeing to a tax adjustment. However, authorizing someone as your power of attorney does not relieve you of your tax obligations. Delegating authority or substituting another representative must be specifically stated on line 5. However, the authority granted to an unenrolled preparer may not exceed that allowed under Revenue Procedure 81-38, printed as Pub. 470, Limited Practice Without Enrollment.

The power to sign tax returns can only be granted in limited situations. See Line 5 for more information.

Filing the Power of Attorney

File the original, photocopy, or facsimile transmission (fax) of the power of attorney with each IRS office with which you deal. If the power of attorney is filed for a matter currently pending before an office of the IRS, such as an examination, file the power of attorney with that office. Otherwise, file it with the service center where the related return was, or will be, filed. Refer to the instructions for the related tax return for the service center addresses.

Substitute Form 2848

If you want to prepare and use a substitute Form 2848, get Pub. 1167, Substitute Printed, Computer-Prepared, and Computer-Generated Tax Forms and Schedules. If your substitute Form 2848 is approved, the form approval number must be printed in the lower left margin of each substitute Form 2848 you file with the IRS.

Specific Instructions

Part I Power of Attorney

Taxpayer Information

Individuals. Enter your name, SSN (and/or EIN, if applicable), and street address in the space provided. If a joint return is involved, and you and your spouse are designating the same representative(s), also enter your spouse's name and SSN, and your spouse's address if different from yours.

Corporations, partnerships, or associations. Enter the name, EIN, and business address. If this form is being prepared for corporations filing a consolidated tax return (Form 1120), do not attach a list of subsidiaries to this form. Only the parent corporation information is required on line 1. Also, line 3 should only list Form 1120 in the Tax Form Number column. A subsidiary must file its own Form 2848 for returns that are required to be filed separately from the consolidated return, such as Form 720, Quarterly Federal Excise Tax Return, and Form 941, Employer's Quarterly Federal Tax Return.

Employee plan. Enter the plan name, EIN of the plan sponsor, three-digit plan number, and business address of the sponsor.

Trust. Enter the name, title, and address of the trustee, and the name and EIN of the trust.

Estate. Enter the name, title, and address of the decedent's executor/personal representative, and the name and identification number of the estate. The identification number for an estate includes both the EIN, if the estate has one, and the decedent's SSN.

Line 2 Representative(s)

Enter the name of your representative(s). Only individuals may be named as representatives. Use the identical name on all submissions. If you want to name more than three representatives, indicate so on this line and attach a list of additional representatives to the form.

Enter the nine-digit Centralized Authorization File (CAF) number for each representative. If a CAF number has not been assigned, enter "None," and the IRS will issue one directly to your representative. The CAF number is a
unique nine-digit identification number (not the SSN, EIN, or enrollment card number) that the IRS assigns to representatives. The CAF number is not an indication of authority to practice. The representative should use the assigned CAF number on all future powers of attorney. CAF numbers will not be assigned for employee plans and exempt organizations application requests (E/P/E/O).

Check the appropriate box to indicate if either the address or telephone number is new since a CAF number was assigned. Enter your representative’s fax telephone number, if available.

If the representative is a former employee of the Federal Government, he or she must be aware of the postemployment restrictions contained in 18 U.S.C., section 207 and in Treasury Department Circular No. 230, section 10.26. Criminal penalties are provided for violation of the statutory restrictions, and the Director of Practice is authorized to take disciplinary action against the practitioner.

Line 3 Tax Matters
You must enter the type of tax, the tax form number, and the year(s) or period(s) in order for the power of attorney to be valid. For example, you may list “income tax, Form 1040” for calendar year “1997” and “Excise tax, Form 720” for the “1st, 2nd, 3rd, and 4th quarters of 1997.”

A general reference to “All years,” “All periods,” or “All taxes” is not acceptable. Any power of attorney with a general reference will be returned.

You may list any tax years or periods that have already ended as of the date you sign the power of attorney. However, you may include on a power of attorney only future tax periods that end no later than 3 years after the date the power of attorney is received by the IRS. You must enter the type of tax, the tax form number, and the future year(s) or period(s).

If the matter relates to estate tax, enter the date of the taxpayer’s death instead of the year or period. If the type of tax, tax form number, or years or periods does not apply to the matter (i.e., representation for a penalty or filing a ruling request or determination), specifically describe the matter to which the power of attorney pertains and enter “Not Applicable” in the appropriate column(s).

Line 4 Specific Uses Not Recorded on CAF
Generally, the IRS records all powers of attorney on the CAF system. However, a power of attorney will not be recorded on the CAF if it does not relate to a specific tax period or it is for a specific issue. Examples of specific issues include but are not limited to the following:

- Civil penalty issues,
- Trust fund recovery penalty,
- Request for a private letter ruling,
- Application for an EIN,
- Claims filed on Form 843, Claim for Refund and Request for Abatement,
- Corporation dissolutions,
- A request to change accounting methods, and
- A request to change accounting periods.

Check the specific-use box on line 4 if the power of attorney is for a use that will not be listed on the CAF. If the box on line 4 is checked, the representative should bring a copy of the power of attorney to each meeting with the IRS. A specific-use power of attorney will not automatically revoke any prior powers of attorney.

Line 5 Acts Authorized
If you want to modify the acts that your named representative(s) can perform, describe any specific additions or deletions in the space provided. The authority to substitute another representative or delegate authority must be specifically stated on line 5.

If you want to authorize your representative to sign an income tax return, this authorization must be specifically listed and the requirements of Regulations section 1.6012-1(a)(5) must be satisfied. In general, this regulation only permits a representative to sign your return if you are unable to make the return by reason of:

(a) Disease or injury,
(b) Continuous absence from the United States (including Puerto Rico), for a period of at least 60 days prior to the date required by law for filing the return, or
(c) Specific permission is requested of and granted by the district director for other good cause.

If you want to authorize a person other than a representative (an agent) to sign an income tax return, you must:

1. Complete the information on lines 1–3,
2. Check the box on line 4, and
3. Write the statement below on line 5 and insert reason (a), (b), or (c) (see above) in the statement where shown:

   “This power of attorney is being filed pursuant to Regulations 1.6012(a)(5), by reason of [insert (a), (b), or (c)], which requires a power of attorney to be attached to a return if a return is signed by an agent. No other acts on behalf of the taxpayer are authorized.”

The agent does not complete Part II, Declaration of Representative.

Unenrolled return preparer. An unenrolled return preparer is:

- An individual other than an attorney, CPA, enrolled agent, or enrolled actuary who prepares and signs a taxpayer’s return.
- An individual who prepares but is not required (by the instructions to the return or regulations) to sign the return.

If any representative you name is an unenrolled return preparer, the acts that person can perform on your behalf are limited by Revenue Procedure 81-38. Generally, an unenrolled return preparer who signs a return as its preparer is:

1. Permitted to appear as your representative only before revenue agents and examining officers of the Examination Division and not before other offices such as the Collection Division or the Appeals Division of the IRS.
2. Limited to discuss tax issues for the taxable year or period covered by that return.
3. Not permitted to extend the statutory period, execute waivers, delegate authority, or substitute another representative.

Get Pub. 470 (Revenue Procedure 81-38), for more details.

Tax matters partner. The tax matters partner (TMP) (as defined in section 6231(a)(7)) is authorized to perform various acts on behalf of the partnership. The following are examples of acts performed by the TMP that cannot be delegated to the representative:
• Binding nonnotice partners to a settlement agreement under section 6224 and, under certain circumstances, binding all partners to a settlement agreement under Tax Court Rule 248;

• Filing a petition for readjustment of partnership items in the Tax Court, District Court, or Claims Court, under section 6228, based on the issuance of a notice of final partnership administrative adjustment by the IRS;

• Filing a request for administrative adjustment on behalf of the partnership under section 6227;

• Filing a petition for adjustment of partnership items with respect to an administrative request in the Tax Court, District Court, or Claims Court, under section 6228; and

• Extending the statute of limitations on assessment of any tax attributable to partnership items (and affected items) under section 6229.

Line 6 Receipt of Refund Checks
If you want to authorize your representative to receive, but not endorse, refund checks on your behalf, you must initial and enter the name of that person in the space provided.

Section 10.31 of Treasury Department Circular No. 230 prohibits an attorney, CPA, or enrolled agent, any of whom is an income tax return preparer, from endorsing or otherwise negotiating a tax refund check.

Line 7 Notices and Communications
Original notices and other written communications will be sent to you and a copy to the first representative listed, unless you check one or more of the boxes. If you check:

1. Only box (a). The original will be sent to the first representative and a copy to you.

2. Only box (b). The original will be sent to you and copies to the first two listed representatives.

3. Both boxes (a) and (b). The original will be sent to the first representative and copies to you and the second representative listed.

4. Only box (c). The original will be sent to you. No copies will be sent to any representatives.

Line 8 Retention/Revocation of Prior Power(s) of Attorney
If there is any existing power(s) of attorney you do not want to revoke, check the box on this line and attach a copy of the power(s) of attorney.

If you want to revoke an existing power of attorney and do not want to name a new representative, send a copy of the previously executed power of attorney to each IRS office where the power of attorney was filed. The copy of the power of attorney must have a current signature of the taxpayer under the signature already on line 9. Write "REVOKED" across the top of the form. If you do not have a copy of the power of attorney you want to revoke, send a statement to each IRS office where you filed the power of attorney. The statement of revocation must indicate that the authority of the power of attorney is revoked and must be signed by the taxpayer. Also, the name and address of each recognized representative whose authority is revoked must be listed.

A representative can withdraw from representation by filing a statement with each office of the IRS where the power of attorney was filed. The statement must be signed by the representative and identify the name and address of the taxpayer(s) and tax matter(s) from which the representative is withdrawing. Include your CAF No. on the statement if one has been assigned to you.

The filing of a Form 2848 will not revoke any Form 8821 that is in effect.

Line 9 Signature of Taxpayer(s)
Individuals. You must sign and date the power of attorney. If a joint return has been filed and both husband and wife will be represented by the same individual(s), both must sign the power of attorney unless one spouse authorizes the other, in writing, to sign for both. In that case, attach a copy of the authorization. However, if a joint return has been filed and husband and wife will be represented by different individuals, each taxpayer must execute his or her own power of attorney on a separate Form 2848.

Corporations or associations. An officer having authority to bind the taxpayer must sign.

Part II Declaration of Representative
The representative(s) you name must sign and date this declaration and enter the designation (i.e., items a-h) under which he or she is authorized to practice before the IRS. In addition, the representative(s) must list the following in the "Jurisdiction" column:

a. Attorney Enter the two-letter abbreviation for the state (e.g., "NY" for New York) in which admitted to practice.

b. Certified Public Accountant Enter the two-letter abbreviation for the state (e.g., "CA" for California) in which licensed to practice.

c. Enrolled Agent Enter the enrollment card number issued by the Director of Practice.

d. Officer Enter the title of the officer (i.e., President, Vice President, or Secretary).

e. Full-Time Employee Enter title or position (e.g., Comptroller or Accountant).

f. Family Member Enter the relationship to taxpayer (i.e., spouse, parent, child, brother, or sister).

g. Enrolled Actuary Enter the enrollment card number issued by the Joint Board for the Enrollment of Actuaries.

h. Unenrolled Return Preparer Enter the two-letter abbreviation for the state (e.g., "KY" for Kentucky) in which the return was prepared.

Note: If the representation is outside the United States, conditions a-h do not apply.
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. Form 2848 is provided by the IRS for your convenience and its use is voluntary. If you choose to designate a representative to act on your behalf, under section 6109 you must disclose your social security number (SSN) or your employer identification number (EIN). The principal purpose of this disclosure is to secure proper identification of the taxpayer. We also need this information to gain access to your tax information in our files and properly respond to your request. If you do not disclose this information, the IRS may suspend processing the power of attorney and may not be able to fill your request until you provide the number.

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.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is: Recordkeeping, 20 min.; Learning about the law or the form, 29 min.; Preparing the form, 29 min.; Coping, assembling, and sending the form to the IRS, 35 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 write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. DO NOT send this form to this address. Instead, see Filing the Power of Attorney on page 1.
Dear,

We are reviewing the above estate tax return and find that more information is needed. Please furnish the requested materials corresponding with the checked items on the attached page(s).

Once the requested information has been received and reviewed, you may be requested to make available for our inspection cancelled checks and statements for all checking, money market, and brokerage accounts in the decedent's name solely or jointly, and passbooks for savings accounts. An appointment will be scheduled with you at a mutually convenient time to discuss any of these matters, if necessary.

Please feel free to call if there are any questions. Your cooperation will be appreciated.

Respectfully yours,

Legal Technician
REAL ESTATE

For Schedule(s) __________, Item(s) __________:

[ ] Explanation of valuation.
[ ] Copies of all appraisals in their entirety.
[ ] Details as to the sale of any real estate, attempts to sell, offers to buy, negotiations for sale or listings for sale.
[ ] Cost of property (if acquired since __________).
[ ] Description of improvements and whether commercial or residential.
[ ] Rent and expense schedule and copy of lease, if rented.
[ ] Copy of the assessment notice as of date of death.

CLOSER HELD BUSINESS

For Schedule(s) __________, Item(s) __________:

[ ] Detailed financial statements, including footnotes, for __________.
[ ] Detailed balance sheet as of __________.
[ ] Detailed income statement for __________.
[ ] Dividends paid for __________.
[ ] Identities of officers and their salaries for __________.
[ ] Complete list of all securities held by the business.
[ ] Details of sale of any stock or interest or the business, attempts to sell, offer to buy, negotiations.
[ ] Assessments, tax map numbers, locality of any real estate owned, and copies of any recent real estate appraisals.
[ ] Buy-sell agreement.
[ ] List of shareholders or partners as of __________, respective number of shares owned and their relationships; if related to decedent, explanation of how and when interests were acquired.

NOTES

For Schedule(s) __________, Item(s) __________:

[ ] Copies of note(s) and amortization statement or other evidence of outstanding balance as of date of death.
[ ] Statement of consideration given or received for said notes.

LIFE INSURANCE

For Schedule __________, Item(s) __________:

[ ] Copies of Forms 712 for life insurance policies.

For Schedule __________, Item(s) __________:

[ ] Copies of policies and assignments showing ownership.
JOINTLY OWNED PROPERTY

For Schedule E (I), Item(s)________________________:
_; Evidence of joint ownership.

For Schedule E (II), Item(s)________________________:
_; Evidence of survivor's contribution.

MISCELLANEOUS PROPERTY

For Schedule(s)________________, Item(s)________________:
_; Copy of homeowners insurance policy and all amendments and riders for tangible personal property.
_; All appraisals of tangibles; if no appraisals, itemized list of all articles.

For Schedule(s)________________, Item(s)________________:
_; A copy of the trust agreement with all exhibits, attachments, and amendments.

PRIOR ESTATE

For the estate of ____________________________ , the following copies:
_; Estate tax return
_; All state death tax returns
_; All testamentary instruments
_; Audit report
_; Closing letter
_; Forms 1041 which have been filed for the estate

OTHER INFORMATION

_; Proof of payment of the state death taxes claimed on page 1 of the federal estate tax return. Such proof must be in the form of a certificate of payment from the state or a copy of the front and back of the estate's cancelled check paying the tax.
_; A signed fee affidavit--Form 4421(enclosed)--for all executor's commissions, attorney's and accounting fees which have been or will be claimed as estate or fiduciary income tax deductions.
_; Copies of decedent's Forms 1040 for ______________.
_; Copies of decedent's state income tax returns for ______________
_; Copies of all Forms 1041 which have been filed for the estate.
_; Copies of all Forms 1041 which have been filed for ______________ trusts.
_; Details on any gifts made under power of attorney and copy of signed instrument.
Waiver of Restrictions on Assessment and Collection of Deficiency and Acceptance of Overassessment - Estate, Gift, and Generation-Skipping Transfer Tax

(Please see the instructions on the back of this form)

### Part 1. Consent to Assessment and Acceptance of Overassessment

I consent to the immediate assessment and collection of any deficiencies (increase in tax and penalties) and accept any overassessment (decrease in tax and penalties) shown below, plus any interest provided by law. I understand that by my signing this waiver, a petition to the United States Tax Court may not be made, unless additional deficiencies are determined.

#### Date of Death or Period Ending:

<table>
<thead>
<tr>
<th>Item</th>
<th>Increase</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tax</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Penalty</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

If the estate is required to file with the District Director of Internal Revenue evidence of payment of estate, inheritance, legacy, succession, or generation-skipping transfer taxes to any State or the District of Columbia, I understand that such evidence must be filed by ________________, or the credits for these taxes will not be allowed. I also agree to the assessment and collection of the increase in the estate tax and penalties of ______________________, based on the disallowed credits, plus interest figured to the 30th day after ________________, or until this increase is assessed, whichever is earlier.

---

**Estate of**

**Executor or Administrator**

<table>
<thead>
<tr>
<th>Sign here</th>
<th>By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td></td>
</tr>
</tbody>
</table>

**Date**

---

**Executor or Administrator**

<table>
<thead>
<tr>
<th>Sign here</th>
<th>By</th>
</tr>
</thead>
<tbody>
<tr>
<td>Address</td>
<td></td>
</tr>
</tbody>
</table>

**Date**

---

**Donor**

<table>
<thead>
<tr>
<th>Name</th>
<th>Address</th>
</tr>
</thead>
</table>

**Donor’s Signature**

<table>
<thead>
<tr>
<th>Sign here</th>
<th>By</th>
</tr>
</thead>
</table>

**Date**

---

**Form 890 (Rev. 10-88)**
### Part 2. Unified Credit Agreement

I agree to the increase or decrease in the total allowed Unified Credit by the amount shown below.

<table>
<thead>
<tr>
<th>Increase</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Donor**

Name

Address

**Donor's Signature**

Sign here

By

Date

### Part 3. Gift Tax Marital Deduction

I agree to the increase or decrease in the usage of the gift tax marital deduction by the amount shown below.

<table>
<thead>
<tr>
<th>Increase</th>
<th>Decrease</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Donor**

Name

Address

**Donor's Signature**

Sign here

By

Date

---

**Consent to Assessment and Acceptance of Overassessment**

If you consent to the assessment of the deficiencies shown in Part 1 of this form, please sign the agreement under Part 1 and return the form to limit any interest charge and expedite the adjustment to your account. Your consent will not prevent a claim for refund from being filed (after the tax has been paid) if you later believe it is warranted, nor prevent us from later determining that additional tax is owed, nor extend the time provided by law for either action.

If a claim is later filed and the Service disallows it, a suit for refund may be filed in a Federal District Court or in the United States Claims Court, but a petition may not be filed with the United States Tax Court.

We will consider this waiver a valid claim for refund or credit of any overpayment due resulting from any decrease in tax and penalties determined by the Internal Revenue Service, shown on the front of this form, provided Part 1 of this form is signed and filed within the period established by law for making such a claim.

---

**Unified Credit Agreement**

If you agree with the increase or decrease of the allowed credit shown in Part 2 of this form, please sign the agreement under Part 2 and return the form.

---

**Marital Deduction Agreement**

If you agree with the increase or decrease in the usage of the gift tax marital deduction by the amount shown in Part 3 of this form, please sign the agreement under Part 3 and return the form.

---

**Signature Instructions**

If the executor or administrator is a corporation, the waiver should be signed with the corporate name, followed by the signatures and titles of the corporate officers authorized to sign. An attorney or agent may sign this waiver provided the action is specifically authorized by a power of attorney which, if not previously filed, must accompany this form.

---

Form 890 (Rev. 10-88)
Estate Tax Closing Letter (This is not a bill for tax due)

Our computation of the Federal tax liability for the above estate is shown below. It does not include any interest or late payment penalties that may be charged. Other penalties have been considered in the computation of net estate tax below. You should keep a copy of this letter as a permanent record because your attorney may need it to close the probate proceedings for the estate. This letter is evidence that the Federal tax return for the estate has either been accepted as filed, or has been accepted after an adjustment that you agreed to.

This is not a formal closing agreement under section 7121 of the Internal Revenue Code. We will not reopen this case, however, unless Revenue Procedure 85-13, reproduced on the back of this letter, applies.

If you have any questions, please contact the person whose name and telephone number are shown above. Thank you for your cooperation.

Sincerely yours,

District Director

<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Tentative tax</td>
<td></td>
</tr>
<tr>
<td>Less: Aggregate gift taxes payable (for gifts after 12-31-76)</td>
<td>$</td>
</tr>
<tr>
<td>Unified credit</td>
<td>$</td>
</tr>
<tr>
<td>Credit for State death taxes</td>
<td>$</td>
</tr>
<tr>
<td>Credit for Federal gift taxes (on gifts prior to 1-1-77)</td>
<td>$</td>
</tr>
<tr>
<td>Credit for foreign death taxes</td>
<td>$</td>
</tr>
<tr>
<td>Credit for tax on prior transfers</td>
<td>$</td>
</tr>
<tr>
<td>Total subtractions</td>
<td>$</td>
</tr>
<tr>
<td>Net estate tax</td>
<td>$</td>
</tr>
<tr>
<td>Penalties, if any</td>
<td>$</td>
</tr>
</tbody>
</table>
SECTION 1. PURPOSE

The purpose of the Revenue Procedure is to restate and amplify the conditions under which a case closed after examination in the office of a District Director of Internal Revenue may be reopened to make an adjustment unfavorable to the taxpayer.

This procedure contains a listing of certain types of cases wherein reconsideration is not considered a reopening and makes clear that cases closed after examination by service centers require application of reopening procedures.

SEC. 2. SCOPE

This procedure pertains to all cases, regardless of type of tax, in which the prior audit and conference action, if any, did not extend beyond the jurisdiction of the office of the District Director. It does not apply to cases previously closed after consideration by Appeals Offices or District Counsels.

SEC. 3. DEFINITIONS

.01 Closed Case:

1. A case agreed at the district level is considered closed when the taxpayer is notified in writing, after district conference, if any, of adjustments to tax liability or acceptance of the taxpayer’s return without change.

2. An unagreed income, estate or gift tax case is considered closed when the period for filing a petition with the United States Tax Court specified in the statutory notice of deficiency issued by the District Director expires and no petition was filed.

3. An unagreed excise or employment tax case is considered closed when the period for filing process and requesting consideration by the Appeals Office specified in the preliminary letter expires and no protest or request for Appeals consideration is filed.

.02 Examinations and Reopening:

1. Contacts with taxpayers to correct mathematical errors are not examinations or reopenings.

2. Contacts with a taxpayer to verify or adjust a discrepancy between the taxpayer’s tax return and information returns, including late or amended information returns, are not examinations or reopenings. For this purpose, information returns include returns and amended returns filed by partnerships, fiduciaries and small business corporations.

3. A contact to verify a discrepancy disclosed by an information return matching program may include inspection of the taxpayer’s books of account, to the extent necessary to resolve the discrepancy, without being considered an inspection within the meaning of section 7605(b) of the Code. A contact to verify an item of income shown on an information return to a tax return is not a verification of a discrepancy where such item of income is not required to be shown as a specific line item on a tax return. For example, insurance companies making payments to a doctor of $600 or more during a calendar year must furnish the doctor a Form 1099-MISC. The doctor is only required to include that income with other gross receipts on Schedule C, Form 1040. If the doctor reported gross receipts of a larger amount than the total amount of income shown on Form 1099-MISC, there would not be a discrepancy between the information returns and the income tax return.

4. A contact with an investor to verify the accuracy of, or the need for, a Tax Shelter Registration number is not an examination within the meaning of Section 7605(b) of the Code. To the extent that the contact is to determine the need for a Tax Shelter Registration number, the information sought would be limited to obtaining the name and address of the promoter.

5. The adjustment of an unallowable item, or an adjustment resulting from other types of service center correction programs, is not considered to be an examination. Therefore, a subsequent examination does not constitute a reopening of a case closed after examination.

6. Reconsideration of a case is not considered a reopening and therefore, requires no approval or issuance of form letter (DO/10/SC) if it involves:

(a) Cases involving section 1311 of the Code.

(b) Cases involving the year of deduction of a net operating loss carryback or similar type of carryback under other provisions of the Code.

(c) Cases in which there have been involuntary conversions and the taxpayer has not recomputed his/her tax liability because he/she did not replace the property within the time provided by section 1031 of the Code.

(d) Cases involving an overpayment in excess of $200,000, subject to consideration by the Joint Committee on Taxation under section 6405 of the Code.

SEC. 4. POLICY

.01 The Internal Revenue Service will not reopen any case closed after examination by a district office or service center to make an adjustment unfavorable to the taxpayer unless:

1. There is evidence of fraud, malfeasance, collusion, concealment or misrepresentation of a material fact; or

2. The prior closing involved a clearly defined substantial error based on an established Service position existing at the time of the previous examination; or

3. Other circumstances exist that indicate failure to reopen would be a serious administrative omission.

.02 All reopening must be approved by the Chief, Examination Division (District Director in Streamlined Districts), or Chief, Compliance Division, for cases under his/her jurisdiction. If an additional inspection of the taxpayer’s books of account is necessary, the notice to the taxpayer required by section 7605(b) of the Code must be signed by the Chief, Examination Division (District Director in Streamlined Districts), or Chief, Compliance Division for cases under his/her jurisdiction.

SEC. 5. EFFECT ON OTHER DOCUMENTS


Letter 627(DO) (Rev. 6-86)
The enclosed material is furnished to you under the provisions of a power of attorney or other authorization you have on file with us. For your convenience, we have listed below the names of the taxpayers this material relates to.

If you have any questions, please contact the person whose name and telephone number are shown above.

Sincerely yours,

Margaret J. Lullo
District Director

Enclosures:

- Letters
- Reports

Taxpayers' Names:
Dear

We are enclosing a report proposing adjustments to your tax for the year(s) shown above. Please read the report, decide whether you agree or disagree, and respond within 30 days from the date of this letter. [Our report may not reflect the results of examinations of flow-through entities (partnerships, S corporations, trusts, etc.) in which you may have an interest.]

IF YOU AGREE, you should:

1. Sign and date the enclosed agreement form.
2. Return the signed agreement form to us in the enclosed envelope.
3. Enclose payment of the tax and interest if additional tax is due. This will stop the compounding of interest. The person whose name and telephone number appear above will be able to tell you how much interest is due at the date you intend to make payment. (See the enclosed Publication 5 for additional payment information.)

After we receive your signed agreement form, we will process your case and bill you for any unpaid tax or interest, subject to acceptance by the district director.

IF YOU DO NOT AGREE and wish a conference with the Office of the Regional Director of Appeals, you MUST LET US KNOW within 30 days.

1. If the proposed change to your tax (including penalties) is $2,500 OR LESS, call the person whose name and telephone number appear above. He or she will arrange for your case to be forwarded to the office of appeals. Or, check the appropriate section at the end of this letter. An additional copy of this letter is provided for this purpose. Mail it in the enclosed envelope.

(continued next page)
2. If the proposed change to your tax (including penalties) is more than $2,500 but $10,000 or less for any tax period, you must provide us with a BRIEF written statement of the disputed issues. An additional copy of this letter is provided for this purpose. Mail this to us in the enclosed envelope.

3. If the proposed change to your tax (including penalties) is MORE THAN $10,000 for any tax period, we will require a written protest. Follow the instructions in the enclosed Publication 5. Mail the protest to us in the enclosed envelope.

An appeals officer, who has not examined your return previously, will review your case. The appeals office is independent of the district director and resolves most disputes informally and promptly.

By going to the appeals office, you may avoid court costs, resolve the matter sooner, and prevent interest from compounding. An appeals officer will telephone you and arrange an appointment, if necessary.

If you do not reach an agreement with the appeals office or respond to this letter, we will process your case on the basis of the enclosed examination report. If you decide to bypass the appeals process and petition the tax court, normally your case will be assigned for settlement to an appeals office before the tax court hears the case. Also, you should be aware that the tax court does not have jurisdiction over excise or employment tax cases.

Please note too that under section 6673 of the Internal Revenue Code, the tax court can impose a penalty of up to $25,000 under certain conditions. These conditions include: if the court finds that the taxpayer instituted the proceedings primarily for delay; if the taxpayer's position is found to be frivolous or groundless; or if the taxpayer failed to pursue administrative remedies available.

If you are a "C" corporation, Section 6621(c) of the Internal Revenue Service provides that an interest rate two percent higher than the normal rate of interest be charged on deficiencies of $100,000 or more.

IF YOU ARE UNSURE as to what to do or if you have other questions, call the person whose name and telephone number appear above. He or she will be glad to discuss your choices.

Sincerely yours,

Margaret J. Lullo
District Director

Enclosures:
Copy of this letter
Examination Report
Agreement Form
Publication 5
Envelope

(continued next page)
STATEMENT OF DISPUTED ISSUES

| TIN: |
| REF: |

Check appropriate block:

☐ TAX IN DISPUTE IS $2,500 OR LESS FOR ANY TAX PERIOD (Note: You may call us with this request if you prefer.)

   I disagree and wish a conference with an Appeals Officer.

   signature  date

☐ TAX IN DISPUTE IS OVER $2,500 BUT IS $10,000 OR LESS FOR ANY TAX PERIOD

Unagreed Adjustment(s):  Reason for Disagreement:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

(If more space is needed, attach a separate sheet.)

   signature  date
CERTIFIED MAIL

Dear Executor:

In accordance with the provisions of existing internal revenue laws, notice is hereby given that the determination of the estate tax liability of the Estate of aaaa, Deceased, who died cccc, discloses a deficiency of $xxxx.00. The basis of our determination and a computation of the deficiency are presented in the attached statement.

If you want to contest this determination in court before making any payment, you have 90 days from the above mailing date of this letter to file a petition with the United States Tax Court for a redetermination of the amount of your tax. The petition should be filed with the United States Tax Court, 400 Second Street NW, Washington, D.C., 20217, and a copy of this letter should be attached to the petition. The time in which you must file a petition with the Court (90 days) is fixed by law and the Court cannot consider your case if your petition is filed late.

If you decide not to file a petition with the Tax Court, we would appreciate it if you would sign and return the enclosed waiver form. This will permit us to charge your account quickly and will limit the accumulation of interest. The enclosed envelope is for your convenience. If you decide not to sign and return the waiver and you do not timely petition the Tax Court, the law requires us to bill you after 90 days from the mailing date of this letter.

If you have questions about this letter, please write to the person whose name and address are shown on this letter. If you write, please attach this letter to help identify your account. Keep the copy of your records. Also, please include your telephone number and the most convenient time for us to call if we need additional information. If you prefer, you may call the IRS contact person at the telephone number shown above. Thank you for your cooperation.

Sincerely,
Commissioner
By

District Director

enc: Copy of this letter; Statement
Waiver (Form 4089); Envelope
PO Box 10067, Richmond, VA * 23240
FORM 4089
NOTICE OF DEFICIENCY - WAIVER

Kind of Tax: Estate

SSN: bbbbb

Date of Death: cccc

Deficiency: $eeee.00

See the attached explanation for the basis of the above deficiency.

The above deficiency of federal estate tax will be assessed either when the taxpayer's written agreement to the deficiency (Form 4089) is received or upon the expiration of 90 days from the date of this notice if a petition is not filed with the United States Tax Court. If evidence of payment of additional state death tax is filed with this office within 90 days of the date on this letter, the deficiency assessed will be limited to the reduced amount set forth in the attached computation.

I consent to the immediate assessment and collection of the deficiencies (increase in tax and penalties) shown above, plus any interest provided by law.

AUTHORIZED SIGNATURE ___________________________ Date: ______

NOTE: If you consent to the assessment of the amount shown in this waiver, please sign and return if in order to limit the accumulation of interest and expedite our bill to you. Your consent will not prevent you from filing a claim for refund (after you have paid the tax) if you later believe you are entitled to a refund. It will not prevent us from later determining, if necessary, that you owe additional tax; nor will it extend the time provided by law for either action. If you later file a claim and the Internal Revenue Service disallows it, you may file suit for refund in a district court or in the United States Court of Federal Claims, but you may not file a petition with the United States Tax Court.

WHO MUST SIGN: A person acting in a fiduciary capacity (executor, administrator, trustee), must file Form 56, Notice Concerning Fiduciary Relationship, with this waiver if not previously filed. For an agent or attorney acting under a power of attorney, a power of attorney must be sent with this waiver if not previously filed.

IF YOU DECIDE TO WAIVE THE 90-DAY PERIOD BEFORE ASSESSMENT, PLEASE SIGN ONE COPY OF THIS WAIVER (FORM 4089) AND RETURN IT. KEEP THE OTHER COPY FOR YOUR RECORDS.
COMPUTATION OF ESTATE TAX DEFICIENCY

Estate of aaaa, Deceased
SSN: bbbbV
Date of Death: cccc

Taxable Estate Plus Adjusted Taxable Gifts as Shown in Return as Filed: $ xx,xxx,xxx

Adjustments:

(a) Adjusted Taxable Gifts
(x) Schedule A - Real Estate $ xx,xxx,xxx
(x) Schedule B - Stocks & Bonds $ xx,xxx,xxx
(x) Schedule C - Mortgages, Notices, & Cash $ xx,xxx,xxx
(x) Schedule D - Life Insurance $ xx,xxx,xxx
(x) Schedule E - Jointly Owned Property $ xx,xxx,xxx
(x) Schedule F - Miscellaneous Property $ xx,xxx,xxx
(x) Schedule G - Transfers During Life $ xx,xxx,xxx
(x) Schedule H - Powers of Appointment $ xx,xxx,xxx
(x) Schedule I - Annuities $ xx,xxx,xxx
(x) Schedule J - Administrative Expenses $ xx,xxx,xxx
(x) Schedule K - Debts of Decedents $ xx,xxx,xxx
(x) Schedule K - Debts of Decedents (Mortgages) $ xx,xxx,xxx
(x) Schedule L - Losses During Administration $ xx,xxx,xxx
(x) Schedule M - Bequests to Surviving Spouse $ xx,xxx,xxx
(x) Schedule O - Charitable Bequests $ xx,xxx,xxx

Taxable Estate/Adjusted Taxable Gifts as Revised: $ xx,xxx,xxx

***************************************************************

1. Tentative Tax $ xx,xxx,xxx
2. Aggregate Gift Taxes Payable After 12/31/76 __0__
3. Line 1 - Line 2 = $ xx,xxx,xxx
4. Uniform Credit Against Estate Tax 192,800
5. Adjustment to Unified Credit __0__
6. Allowable Unified Credit (Line 4 - Line 5 =) 192,800
7. Line 3 - Line 6 = $ xx,xxx,xxx
8. Credit For State Death Taxes Substantiated $ xx,xxx,xxx
9. Line 7 - Line 8 = $ xx,xxx,xxx
10. Other Credits __0__
11. Net Estate Tax $ xx,xxx,xxx
12. Transfer Tax Self Assessed On Return as Filed $ xx,xxx,xxx
13. Transfer Tax Deficiency (Tax Increase) $ xx,xxx,xxx
15. Potentially Reduced Transfer Tax Deficiency $ xx,xxx,xxx
Explaination of Adjustments

(x)
Claim for Refund and Request for Abatement

Use Form 843 only if your claim involves (a) one of the taxes shown on line 3a or (b) a refund or abatement of interest, penalties, or additions to tax on line 4a.

Do not use Form 843 if your claim is for:

- An overpayment of income taxes;
- A refund of fuel taxes;
- An overpayment of excise taxes reported on Form 720, 730, or 2290 (See General Instructions).

Name of claimant

Address (number, street, and room or suite no.)

City or town, state, and ZIP code

Name and address shown on return if different from above

Period - prepare a separate Form 843 for each tax period

From , 19 , to , 19

Amount to be refunded or abated

Type of tax, penalty, or addition to tax

Employment

Estate

Gift

Excise (unless reported on Form 720, 730, or 2290 - see instructions.)

Penalty IRC section

Type of return filed (see instructions)

706

709

940

941

990-PF

4720

Other (specify)

Request for abatement or refund of:

Interest caused by IRS errors and delays (if applicable - see instructions).

A penalty or addition to tax as a result of erroneous advice from the IRS.

Dates of payment

Explanations and additional claims. Explain why you believe this claim should be allowed, and show computation of tax refund or abatement of interest, penalty, or addition to tax.

Signature. If you are filing Form 843 to request a refund or abatement relating to a joint return, both you and your spouse must sign the claim. Claims filed by corporations must be signed by a corporate officer authorized to sign, and the signature must be accompanied by the officer's title.

Under penalties of perjury, I declare that I have examined this claim, including accompanying schedules and statements, and, to the best of my knowledge and belief, it is true, correct, and complete.

Signature (Title, if applicable. Claims by corporations must be signed by an officer.)

Date

Signature

Date

For Paperwork Reduction Act Notice, see separate instructions.
Instructions for Form 843  
(Revised January 1997)  
Claim for Refund and Request for Abatement  
Section references are to the Internal Revenue Code.

Paperwork Reduction Act Notice  
We ask for the information on this form to carry out the Internal Revenue laws of the United States. Internal Revenue Code sections 6402 and 6404 state the conditions under which you may file a claim for refund and request for abatement of certain taxes, penalties, and interest. Form 843 may be used to file your claim. Section 6109 requires that you disclose your taxpayer identification number (TIN). Routine uses of this information include providing it to the Department of Justice for civil and criminal litigation and to cities, states, and the District of Columbia for use in administering their tax laws.

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 Code section 6103.

The time needed to complete and file this form will vary depending on individual circumstances. The estimated average time is:  
Recordkeeping  
26 min.  
Learning about the law or the form  
7 min.  
Preparing the form  
20 min.  
Copying, assembling, and sending the form to the IRS  
28 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 write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743-0001. DO NOT send Form 843 to this address. Instead, see Where To File below.

General Instructions  
A Change To Note  
New rules apply in certain cases to abatement of interest accrued on deficiencies or payments for tax years beginning after July 30, 1996. See Line 4 under Specific Instructions for more information.

Purpose of Form. — Use Form 843 to file a claim for refund of certain overpaid taxes, interest, penalties, and additions to tax. For example, if on your employment tax return you reported and paid more Federal income tax than you actually withheld from an employee, use this form to claim a refund.

Also use Form 843 to request abatement of an overassessment (or the unpaid portion of an overassessment) if more than the correct amount of tax (except income, estate, and gift tax), interest, additions to tax, or penalties have been assessed.

Do not use Form 843 to claim:
- A refund or to request an abatement of your income tax. Individuals must use Form 1040X, Amended U.S. Individual Income Tax Return. Corporations that filed Form 1120 or 1120-A must use Form 1120X, Amended U.S. Corporation Income Tax Return. Other income tax filers should file a claim on the appropriate amended tax return.
- A refund of excise taxes reported on Form 720, 730, or 2290. You must use Form 8849, Claim for Refund of Excise Taxes. Form 8849 is also used to claim refunds of excise taxes imposed on fuels, chemicals, and other articles used for nontaxable purposes or for which there is a reduced rate of tax.
- A refund of the required payment under section 7519. Instead, file Form 8782, Required Payment or Refund Under Section 7519.

Generally, you must file a separate Form 843 for each tax period and each type of tax. Exceptions are provided for certain claims in the Specific Instructions below.

Who May File. — You may file Form 843 or your agent may file it for you. If your agent files, the original or a copy of Form 2848, Power of Attorney and Declaration of Representative, must be attached.

If you are filing as a legal representative for a decedent whose return you filed, attach to Form 843 a statement that you filed the return and you are still acting as the representative. If you did not file the decedent’s return, attach certified copies of letters of testamentary, letters of administration, or similar evidence to show your authority. File Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer, with Form 843 if you are the legal representative of a decedent.

Where To File. — File Form 843 with the Internal Revenue Service Center where you filed your return.

Specific Instructions  
Social Security Number. — If you are filing Form 843 to request a refund or abatement relating to a joint return, enter social security numbers for both you and your spouse.

Line 3  
Line 3a. — Check the appropriate box to show the type of tax, penalty, or addition to tax. If you are filing a claim for refund or request for abatement of an assessed penalty, check the box and enter the applicable Internal Revenue Code (IRC) section. Generally, you can find the IRC section on the Notice of Assessment you receive from the service center.

Line 3b. — Check the appropriate box to show the type of return, if any, that you filed.
Caution: You must attach Form 941c, Supporting Statement To Correct Information, or an equivalent statement, if you are claiming a refund of taxes reported on Form 941, 941-M, 941-SS, 943, or 945.

Line 4
Requesting Abatement or Refund of Interest Under Section 6404(e)
Section 6404(e) gives the IRS the authority to abate interest when the additional interest is attributable to IRS errors or delays.

Section 6404(e) applies only if there was an error or delay in performing a ministerial act (defined below) and only relates to taxes for which a notice of deficiency is required by section 6212(a). This includes income, generation-skipping, estate and gift taxes, and certain excise taxes imposed by chapter 41, 42, 43, 44, or 45. Section 6404(e) does not allow abatement of interest for employment taxes or other excise taxes. Get Pub. 556, Examination of Returns, Appeal Rights, and Claims of Refund, for more information.

Ministerial Act. — The term "ministerial act" means a procedural or mechanical act that does not involve the exercise of judgment or discretion and that occurs during the processing of your case after all prerequisites of the act, such as conferences and review by supervisors, have taken place. See Rev. Proc. 87-42, 1987-2 C.B. 589, for more information.

If you are requesting an abatement of interest, write "Request for Abatement of Interest Under Rev. Proc. 87-42" at the top of Form 843.

On line 1, state the tax period involved. Check the first box on line 4a. On line 4b, show the dates of any payment of interest or tax liability for the tax period involved.

On line 5, state the type of tax involved, when you were first contacted by the IRS in writing about the deficiency or payment, the specific period for which you are requesting abatement of interest, the circumstances of your case, and the reasons why you believe that failure to abate the interest would result in grossly unfair treatment.

Only one Form 843 is required if the interest assessment resulted from the IRS’s error or delay in performing a single ministerial act affecting a tax assessment for multiple tax years or types of tax (for example, where 2 or more tax years were under examination).

Tax Years Beginning After July 30, 1996
For interest accruing on payments or deficiencies for tax years beginning after July 30, 1996, section 6404(e) will apply to certain managerial acts as well as ministerial acts, but the errors or delays must be unreasonable. Follow the instructions for line 1 through line 5 above, but do not refer to Rev. Proc. 87-42.

Requesting Abatement or Refund of a Penalty or Addition to Tax as a Result of Erroneous Written Advice
Section 6404(f) gives the IRS the authority to abate any portion of a penalty or addition to tax attributable to erroneous advice furnished to you in writing by an officer or employee of the IRS, acting in his or her official capacity.

The penalty or addition to tax will be abated only if:
1. You reasonably relied on the written advice;
2. The written advice was in response to a specific written request you made for advice; and
3. The penalty or addition to tax did not result from your failure to provide the IRS with adequate or accurate information.

If you are filing a request for abatement or refund of a penalty or addition to tax because of erroneous written advice, write "Request for Abatement of Penalty or Addition to Tax Pursuant to Section 6404(f)" at the top of Form 843. Complete lines 1 through 3. Check the appropriate box on line 4a. On line 4b, show the date of payment if the penalty or addition to tax has been paid.

Send Form 843 to the Internal Revenue Service Center where your return was filed. If the erroneous advice does not relate to an item on a tax return, Form 843 should be sent to the service center where your return was filed for the tax year you relied on the erroneous advice.

You must attach copies of the following information to Form 843:
1. Your written request for advice;
2. The erroneous written advice you relied on that was furnished to you by the IRS; and
3. The report, if any, of tax adjustments identifying the penalty or addition to tax, and the item(s) relating to the erroneous advice.

An abatement of any penalty or addition to tax under this section will be allowed only if you submit the request for abatement within the period allowed for collection of the penalty or addition to tax or, if you paid the penalty or addition to tax, within the period allowed for claiming a credit or refund of such penalty or addition to tax.

Line 5
Explain in detail your reasons for filing this claim and show your computation for the credit, refund, or abatement. Also attach appropriate supporting evidence.
IRS ANNOUNCES DESIGNATION OF PRIVATE DELIVERY SERVICES

(Rev. Proc. 97-23)
(Doc 97-10080 (1 page))
(Section 7502 -- Timely Mailing Is Timely Filing)

IRS DESIGNATES PRIVATE DELIVERY SERVICES FOR TAX RETURNS

[1] Washington -- The Internal Revenue Service has designated four private delivery companies that last-minute filers can use and have the same assurance as those who use the U.S. Postal Service that a return mailed on time is considered filed on time. Those companies and the specific types of delivery services that qualify are:

- Airborne Express (Airborne) -- Overnight Air Express Service, Next Afternoon Service and Second Day Service;
- DHL Worldwide Express (DHL) -- DHL "Same Day" Service and DHL USA Overnight;
- Federal Express (FedEx) -- FedEx Priority Overnight, FedEx Standard Overnight and FedEx 2Day; and
- United Parcel Service (UPS) -- UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air and UPS 2nd Day Air A.M.

Only the specific types of delivery services identified above qualify, not other services offered by these companies.

[2] Before the recently enacted Taxpayer Bill of Rights, only taxpayers who sent returns via the Postal Service had the assurance that their returns would be considered as timely filed if they were timely mailed. The change in the law permitted the IRS to extend the timely filing as timely filing/paying rule to certain private delivery companies, also called designated delivery services.

IRS DESIGNATES PRIVATE DELIVERY SERVICES

(Notice 97-26, 1997-17 IRB 1)
(Doc 97-10081 (7 pages))
(Section 7502 -- Timely Mailing Is Timely Filing)

LIST OF DESIGNATED PRIVATE DELIVERY SERVICES

Communications Division
Part III - Administrative, Procedural, and Miscellaneous
Notice 97-26

[1] SUMMARY: This notice provides the first list of private delivery services ("PDSs") that are designated private delivery services ("designated PDSs") during the interim period described in Rev. Proc. 97-19, 1997-10 I.R.B. 55. The interim period ends on the date on which the Service issues guidance superseding Rev. Proc. 97-19. Designation is for purposes of the "timely mailing as timely filing/paying" rule of section 7502 of the Internal Revenue Code. This notice also provides special rules for determining the date that will be treated as the postmark date for purposes of section 7502.

[2] BACKGROUND: Section 7502 provides rules that apply when a document is required to be filed (or a payment is required to be made) within a prescribed period or on or before a prescribed date under the authority of any provision of the internal revenue laws. Section 7502 provides what is commonly called the "timely mailing as timely filing/paying" rule. For example, an individual income tax return is considered timely filed even though it is received by the Service after the April 15 due date if the return was delivered to the Service by United States mail in a postage prepaid, properly addressed envelope that had a post office postmark dated on or before the April 15 due date.

[3] Prior to the amendment made by the Taxpayer Bill of Rights 2 (TBOR 2), the "timely mailing as timely filing/paying" rule applied only to documents and payments sent by United States mail. TBOR 2 amended section 7502 by adding subsection (f), which authorizes the Secretary to designate certain PDSs for the "timely mailing as timely filing/paying" rule.

[4] Rev. Proc. 97-19 provides the criteria that are being used during the interim period described in Rev. Proc. 97-19 to determine whether a PDS qualifies as a designated PDS under section 7502(f). This notice provides the first list of the designated PDSs for the interim period.

[5] LIST OF DESIGNATED PDSs AND TYPES OF SERVICES: The following PDSs and the following specific types of delivery services are designated for purposes of section 7502(f):

2. DHL Worldwide Express (DHL): DHL "Same Day" Service and DHL USA Overnight
4. United Parcel Service (UPS): UPS Next Day Air, UPS Next Day Air Saver, UPS 2nd Day Air and UPS 2nd Day Air A.M.

[6] Airborne, DHL, FedEx, and UPS are not designated with respect to any type of delivery service not identified above. Consequently, the "timely mailing as timely filing/paying" rule of section 7502 does not apply to any other type of delivery service offered by the designated PDSs.

[7] Designation under this notice is effective until the Service issues a revised list of designated PDSs. On or before September 1st and March 1st of each year of the interim period, the Service will issue other notices that provide a revised list of designated PDSs. In unusual circumstances, the Service may issue additional notices at other times.

[8] If taxpayers use a business that provides mailing services of a designated PDS, but the business itself is not
a designated PDS, taxpayers should be aware that the "timely mailing as timely filing/paying" rule will not apply unless an item is actually given to, or picked up by, a designated PDS on or before the due date. Taxpayers should take appropriate precautions to ensure that the item will be given to, or picked up by, a designated PDS on or before the due date.

[9] SPECIAL RULES FOR DETERMINING POSTMARK DATE: Section 7502(f)(2)(C) requires a PDS to either (1) record electronically to its data base (kept in the regular course of its business) the date on which an item was given to the PDS for delivery or (2) mark on the cover of the item the date on which an item was given to the PDS for delivery. Under section 7502(f)(1), the date recorded or the date marked under section 7502(f)(2)(C) is treated as the postmark date for purposes of section 7502.

[10] This notice provides rules for determining the date that is treated as the postmark date for purposes of section 7502. There is one set of rules for the designated PDSs that qualified for designation because their "postmark date" is recorded electronically to their data bases. There is another set of rules for the designated PDSs that qualified for designation because its "postmark date" is marked on the cover of an item.

Airborne, DHL, and UPS

[11] The date on which an item is given to Airborne, DHL, or UPS is recorded electronically to the data base of these designated PDSs. Accordingly, the date recorded in the electronic data base of these designated PDSs is treated as the postmark date for purposes of section 7502.

[12] For items that are delivered after their due dates, there is a presumption that the postmark date is the day that precedes the delivery date by an amount of time that equals the amount of time it would normally take for an item to be delivered under the terms of the specific type of delivery service used (e.g., two days before the actual delivery date for a two day delivery service). This presumption applies to items sent by taxpayers and, in appropriate cases, items sent by the Government.

[13] Taxpayers who wish to overcome this presumption will need to provide information that shows that the date recorded in the electronic data base is on or before the due date. For example, a taxpayer could obtain such information in the form of a written confirmation produced and issued by the designated PDS before the expiration of the period for storing the date recorded in its electronic data base. If taxpayers wish to maintain this type of proof for their records, they should make a timely request to receive this information from the designated PDS before the expiration of that designated PDS's data storage period.

[14] Airborne, DHL, and UPS entered into agreements pursuant to Rev. Proc. 97-19 that require these designated PDSs to store (electronically or by microfiche) the dates recorded in their electronic data bases for at least 6 months. Although Airborne, DHL, and UPS may choose to store the dates for more than 6 months, the agreements do not require them to do so. Prior to the expiration of the data storage period, senders or recipients can obtain information concerning the date recorded to the electronic data base by contacting Airborne, DHL, or UPS. The toll-free telephone numbers for these designated PDSs are as follows: Airborne, 1-800-247-2676; DHL "Same Day" Service, 1-800-345-2777; DHL USA Overnight, 1-800-225-5345; and UPS, 1-800-742-5877.

FedEx

[15] An electronically generated label is applied to the cover of all items delivered by FedEx, including those items that already have an airbill attached. The date on which an item is given to FedEx for delivery is marked on the label. There are two types of labels (which are distinguishable from each other). One type of label is generated and applied to an item by a FedEx employee. The other type of label is generated (using computer software and/or hardware provided by FedEx) and applied to an item by a customer.

[16] The date that will be treated as the postmark date for purposes of section 7502 is determined under the following rules:

(1) If an item has a label generated and applied by a FedEx employee, the date marked on that label is treated as the postmark date for purposes of section 7502, regardless of whether the item also has a label generated and applied by the customer.

(2) If an item has a label generated and applied by a customer, the date marked on that label is treated as the postmark date for purposes of section 7502 if the item is received within the normal delivery time. (Normal delivery time is one day for FedEx Priority Overnight and FedEx Standard Overnight, or two days for FedEx 2Day.) If an item is not delivered within the normal delivery time, the person required to file the document or to make the payment must establish (a) that the item was actually either given to, or picked up by, a FedEx employee on or before the due date and (b) the cause of the delay in delivery of the document or payment. These rules are similar to the rules for United States mail that has a postmark made other than by the United States Postal Service. (See Treas. Reg. section 301.7502-1(c)(1)(ii)(b).)

(3) The information recorded electronically to the data base of FedEx (in the regular course of its business) can be used to show that the item was actually either given to, or picked up by, a FedEx employee on or before the due date when (a) an item has a label generated and applied by a customer or (b) an item has a label generated and applied by a FedEx employee, but the date is illegible or otherwise unavailable.

[17] EFFECTIVE DATE: Designation under this notice is effective for documents and payments that are given by taxpayers to a designated PDS on or after April 11, 1997. Designation is not effective for documents and payments that are given by taxpayers to a designated PDS before April 11, 1997, even if such documents and payments are delivered by the designated PDS on or after April 11, 1997.

[18] FOR FURTHER INFORMATION: The principal author of this notice is Robert J. Basso of the Office of Assistant Chief Counsel (Income Tax and Accounting). For further information regarding this notice, contact Mr. Basso at (202) 622-4940 (not a toll-free call).
Form 709-A

(Rev. December 1996)

Department of the Treasury
Internal Revenue Service

United States Short Form Gift Tax Return
(For "Privacy Act" notice, see the Form 1040 instructions)

Calendar year 19____

1 Donor's first name and middle initial
2 Donor's last name
3 Donor's social security number

4 Address (number, street, and apartment number)
5 Legal residence (domicile)

6 City, state, and ZIP code
7 Citizenship

8 Did you file any gift tax returns for prior periods? □ Yes □ No
   If "Yes," state when and where earlier returns were filed ▶

9 Name of consenting spouse
10 Consenting spouse's social security number

Note: Do not use this form to report gifts of closely held stock, partnership interests, fractional interests in real estate, or gifts for which the value has been reduced to reflect a valuation discount. Instead, use Form 709.

List of Gifts

<table>
<thead>
<tr>
<th>(a) Donor's name and address and description of gift</th>
<th>(b) Donor's adjusted basis of gift</th>
<th>(c) Date of gift</th>
<th>(d) Value at date of gift</th>
</tr>
</thead>
</table>

I consent to have the gifts made by my spouse to third parties during the calendar year considered as made one-half by each of us.

Consenting spouse's signature ▶ Date ▶

Under penalties of perjury, I declare that I have examined this return, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than donor) is based on all information of which preparer has any knowledge.

Donor's signature ▶ Date ▶

Preparer’s signature (other than donor's) ▶ Date ▶

Preparer's address (other than donor's) ▶

For Paperwork Reduction Act Notice, see the instructions on the reverse side of this form.

Cat. No. 10171G Form 709-A (Rev. 12-96)
### United States Gift (and Generation-Skipping Transfer) Tax Return

#### Form 709

**OMB No. 1545-0020**

**Department of the Treasury**

**Internal Revenue Service**

> See separate instructions. For Privacy Act Notice, see the Instructions for Form 1040.

<table>
<thead>
<tr>
<th>Part 1—General Information</th>
<th>Part 2—Tax Computation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>1. Donor’s first name and middle initial</strong></td>
<td><strong>14. Total credits (add lines 12 and 13)</strong></td>
</tr>
<tr>
<td><strong>2. Donor’s last name</strong></td>
<td><strong>15. Balance (subtract line 14 from line 6) (do not enter less than zero)</strong></td>
</tr>
<tr>
<td><strong>4. Address (number, street, and apartment number)</strong></td>
<td><strong>17. Total tax (add lines 15 and 16)</strong></td>
</tr>
<tr>
<td><strong>5. Legal residence (domicile) (county and state)</strong></td>
<td><strong>18. Gift and generation-skipping transfer taxes prepaid with extension of time to file</strong></td>
</tr>
<tr>
<td><strong>6. City, state, and ZIP code</strong></td>
<td><strong>19. If line 18 is less than line 17, enter BALANCE DUE (see instructions)</strong></td>
</tr>
<tr>
<td><strong>7. Citizenship</strong></td>
<td><strong>20. If line 18 is greater than line 17, enter AMOUNT TO BE REFUNDED</strong></td>
</tr>
</tbody>
</table>

**Consenting spouse’s signature**

<table>
<thead>
<tr>
<th>Date</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Part 2—Tax Computation**

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Preparer’s signature (other than donor)**

<table>
<thead>
<tr>
<th>Date</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Attach check or money order here.**

**Under penalties of perjury, I declare that I have examined this return, including any accompanying schedules and statements, and to the best of my knowledge and belief it is true, correct, and complete. Declaration of preparer (other than donor) is based on all information of which preparer has any knowledge.**

**Donor’s signature**

<table>
<thead>
<tr>
<th>Date</th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Preparer’s address (other than donor)**

<p>| |</p>
<table>
<thead>
<tr>
<th></th>
</tr>
</thead>
</table>

For Paperwork Reduction Act Notice, see page 8 of the separate instructions for this form. Cat. No. 16783M Form 709 (1998)
# Form 709 (1998) Computation of Taxable Gifts

## Part 1—Gifts Subject Only to Gift Tax

<table>
<thead>
<tr>
<th>Item number</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Donee's name and address</td>
<td>Donor's adjusted basis of gift</td>
<td>Date of gift</td>
<td>Value at date of gift</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td>(if any)</td>
<td>IF the gift was made by means of a trust, list trust’s identifying number and attach a copy of the trust instrument</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total of Part 1 (add amounts from Part 1, column E)**

## Part 2—Gifts That are Direct Skips and are Subject to Both Gift Tax and Generation-Skipping Transfer Tax

<table>
<thead>
<tr>
<th>Item number</th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>Donee's name and address</td>
<td>Donor's adjusted basis of gift</td>
<td>Date of gift</td>
<td>Value at date of gift</td>
</tr>
<tr>
<td>1</td>
<td></td>
<td>Relationship to donor (if any)</td>
<td>IF the gift was made by means of a trust, list trust’s identifying number and attach a copy of the trust instrument</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Total of Part 2 (add amounts from Part 2, column E)**

## Part 3—Taxable Gift Reconciliation

1. Total value of gifts of donor (add totals from column E of Parts 1 and 2)
2. One-half of items attributable to spouse (see instructions)
3. Balance (subtract line 2 from line 1)
4. Gifts of spouse to be included (from Schedule A, Part 3, line 2 of spouse’s return—see instructions)
5. Total gifts (add lines 3 and 4)
6. Total annual exclusions for gifts listed on Schedule A (including line 4, above) (see instructions)
7. Total included amount of gifts (subtract line 6 from line 5)

**Deductions (see instructions)**

8. Gifts of interests to spouse for which a marital deduction will be claimed, based on items of Schedule A
9. Exclusions attributable to gifts on line 8
10. Marital deduction—subtract line 9 from line 8
11. Charitable deduction, based on items less exclusions
12. Total deductions—add lines 10 and 11
13. Subtract line 12 from line 7
14. Generation-skipping transfer taxes payable with this Form 709 (from Schedule C, Part 3, col. H, Total)
15. Taxable gifts (add lines 13 and 14). Enter here and on line 1 of the Tax Computation on page 1

*(If more space is needed, attach additional sheets of same size.)*
16 Terminable Interest (QTIP) Marital Deduction. (See instructions for line 8 of Schedule A.)
If a trust (or other property) meets the requirements of qualified terminable interest property under section 2523(f), and
   a. The trust (or other property) is listed on Schedule A, and
   b. The value of the trust (or other property) is entered in whole or in part as a deduction on line 8, Part 3 of Schedule A,
then the donor shall be deemed to have made an election to have such trust (or other property) treated as qualified terminable interest property under section 2523(f).

If less than the entire value of the trust (or other property) that the donor has included in Part 1 of Schedule A is entered as a deduction on line 8, the donor 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 line 10 of Part 3, Schedule A. The denominator is equal to the total value of the trust (or other property) listed in Part 1 of Schedule A.

If you make the QTIP election (see instructions for line 8 of Schedule A), the terminable interest property involved will be included in your spouse's gross estate upon his or her death (section 2044). If your spouse disposes (by gift or otherwise) of all or part of the qualifying life income interest, he or she will be considered to have made a transfer of the entire property that is subject to the gift tax (see Transfer of Certain Life Estates on page 3 of the instructions).

17 Election Out of QTIP Treatment of Annuities
☐ Check here if you elect under section 2523(f)(6) NOT to treat as qualified terminable interest property any joint and survivor annuities that are reported on Schedule A and would otherwise be treated as qualified terminable interest property under section 2523(f). (See instructions.)

Enter the item numbers (from Schedule A) for the annuities for which you are making this election ▶

SCHEDULE B Gifts From Prior Periods
If you answered "Yes" on line 11a of page 1, Part 1, see the instructions for completing Schedule B. If you answered "No," skip to the Tax Computation on page 1 (or Schedule C, if applicable).

<table>
<thead>
<tr>
<th>A</th>
<th>Calendar year or calendar quarter (see instructions)</th>
<th>B</th>
<th>Internal Revenue office where prior return was filed</th>
<th>C</th>
<th>Amount of unified credit against gift tax for periods after December 31, 1976</th>
<th>D</th>
<th>Amount of specific exemption for prior periods ending before January 1, 1977</th>
<th>E</th>
<th>Amount of taxable gifts</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Totals for prior periods (without adjustment for reduced specific exemption)</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>1</td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>Amount, if any, by which total specific exemption, line 1, column D, is more than $30,000</td>
<td></td>
<td></td>
<td>2</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Total amount of taxable gifts for prior periods (add amount, column E, line 1, and amount, if any, on line 2). (Enter here and on line 2 of the Tax Computation on page 1.)</td>
<td></td>
<td></td>
<td>3</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

(If more space is needed, attach additional sheets of same size.)
### SCHEDULE C  Computation of Generation-Skipping Transfer Tax

Note: Inter vivos direct skips that are completely excluded by the GST exemption must still be fully reported (including value and exemptions claimed) on Schedule C.

#### Part 1—Generation-Skipping Transfers

<table>
<thead>
<tr>
<th></th>
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</thead>
<tbody>
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<tr>
<td>6</td>
<td></td>
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</tr>
</tbody>
</table>

If you elected gift splitting and your spouse was required to file a separate Form 709 (see the instructions for “Split Gifts”), you must enter all of the gifts shown on Schedule A, Part 2, of your spouse’s Form 709 here.

In column C, enter the item number of each gift in the order it appears in column A of your spouse’s Schedule A, Part 2. We have preprinted the prefix “S-” to distinguish your spouse’s item numbers from your own when you complete column A of Schedule C, Part 3.

In column D, for each gift, enter the amount reported in column C, Schedule C, Part 1, of your spouse’s Form 709.

#### Part 2—GST Exemption Reconciliation (Section 2631) and Section 2652(a)(3) Election

Check box □ if you are making a section 2652(a)(3) (special QTIP) election (see instructions)

Enter the item numbers (from Schedule A) of the gifts for which you are making this election ▲

<table>
<thead>
<tr>
<th>Item</th>
<th>Total exemption used for periods before filing this return</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>$1,000,000</td>
</tr>
</tbody>
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#### Part 3—Tax Computation

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Total exemption claimed. Enter here and on line 4, Part 2, above. May not exceed line 3, Part 2, above.

Total generation-skipping transfer tax. Enter here, on line 14 of Schedule A, Part 3, and on line 16 of the Tax Computation on page 1.

(If more space is needed, attach additional sheets of same size.)

Dear

Your Federal Gift Tax returns for the referenced periods are under review and additional information is needed. Please have your preparer submit the following information to the undersigned.

1. Copies of all trust instruments referred to on the gift tax returns.

2. Please explain your basis for the valuations of the
Please include detailed financial information; nature of the business, detailed balance sheets as of 12-95 and 12-96. List all securities, real estate holdings and any other assets owned by the partnership. Please include a copy of the governing agreement.

If you wish your preparer to discuss this matter with us, please have the enclosed Power of Attorney completed and signed.

If you have any questions, please call me at the above number.

Sincerely,

Arnold Rosenbaum

enclosure
Internal Revenue Service
District
Director

Date: July 9, 1998

Name of Donor:
Gift Tax Year:
1996
Person to Contact:
Rupert R. Winfree
Contact Telephone Number:
804-771-2941

Dear Mr. :

We are reviewing the above gift tax return and find that more information is needed. Please furnish the requested materials corresponding with the checked items on the attached page(s).

Please feel free to call if there are any questions. Your cooperation will be appreciated.

Respectfully yours,

Rupert R. Winfree
Attorney (Estate Tax)
CLOSELY HELD BUSINESS

For

1. Detailed financial statements, including footnotes, for 1993 through 1996. If the statements are based upon a fiscal year, the most recent statement should cover a period through the end of calendar year 1996.

2. Detailed balance sheets (included in above).

3. Detailed income statements (included in above).


5. Identities of officers and their salaries for 1993 through 1996 (same periods as for financial statements).

6. Complete list of all securities held by the business.

7. Details of sale of any stock or interest in the business, attempts to sell, offer to buy, negotiations.

8. Assessments, tax map numbers, locality of any real estate owned, and copies of any recent real estate appraisals.

9. Buy-sell agreement, if any.

10. List of shareholders as of December 31, 1996, respective number of shares owned (by classes), and their relationships; if related to donor, explanation of how and when interests were acquired (if otherwise than from the 1996 gifts).
Gift Tax Audit

Dear

The federal gift tax return (Form 709 identified above has been assigned to me for examination. My preliminary review of the file indicates that the transferred limited partnership interests have been substantially undervalued.

For the reasons set forth and discussed in a series of Internal Revenue Service rulings (see Technical Advice Memoranda 9719006, 9723009, 9725002, 9730004 and 9735003) issued last year, it appears that the transferred interests should be valued without regard to the partnership agreement. Additionally, due to the nature of the underlying assets, it is my position that net asset value is the appropriate valuation approach.

At this point, therefore, both the valuation method and the claimed discount are in issue. Since I would like to have a complete factual record with respect to these issues prior to making any final recommendations, I would ask that you forward the following additional information:

1. How were the donor's securities managed prior to the transfer to the partnership? Who was involved in this management activity and what was the approximate time devoted to it?

2. How are the partnership assets now managed? Who is involved in this management activity and what is the approximate time devoted to it? Has there been any significant change in the management of the assets following their transfer to the limited partnership?

3. A description of the qualifications and investment expertise of the general partner and an explanation of the specific duties actually performed by him in connection with managing the securities both before and after they were contributed to the partnership.

4. Are investment decisions concerning the partnership marketable securities made by or through the recommendations of an investment advisor or an account manager?

5. Copies of all brokerage account statements with respect to the securities for the period [ ] to date.

6. What was the purpose for establishing the limited partnership and why could this purpose not have been achieved equally as well by use of either a trust or outright gifts of the underlying property? What were the unique advantages of using a partnership in this case?

7. Who recommended the use of a limited partnership by the donor, when was that recommendation made and what were the reasons provided in support of this recommendation?
8. Copies of all letters and other documents related to the creation of the limited partnership from any attorney, accountant or firm involved in recommending the creation of the limited partnership or in drafting the partnership agreement.

9. Copies of the minutes of all partnership meetings.

10. A statement setting forth the donor's age and state of her health at the time the partnership was created. Is the donor still living?

11. Are there any other appraisals or valuations (other than the appraisal attached to the return as filed) of the partnership or any interest in the partnership? If so, please provide complete copies.

12. Have any personal financial statements and/or credit applications been prepared by or for any partner following the creation of the partnership with respect to any loan application or other matter? If so, please provide complete copies of all such documents.

13. Is the partnership still in existence?

Query: If answered, could some of the questions involve a violation of the attorney-client privilege?

If it is intended that the gifted property will be sold shortly after the donor's death, the formula and its accompanying text could be written as follows:

The trust will terminate when the Settlor dies; Upon termination, the trustees will distribute to the Settlor's estate any asset held by them on the date of the Settlor's death that was given to the trustees by the Settlor if the value of such asset on the date of the Settlor's death is less than its value as finally determined for federal gift tax purposes or is less than X. For this purpose, X shall mean the number determined by the following formula:

\[ X = \frac{(E)(V) - (T)(B)}{E - I} \]

In the formula, the letter "E" means the highest combined marginal federal and state estate tax rate applicable in the year of the Donor's death to the estates of decedents who die domiciled in the state in which the Donor was domiciled at the time of her death; the letter "T" means the highest combined marginal federal and local income tax rate applicable to the trust's long term capital gains on the day before the Donor's death; the letter "V" means the value of the asset as finally determined for federal gift tax purposes; and "B" means the basis of the asset for federal income tax purposes on the day before the Donor's death.
Dear [Name]:

I have been assigned your Federal gift tax return for the year ending December 31, 1997 for examination. In order to complete this as quickly as possible, please send the following information, so that I receive it by Monday June 14, 1999:


3. Copies of [Name] Federal gift tax returns, Form 709, for all years.


5. Copies of any GRAT's (grantor retained annuity trusts) created for either [Name] or [Name].

6. Copies of any durable powers of attorney executed for the benefit of either [Name] or [Name].

7. Copies of bank statements, brokerage statements, and cancelled checks for any account you either own solely, jointly with another(s) or in trust, or have signature authority on, for the period of December 1996 through January 1998.

8. In reference to [Name], please provide copies of the following:

   a. All documents relating to the creation of the partnership (including bills) from any attorney, accountant or firm involved in recommending the creation of the partnership or in drafting the partnership agreement.

   b. Original partnership agreement and all amendments thereto.

   c. Articles of incorporation of the general partner, if the general partner is a corporation.

   d. All documents that were prepared to meet state law requirements on the formation and operation of the partnership (i.e., Certificate of limited partnership which has the filing date stamp on it and all amendments thereto; stamped copies of annual reports; supplemental affidavits on capital contributions, etc.)
e. All partnership financial statements and tax returns prepared and/or filed since inception.

f. All of the partnership's bank and other records (i.e., general ledger, cash receipts and disbursements journals, check registers, etc.) which reflect the amount and nature of all deposits and distributions, including distributions to partners, for the period since the partnership was formed to the present.

g. Minutes of all partnership meetings; if none, indicate the dates of all meetings and the business discussed.

h. Evidence showing how the value of each partnership asset was arrived at as of the date:
   1) it was contributed to the partnership;
   2) of each gift of a partnership interest;
   3) provide all appraisals and supporting workpapers obtained of the partnership's assets, including partnership interests and any discounts.

i. Evidence to substantiate all initial and subsequent capital contributions and the source of all contributions by partners other than the donor.

j. For any partnership asset that has been sold or offered for sale since the formation of the partnership, provide evidence which documents the sale or attempted sale (i.e., sale agreement, listing agreement, escrow statement, etc.).

k. For each partnership asset, explain/provide:
   1) evidence that the partnership owns the asset (i.e., deeds, bills of sale, other title changes, account statements, the date the transfer of the asset to the partnership was complete);
   2) when the donor acquired the asset;
   3) how the asset was used by the donor since its acquisition and how the partnership has used the asset since (i.e., held for rent; personal residence, investment, etc.); and
   4) who managed the asset prior to and after its contribution; explain in detail what the management consisted of and how it changed after the partnership was formed.

l. Brokerage statements reflecting the ownership and activity of the securities and mutual funds contributed to the partnership for the period beginning one year prior to the formation of the partnership and continuing through the current date, and copies of any other tax returns and financial statements which reflect the activity of the partnership assets, if different from the foregoing.

m. For each gift or transfer of a partnership interest, provide:
   1) evidence that the partnership interest was legally transferred under state law and under the partnership agreement;
   2) any assignment of partnership interest prepared;
3) the terms of the assignment, if not indicated in a written assignment;

4) the amount and source of any consideration paid;

5) an explanation of how the amount of the consideration was arrived at.

n. Provide the following with respect to the donor, all other original partners and any recipients of gifts or transfers of partnership interests:

1) date of birth;

2) education, occupation, and their residence address;

3) experience and expertise in dealing with partnerships, real estate, financial affairs and investments; provide tangible evidence thereof;

4) extent of the donor's investments as of the date of the formation of the partnership, including a summary of assets that were not contributed to the partnership; provide tangible evidence thereof; and

5) any personal financial statements and credit applications which were prepared in connection with loan applications after the partnership was created.

o. Indicate whether the partnership is currently in existence, and, if so, provide the current ownership interests.

p. Provide a summary of any other transfers of partnership interests not reflected in the gift tax returns filed.

q. A statement describing the donor's state of health at the time of the formation of the partnership and for the six month period prior thereto, including a description of any serious illnesses. Please also provide the names, addresses and telephone numbers of all doctors who would have knowledge of the donor's state of health during this period to the present date and provide these doctors with authorization to respond to the Service's future requests for information, including a copy of the medical records, if necessary.

r. The Donor's revocable trust, and any executed power of attorney, if not submitted with the return.

s. A statement including the identity of the parties recommending the use of the partnership, when the recommendations were made, and the reasons set forth in support of the partnership.

t. Names, addresses, and current telephone numbers of the representatives of the Donor, all donees, all partners, accountants/bookkeepers, and brokers/investment advisors.

9. In reference to

In order that I may understand the creation and operation of the Family Limited Partnership currently under examination, please provide a written response the following questions with as much detail as possible:
a. Creation of the FLP

1) Was the FLP created in conjunction with estate planning? If so, what was it?

2) Was the creation of the FLP a matter of negotiation? If so, explain what negotiations took place.

3) At whose suggestion was the FLP created?

4) Why was the FLP created at this time?

5) What kind of advice did the Donor seek?

6) What are the qualifications of the advisor?

7) What advice were the parties given on the formation of the FLP, and by whom?

8) What notes were kept of the advice received?

9) What benefits was the Donor advised of?

10) Was the FLP a prepackaged transaction?

11) Did the Donor have a prior history of gift giving? If so, provide the details.

12) What assets were not transferred to the FLP?

13) What was the Donor's state of health before, and at the time, the FLP was formed?

14) What was the amount and source of the other partners' contributions to the FLP?

15) Why could the Donor's assets no longer be managed as before the creation of the FLP?

16) Explain how the partnership assets were managed before their contribution to the FLP.

17) Describe the business purpose(s) for establishing the FLP.

18) Explain why the business purpose(s) for establishing the FLP could not be achieved equally as well through the medium of a trust or through outright gifts of the underlying property.

19) What are the unique advantages of the FLP form which compelled its use here?

20) What dollar value would you assign to each advantage of the FLP?

21) Did you compare the costs of forming the FLP, including the reduction in the value of your interest in the FLP due to discounts, to the monetary value of having the FLP, and if so provide the results of your comparison.
b. Operation of the FLP

22) Explain how the partnership assets were managed after their contribution to the FLP, including all individuals involved and the amount of time devoted.

23) If the FLP consists of marketable securities held in brokerage accounts, explain whether the investment decisions are made by the general partner or by an investment advisor or manager who is responsible for the account and whether this has changed since the creation of the FLP.

24) Describe the qualifications and expertise of the general partners of the FLP and explain the specific duties actually performed by him or her in connection with managing the assets both before and after they were contributed to the FLP.

25) Was there a joining in the common conduct of a business by the family members? If so, explain how.

26) What was the business?

27) Did the Donor's relationship to the assets and their income change as a result of the FLP? If so, explain how.

28) Did the children's involvement in the family business change as a result of the FLP? If so, explain how.

29) Were the other partners involved or consulted in the operation of the FLP? If so, explain how and when.

30) Did the partners hold themselves out as partners to third parties? If so, give examples.

31) Were the FLP interests sold, exchanged, or otherwise liquidated in the years since the formation of the FLP?

32) Did the other partners view themselves as partners?

33) Were books and records kept? If so, describe them.

34) How was the formation of the FLP treated for income tax and state law purposes?

35) Did the partnership agreement contain terms that are comparable to similar arrangements entered in arm's length transactions? If so, give specific examples.

36) Would the donor be willing to sell his partnership interest at the discounted value, and, if so, why.

37) Explain where the fees were deducted for creating the FLP.

38) The partnership paid $70,000 to __________ as a "management fee". What were the duties of __________ to earn the fee? In addition, it paid $17,000 to money managers to management of marketable securities. Why pay both?

39) The partnership has an asset "Prepaid Interest" of $7,965, however, there is no liability on the balance sheet. What is this for?
8. In reference to [redacted], please provide copies of the following:

a. All documents relating to the creation of the partnership (including bills) from any attorney, accountant or firm involved in recommending the creation of the partnership or in drafting the partnership agreement.

b. Original partnership agreement and all amendments thereto.

c. Articles of incorporation of the general partner, if the general partner is a corporation.

d. All documents that were prepared to meet state law requirements on the formation and operation of the partnership (i.e., Certificate of limited partnership which has the filing date stamp on it and all amendments thereto; stamped copies of annual reports; supplemental affidavits on capital contributions, etc.)

e. All partnership financial statements and tax returns prepared and/or filed since inception.

f. All of the partnership’s bank and other records (i.e., general ledger, cash receipts and disbursements journals, check registers, etc.) which reflect the amount and nature of all deposits and distributions, including distributions to partners, for the period since the partnership was formed to the present.

g. Minutes of all partnership meetings; if none, indicate the dates of all meetings and the business discussed.

h. Evidence showing how the value of each partnership asset was arrived at as of the date:

1) it was contributed to the partnership;

2) of each gift of a partnership interest;

3) provide all appraisals and supporting workpapers obtained of the partnership’s assets, including partnership interests and any discounts.

i. Evidence to substantiate all initial and subsequent capital contributions and the source of all contributions by partners other than the donor.

j. For any partnership asset that has been sold or offered for sale since the formation of the partnership, provide evidence which documents the sale or attempted sale (i.e., sale agreement, listing agreement, escrow statement, etc.).

k. For each partnership asset, explain/provide:

1) evidence that the partnership owns the asset (i.e., deeds, bills of sale, other title changes, account statements, the date the transfer of the asset to the partnership was complete);

2) when the donor acquired the asset;

3) how the asset was used by the donor since its acquisition and how the partnership has used the asset since (i.e., held for rent; personal residence, investment, etc.); and
4) who managed the asset prior to and after its contribution; explain in detail what the management consisted of and how it changed after the partnership was formed.

1. Brokerage statements reflecting the ownership and activity of the securities and mutual funds contributed to the partnership for the period beginning one year prior to the formation of the partnership and continuing through the current date, and copies of any other tax returns and financial statements which reflect the activity of the partnership assets, if different from the foregoing.

m. For each gift or transfer of a partnership interest, provide:

1) evidence that the partnership interest was legally transferred under state law and under the partnership agreement;
2) any assignment of partnership interest prepared;
3) the terms of the assignment, if not indicated in a written assignment;
4) the amount and source of any consideration paid;
5) an explanation of how the amount of the consideration was arrived at.

n. Provide the following with respect to the donor, all other original partners and any recipients of gifts or transfers of partnership interests:

1) date of birth;
2) education, occupation, and their residence address;
3) experience and expertise in dealing with partnerships, real estate, financial affairs and investments; provide tangible evidence thereof;
4) extent of the donor's investments as of the date of the formation of the partnership, including a summary of assets that were not contributed to the partnership; provide tangible evidence thereof; and
5) any personal financial statements and credit applications which were prepared in connection with loan applications after the partnership was created.

o. Indicate whether the partnership is currently in existence, and, if so, provide the current ownership interests.

p. Provide a summary of any other transfers of partnership interests not reflected in the gift tax returns filed.

q. A statement describing the donor's state of health at the time of the formation of the partnership and for the six month period prior thereto, including a description of any serious illness. Please also provide the names, addresses and telephone numbers of all doctors who would have knowledge of the donor's state of health during this period to the present date and provide these doctors with authorization to respond to the Service's future requests for information, including a copy of the medical records, if necessary.
May 17, 1999

r. A statement including the identity of the parties recommending the use of the partnership, when the recommendations were made, and the reasons set forth in support of the partnership.

t. Names, addresses, and current telephone numbers of the representatives of the Donor, all donees, all partners, accountants/bookkeepers, and brokers/investment advisors.

9. In reference to

In order that I may understand the creation and operation of the Family Limited Partnership currently under examination, please provide a written response to the following questions with as much detail as possible:

a. Creation of the FLP

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2) Was the creation of the FLP a matter of negotiation? If so, explain what negotiations took place.

3) At whose suggestion was the FLP created?

4) Why was the FLP created at this time?

5) What kind of advice did the Donor seek?

6) What are the qualifications of the advisor?

7) What advice were the parties given on the formation of the FLP, and by whom?

8) What notes were kept of the advice received?

9) What benefits was the Donor advised of?

10) Was the FLP a prepackaged transaction?

11) Did the Donor have a prior history of gift giving? If so, provide the details.

12) What assets were not transferred to the FLP?

13) What was the Donor's state of health before, and at the time, the FLP was formed?

14) What was the amount and source of the other partners' contributions to the FLP?

15) Why could the Donor's assets no longer be managed as before the creation of the FLP?

16) Explain how the partnership assets were managed before their contribution to the FLP.

17) Describe the business purpose(s) for establishing the FLP.
18) Explain why the business purpose(s) for establishing the FLP could not be achieved equally as well through the medium of a trust or through outright gifts of the underlying property.

19) What are the unique advantages of the FLP form which compelled its use here?

20) What dollar value would you assign to each advantage of the FLP?

21) Did you compare the costs of forming the FLP, including the reduction in the value of your interest in the FLP due to discounts, to the monetary value of having the FLP, and if so provide the results of your comparison.

b. Operation of the FLP

22) Explain how the partnership assets were managed after their contribution to the FLP, including all individuals involved and the amount of time devoted.

23) If the FLP consists of marketable securities held in brokerage accounts, explain whether the investment decisions are made by the general partner or by an investment advisor or manager who is responsible for the account and whether this has changed since the creation of the FLP.

24) Describe the qualifications and expertise of the general partners of the FLP and explain the specific duties actually performed by him or her in connection with managing the assets both before and after they were contributed to the FLP.

25) Was there a joining in the common conduct of a business by the family members? If so, explain how.

26) What was the business?

27) Did the Donor's relationship to the assets and their income change as a result of the FLP? If so, explain how.

28) Did the children's involvement in the family business change as a result of the FLP? If so, explain how.

29) Were the other partners involved or consulted in the operation of the FLP? If so, explain how and when.

30) Did the partners hold themselves out as partners to third parties? If so, give examples.

31) Were the FLP interests sold, exchanged, or otherwise liquidated in the years since the formation of the FLP?

32) Did the other partners view themselves as partners?

33) Were books and records kept? If so, describe them.

34) How was the formation of the FLP treated for income tax and state law purposes?

35) Did the partnership agreement contain terms that are comparable to similar arrangements entered in arm's length transactions? If so, give specific examples.
36) Would the donor be willing to sell his partnership interest at the discounted value, and, if so, why.

37) Explain where the fees were deducted for creating the FLP.

38) The partnership paid $185,000 to [Redacted]. Why was this payment made?

39) Who lives in the two homes on the Ranch? Please provide copies of the lease(s), the actual rent paid, and evidence of fair market rent for each home for the years 1995, 1996, 1997 and 1998.

10. In reference to [Redacted], for the period of 1993 through 1998, please provide copies of the following:
   a. Balance sheets;
   b. Profit & loss statements;
   c. Statement of dividends paid;
   d. Statement of officer's salaries;
   e. Number of shares outstanding; shareholder's names & number of shares each holds;
   f. Description of the primary function of the corporation
   g. Shareholder's agreements or Buy/Sell agreements, all that were applicable for years 1993 through 1998
   h. Details of the June 1994 reorganization, whereby [Redacted] owned 100% of the company and after, he owned 0%.

11. In reference to [Redacted], for the period of 1996 through 1998, please provide copies of the following:
   a. Balance sheets;
   b. Profit & loss statements;
   c. Statement of dividends paid;
   d. Statement of officer's salaries;
   e. Number of shares outstanding; shareholder's names & number of shares each holds;
   f. Description of the primary function of the corporation
   g. Shareholder's agreements or Buy/Sell agreements, all that were applicable for years 1993 through 1998
   h. Who does the corporation pay rent to? Please provide a copy of the lease agreement(s).

12. In reference to [Redacted], for the period of 1995 through 1998, please provide copies of the following:
   a. Balance sheets;
b. Profit & loss statements;
c. Statement of dividends paid;
d. Statement of officer's salaries;
e. Number of shares outstanding; shareholder's names & number of shares each holds;
f. Description of the primary function of the corporation
g. Shareholder's agreements or Buy/Sell agreements, all that were applicable for years 1993 through 1998
h. Who does the corporation pay rent to? Please provide a copy of the lease agreement(s).

13. In your cover letter returning the above, would you please also provide a written response to the following:

a. Have any assets shown on the gift tax return been sold, or the subject of a sales or purchase offer within from May 1995 to the present? If so, please provide state the date, price and terms, and provide copies of the sales contract and offers of sale.

b. Have you or your attorney or accountant had an appraisal made (other than those attached to the Form 709 when originally filed) from May 1995 to the present of any asset included in the donor's gift tax return? If so, please provide copies of them.

c. Have any "amended" gift tax return(s) have been filed? If so, please provide copies.

Enclosed is a blank of Form 2848, "Power of Attorney and Declaration of Representative", which you may execute in the favor of the representative of your choosing. If you chose to do so, please return it to me with your cover letter.

Pursuant to Code section 7602(c), this letter shall serve as notice to the donor and his/her representatives that the undersigned attorney, or a valuation engineer, or a financial analyst in the employ of the Service, if requested, and while performing the duties of that position, may contact third parties in order to verify or corroborate return information.

Thank you very much for your time and consideration in this matter. If you have any questions, please do not hesitate to contact me at the number listed above.

Sincerely,

[Signature]
Pamela Marks Breault
Attorney, Estate and Gift Tax
Employee ID Number 59-01589

Enclosures:
- Publication 1
- Notices 609 and 1219
- Letter 3164
- Form 2848
Dear

The examiner named on this letter gave you an examination report showing changes to your tax return(s) and discussed the changes with you. We've completed our review of the report and have taken the action indicated in the box checked below.

[X] We have accepted the report.
[ ] We have made the changes indicated on the enclosed corrected report.

(We won't make further changes to your return unless we examine and change the return of a partnership, S corporation, trust, or estate in which you have an interest. Changes made to those returns could later affect your return.)

If you owe additional tax, please send us payment for the full amount. If you can't pay the full amount now, pay as much as you can. If you want us to consider an installment agreement, please complete the enclosed Form 9465, Installment Agreement Request. If we approve your request, you will be charged a $43 user fee to help offset the cost of providing this service. We will take the fee from your first installment payment. If your request includes amounts for more than one tax period, you will have to pay the $43 fee only one time. Penalties and interest will continue to increase until you pay the full amount you owe.

If you have overpaid your tax, we will send you a refund with any interest we owe you. It may take 6 to 8 weeks to do this.

If you have any questions, please contact the person whose name and telephone number are shown at the top of this letter.

Thank you for your cooperation.

Sincerely yours,
Roger K. Burgess
District Director
<table>
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<tr>
<th>ITEM</th>
<th>SHOWN ON RETURN</th>
<th>CORRECTED</th>
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<tr>
<td>1. Total gifts of donor</td>
<td>350,672</td>
<td>388,483</td>
</tr>
<tr>
<td>2. Less amount attributable to spouse</td>
<td>175,338</td>
<td>194,242</td>
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<tr>
<td>3. Balance</td>
<td>175,338</td>
<td>194,242</td>
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<tr>
<td>4. Gifts of spouse to be included</td>
<td>103,983</td>
<td>122,889</td>
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<td>5. Total gifts</td>
<td>279,319</td>
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<tr>
<td>6. Less total exclusions</td>
<td>70,911</td>
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<tr>
<td>7. Total included amount of gifts</td>
<td>208,408</td>
<td>246,219</td>
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<td>8a. Charitable deduction</td>
<td>0</td>
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<tr>
<td>8b. Marital deduction</td>
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<tr>
<td>9. Total deductions</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>10. Amount of taxable gifts (line 7 less line 9)</td>
<td>208,408</td>
<td>246,219</td>
</tr>
<tr>
<td>11. Total taxable gifts for prior periods</td>
<td>408,574</td>
<td>408,574</td>
</tr>
<tr>
<td>12. Total taxable gifts (line 10 plus line 11)</td>
<td>616,982</td>
<td>654,793</td>
</tr>
<tr>
<td>13. Tax computed on amount on line 12</td>
<td>199,083</td>
<td>213,073</td>
</tr>
<tr>
<td>14. Tax computed on amount on line 11</td>
<td>124,715</td>
<td>124,715</td>
</tr>
<tr>
<td>15. Total tax payable on taxable gifts (line 13 less line 14)</td>
<td>74,368</td>
<td>88,358</td>
</tr>
<tr>
<td>16. Unified credit from Table B</td>
<td>192,800</td>
<td>192,800</td>
</tr>
<tr>
<td>17. Unified credit allowable for all prior periods</td>
<td>124,715</td>
<td>124,715</td>
</tr>
<tr>
<td>18. Balance (line 16 less line 17)</td>
<td>68,085</td>
<td>68,085</td>
</tr>
<tr>
<td>19a. Amount allowed as specific exemption after September 8, 1976</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>19b. 20% of line 19a</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>20. Balance (line 18 less line 19b)</td>
<td>68,085</td>
<td>68,085</td>
</tr>
<tr>
<td>21. Unified credit (lesser of lines 15 or 20)</td>
<td>68,085</td>
<td>68,085</td>
</tr>
<tr>
<td>22. Credit for foreign gift taxes</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>23. Total (line 21 plus line 22)</td>
<td>68,085</td>
<td>68,085</td>
</tr>
<tr>
<td>24. Tax due (line 15 less line 23)</td>
<td>6,283</td>
<td>6,283</td>
</tr>
<tr>
<td>25. Tax previously assessed</td>
<td>0</td>
<td>0</td>
</tr>
<tr>
<td>26. Tax increase or (decrease)</td>
<td>13,990</td>
<td>13,990</td>
</tr>
</tbody>
</table>

Examiner's Signature: W. F. Branch
District: Richmond
Date: 6/2/99
<table>
<thead>
<tr>
<th>Name of Taxpayer</th>
<th>Schedule No. or Exhibit</th>
<th>Year/Period</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td>9612</td>
</tr>
</tbody>
</table>

Schedule A, Part 1-Gifts subject only to gift tax

<table>
<thead>
<tr>
<th>Donor</th>
<th>Gifted Interest in</th>
<th>Returned (45% disc)</th>
<th>Adjusted (35% disc)</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>.25%</td>
<td>$2,311.00</td>
<td>$2,731.00</td>
</tr>
<tr>
<td>3.</td>
<td>.25%</td>
<td>2,311.00</td>
<td>2,731.00</td>
</tr>
</tbody>
</table>

Schedule A, Part 2-Gifts that are direct skips subject to both gift tax & GST.

<table>
<thead>
<tr>
<th></th>
<th>Gifted Interest</th>
<th>Returned</th>
<th>Adjusted</th>
</tr>
</thead>
<tbody>
<tr>
<td>4.</td>
<td>5.5%</td>
<td>50,836.00</td>
<td>60,079.00</td>
</tr>
<tr>
<td>5.</td>
<td>11.0%</td>
<td>101,672.00</td>
<td>120,157.00</td>
</tr>
<tr>
<td>6.</td>
<td>5.5%</td>
<td>50,836.00</td>
<td>60,079.00</td>
</tr>
</tbody>
</table>

TOTALS ........................................... $207,966.00 $245,777.00 (207,966.00)

NET INCREASE TO TOTAL GIFTS OF DONOR ........................................... $ 37,811.00

The various gifted interests in the as shown above, were returned at values determined by applying a forty-five percent discount to the underlying value of the partnership assets. The values, as adjusted, as shown above, reflect a discount to the value of the partnership assets of thirty-five percent.

All other items and entries on the return were accepted as filed.

[END OF REPORT]
STATEMENT OF ADJUSTMENT TO YOUR ACCOUNT

BALANCE DUE ON ACCOUNT BEFORE ADJUSTMENT  $ 0.00

ADJUSTMENT COMPUTATION

TAX-INCREASE $13,990.00

INTEREST CHARGED 2,733.97

NET ADJUSTMENT CHARGE 16,723.97

BALANCE DUE $16,723.97

TO AVOID ADDITIONAL FAILURE TO PAY PENALTY AND INTEREST, PLEASE ALLOW ENOUGH MAILING TIME SO THAT WE RECEIVE YOUR PAYMENT BY AUG. 2, 1999. MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE UNITED STATES TREASURY. SHOW YOUR TAXPAYER IDENTIFICATION NUMBER OR YOUR IDENTIFYING NUMBER ON YOUR PAYMENT AND MAIL IT WITH THE STUB PORTION OF THIS NOTICE. IF YOU THINK WE MADE A MISTAKE, PLEASE CALL US AT THE NUMBER LISTED ABOVE. WHEN YOU CALL, PLEASE HAVE YOUR PAYMENT INFORMATION AND A COPY OF YOUR TAX RETURN AVAILABLE. THIS INFORMATION WILL HELP US FIND ANY PAYMENT YOU MADE THAT WE HAVEN'T APPLIED.

IF YOU RECEIVE A BILL, REFUND, OR OTHER NOTICE FROM THE INTERNAL REVENUE SERVICE, YOU MAY CALL US AT YOUR LOCAL IRS OFFICE FOR AN EXPLANATION. ALL DAYS MENTIONED IN THESE EXPLANATIONS ARE CALENDAR DAYS, UNLESS SPECIFICALLY STATED OTHERWISE.

ACTION REQUIRED ON BALANCE DUE ACCOUNTS

PAYMENT - PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE UNITED STATES TREASURY. WRITE ON YOUR PAYMENT YOUR SOCIAL SECURITY NUMBER OR EMPLOYER IDENTIFICATION NUMBER, THE TAX PERIOD AND TAX FORM. MAIL YOUR PAYMENT WITH THE STUB PORTION OF YOUR NOTICE IN THE ENCLOSED ENVELOPE OR TO THE ADDRESS ON THE FRONT OF YOUR NOTICE.

NOTICE ABOUT PARTIAL PAYMENTS - GENERALLY, WE APPLY YOUR PAYMENT FIRST TO TAX, THEN TO PENALTY, AND FINALLY TO THE INTEREST YOU OWE. BEGINNING WITH TAX YEAR 1991, YOU CAN NO LONGER DEDUCT INTEREST YOU PAID TO THE INTERNAL REVENUE SERVICE AS AN ITEMIZED DEDUCTION ON YOUR FORM 1040, SCHEDULE A.
STATEMENT OF ADJUSTMENT TO YOUR ACCOUNT

OVERPAYMENT ON ACCOUNT BEFORE ADJUSTMENT $8,123.86

ADJUSTMENT COMPUTATION $8,128.86

TAX-INCREASE $8,128.86

INTEREST CHARGED 909.16

NET ADJUSTMENT CHARGE 9,038.02

BALANCE DUE $909.16

TO AVOID ADDITIONAL FAILURE TO PAY PENALTY AND INTEREST, PLEASE ALLOW ENOUGH MAILING TIME SO THAT WE RECEIVE YOUR PAYMENT BY NOV. 8, 1999. MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE UNITED STATES TREASURY. SHOW YOUR TAXPAYER IDENTIFICATION NUMBER OR YOUR IDENTIFYING NUMBER ON YOUR PAYMENT AND MAIL IT WITH THE STUB PORTION OF THIS NOTICE. IF YOU THINK WE MADE A MISTAKE, PLEASE CALL US AT THE NUMBER LISTED ABOVE. WHEN YOU CALL, PLEASE HAVE YOUR PAYMENT INFORMATION AND A COPY OF YOUR TAX RETURN AVAILABLE. THIS INFORMATION WILL HELP US FIND ANY PAYMENT YOU MADE THAT WE HAVEN'T APPLIED.

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ACTION REQUIRED ON BALANCE DUE ACCOUNTS

PAYMENT - PLEASE MAKE YOUR CHECK OR MONEY ORDER PAYABLE TO THE UNITED STATES TREASURY. WRITE ON YOUR PAYMENT YOUR SOCIAL SECURITY NUMBER OR EMPLOYER IDENTIFICATION NUMBER, THE TAX PERIOD AND TAX FORM. MAIL YOUR PAYMENT WITH THE STUB PORTION OF YOUR NOTICE IN THE ENCLOSED ENVELOPE OR TO THE ADDRESS ON THE FRONT OF YOUR NOTICe.

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Internal Revenue Service  
District Director

Donor

\(\text{c/o W. Birch Douglass, III} \)
McGuire, Woods, Battle, Boothe
1 James Center
901 East Cary Street
Richmond, VA 23219

CERTIFIED MAIL

Dear Donor:

In accordance with the provisions of existing internal revenue laws, notice is hereby given that the determination of your gift tax liability for the period ending December 31, 1993, discloses a deficiency of \$179,435.-- The basis of our determination and a computation of the deficiency are presented in the attached statement.

If you want to contest this determination in court before making any payment, you have 90 days from the above mailing date of this letter to file a petition with the United States Tax Court for a redetermination of the amount of your tax. The petition should be filed with the United States Tax Court, 400 Second Street NW, Washington, D.C., 20217, and a copy of this letter should be attached to the petition. The time in which you must file a petition with the Court (90 days) is fixed by law and the Court cannot consider your case if your petition is filed late.

If you decide not to file a petition with the Tax Court, we would appreciate it if you would sign and return the enclosed waiver form. This will permit us to charge your account quickly and will limit the accumulation of interest. The enclosed envelope is for your convenience. If you decide not to sign and return the waiver and you do not timely petition the Tax Court, the law requires us to bill you after 90 days from the mailing date of this letter.

If you have questions about this letter, please write to the person whose name and address are shown on this letter. If you write, please attach this letter to help identify your account. Keep a copy for your records. Also, please include your telephone number and the most convenient time for us to call if we need additional information. If you prefer, you may call the IRS contact person at the telephone number shown above. Thank you for your cooperation.

Sincerely,

Commissioner

By

District Director

Virginia-West Virginia District

enc: Statement; Waiver (Form 4089); Envelope

Post Office Box 10067 * Richmond, Virginia * 23240