2018 Instructions for Form 709

Department of the Treasury
Internal Revenue Service

United States Gift (and Generation-Skipping Transfer) Tax Return

For gifts made during calendar year 2018

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

Future Developments

For the latest information about developments related to Form 709 and its instructions, such as legislation enacted after they were published, go to *IRS.gov/Form709*.

For Gifts Made		Use Revision of Form 709 Dated
After	and Before	
-----	January 1, 1982	November 1981
December 31, 1981	January 1, 1987	January 1987
December 31, 1986	January 1, 1989	December 1988
December 31, 1988	January 1, 1990	December 1989
December 31, 1989	October 9, 1990	October 1990
October 8, 1990	January 1, 1992	November 1991
December 31, 1992	January 1, 1998	December 1996
December 31, 1997	-----	*

* Use the corresponding annual form.

What's New

Increased basic exclusion amount. Section 2010(c)(3), as amended by P. L. 115-97, increased the basic exclusion amount from $5 million, indexed for inflation, to $10 million, indexed for inflation, for estates of decedents dying and gifts made after December 31, 2017.

- The annual gift exclusion for 2018 is increased to $15,000. See *Annual Exclusion*, later.
- For gifts made to spouses who are not U.S. citizens, the annual exclusion has increased to $152,000. See *Nonresidents not Citizens of the United States*, later.
- The top rate for gifts and generation-skipping transfers remains at 40%. See Table for Computing Gift Tax.
- The basic credit amount for 2018 is $4,417,800. See Table of Basic Exclusion and Credit Amounts.
- The applicable exclusion amount consists of the basic exclusion amount ($11,180,000 in 2018) and, in the case of a surviving spouse, any unused exclusion amount of the last deceased spouse (who died after December 31, 2010). The executor of the predeceased spouse's estate must have elected on a timely and complete Form 706 to allow the donor to use the predeceased spouse's unused exclusion amount.
- Effective January 1, 2019, Form 709 will be filed in Kansas City, Missouri. See *Where To File*, later.

Reminders

Same-sex marriage. For federal tax purposes, marriages of couples of the same sex are treated the same as marriages of couples of the opposite sex. The term “spouse” includes an individual married to a person of the same sex. However, individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that isn't considered a marriage under state law aren't considered married for federal tax purposes.

Restored Exclusion Amount. If a donor made a taxable gift to the donor’s same-sex spouse and that transfer resulted in a reduction of the donor’s available applicable exclusion amount, there is a new procedure allowing the donor to restore the exclusion that was utilized in the transfer. For more details, see *Schedule C, Restored Exclusion Amount,* later.

If a donor made a taxable gift to a skip person whose generation assignment is changed as a result of Notice 2017-15, any allocation of GST exemption to that gift may be deemed to be void. For more details, see the instructions for *Gifts Subject to Both Gift and GST Taxes*, later.

For more information about the Restored Exclusion Amount and GST transfers, see *Notice 2017-15, 2017-06 I.R.B. 783*.

Photographs of Missing Children

The IRS is a proud partner with the *National Center for Missing and Exploited Children® (NCMEC)*. Photographs of missing children selected by the Center may appear in instructions on pages that would otherwise be blank. You can help bring these children home by looking at the photographs and calling 1-800-THE-LOST (1-800-843-5678) if you recognize a child.

General Instructions

Purpose of Form

Use Form 709 to report the following.

- Transfers subject to the federal gift and certain generation-skipping transfer (GST) taxes and to figure the tax due, if any, on those transfers.
- Allocation of the lifetime GST exemption to property transferred during the transferor's lifetime. (For more details, see *Schedule D, Part 2—GST Exemption Reconciliation*, later, and Regulations section 26.2632-1.)

CAUTION *All gift and GST taxes must be figured and filed on a calendar year basis. List all reportable gifts made during the calendar year on one Form 709. This means you must file a separate return for each calendar year a reportable gift is given (for example, a gift given in 2018 must be reported on a 2018 Form 709). Do not file more than one Form 709 for any 1 calendar year.*

How To Complete Form 709

1. Determine whether you are required to file Form 709.
2. Determine what gifts you must report.
3. Decide whether you and your spouse, if any, will elect to split gifts for the year.
4. Complete lines 1 through 19 of *Part 1—General Information*.
5. List each gift on Part 1, 2, or 3 of Schedule A, as appropriate.
6. Complete Schedules B, C, and D, as applicable.
7. If the gift was listed on Part 2 or 3 of Schedule A, complete the necessary portions of Schedule D.
8. Complete Schedule A, Part 4.
9. Complete *Part 2—Tax Computation*.
10. Sign and date the return.

Make sure to complete page 1 and the applicable schedules in their entirety. Returns filed without entries in each field will not be processed.

Remember, if you are splitting gifts, your spouse must sign line 18 in Part 1—General Information*.*

Who Must File

In general. If you are a citizen or resident of the United States, you must file a gift tax return (whether or not any tax is ultimately due) in the following situations.

- If you gave gifts to someone in 2018 totaling more than $15,000 (other than to your spouse), you probably must file Form 709. But see *Transfers Not Subject to Gift Tax* and *Gifts to Your Spouse*, later, for more information on specific gifts that are not taxable.
- Certain gifts, called future interests, are not subject to the $15,000 annual exclusion and you must file Form 709 even if the gift was under $15,000. See *Annual Exclusion*, later.
- Spouses may not file a joint gift tax return. Each individual is responsible for his or her own Form 709.
- You must file a gift tax return to split gifts with your spouse (regardless of their amount) as described in *Part 1—General Information*, later.
- If a gift is of community property, it is considered made one-half by each spouse. For example, a gift of $100,000 of community property is considered a gift of $50,000 made by each spouse, and each spouse must file a gift tax return.
- Likewise, each spouse must file a gift tax return if they have made a gift of property held by them as joint tenants or tenants by the entirety.
- Only individuals are required to file gift tax returns. If a trust, estate, partnership, or corporation makes a gift, the individual beneficiaries, partners, or stockholders are considered donors and may be liable for the gift and GST taxes.
- The donor is responsible for paying the gift tax. However, if the donor does not pay the tax, the person receiving the gift may have to pay the tax.
- If a donor dies before filing a return, the donor's executor must file the return.

Who does not need to file. If you meet all of the following requirements, you are not required to file Form 709.

- You made no gifts during the year to your spouse.
- You did not give more than $15,000 to any one donee.
- All the gifts you made were of present interests.

Gifts to charities. If the only gifts you made during the year are deductible as gifts to charities, you do not need to file a return as long as you transferred your entire interest in the property to qualifying charities. If you transferred only a partial interest, or transferred part of your interest to someone other than a charity, you must still file a return and report all of your gifts to charities.

Note. See Pub. 526, Charitable Contributions, for more information on identifying a qualified charity.

If you are required to file a return to report noncharitable gifts and you made gifts to charities, you must include all of your gifts to charities on the return.

Transfers Subject to the Gift Tax

Generally, the federal gift tax applies to any transfer by gift of real or personal property, whether tangible or intangible, that you made directly or indirectly, in trust, or by any other means.

The gift tax applies not only to the free transfer of any kind of property, but also to sales or exchanges, not made in the ordinary course of business, where value of the money (or property) received is less than the value of what is sold or exchanged. The gift tax is in addition to any other tax, such as federal income tax, paid or due on the transfer.

The exercise or release of a general power of appointment may be a gift by the individual possessing the power. General powers of appointment are those in which the holders of the power can appoint the property under the power to themselves, their creditors, their estates, or the creditors of their estates. To qualify as a power of appointment, it must be created by someone other than the holder of the power.

The gift tax also may apply to forgiving a debt, to making an interest-free or below market interest rate loan, to transferring the benefits of an insurance policy, to certain property settlements in divorce cases, and to giving up of some amount of annuity in exchange for the creation of a survivor annuity.

The gift tax applies to any digital asset, such as an electronic record, content, or data stored or existing in a binary format, in which the donor transfers a right to use or possess, including virtual currency or other digital representation of value that functions as a medium of exchange, a unit of account, and/or a store of value; domain names; images; multimedia; and textual content files.

Bonds that are exempt from federal income taxes are not exempt from federal gift taxes.

Sections 2701 and 2702 provide rules for determining whether certain transfers to a family member of interests in corporations, partnerships, and trusts are gifts. The rules of section 2704 determine whether the lapse of any voting or liquidation right is a gift.

Gifts to your spouse. You must file a gift tax return if you made any gift to your spouse of a terminable interest that does not meet the exception described in *Life estate with power of appointment*, later, or if your spouse is not a U.S. citizen and the total gifts you made to your spouse during the year exceed $152,000.

You also must file a gift tax return to make the qualified terminable interest property (QTIP) election described under *Line 12. Election Out of QTIP Treatment of Annuities*, later.

Except as described earlier, you do not have to file a gift tax return to report gifts to your spouse regardless of the amount of these gifts and regardless of whether the gifts are present or future interests.

Transfers Not Subject to the Gift Tax

Four types of transfers are not subject to the gift tax. These are:

- Transfers to political organizations,
- Transfers to certain exempt organizations,
- Payments that qualify for the educational exclusion, and
- Payments that qualify for the medical exclusion.

These transfers are not "gifts" as that term is used on Form 709 and its instructions. You need not file a Form 709 to report these transfers and should not list them on Schedule A of Form 709 if you do file Form 709.

Political organizations. The gift tax does not apply to a transfer to a political organization (defined in section 527(e)(1)) for the use of the organization.

Certain exempt organizations. The gift tax does not apply to a transfer to any civic league or other organization described in section 501(c)(4), any labor, agricultural, or horticultural organization described in section 501(c)(5), or any business league or other organization described in section 501(c)(6) for the use of such organization, provided that such organization is exempt from tax under section 501(a).

Educational exclusion. The gift tax does not apply to an amount you paid on behalf of an individual to a qualifying domestic or foreign educational organization as tuition for the education or training of the individual. A qualifying educational organization is one that normally maintains a regular faculty and curriculum and normally has a regularly enrolled body of pupils or students in attendance at the place where its educational activities are regularly carried on. See section 170(b)(1)(A)(ii) and its regulations.

The payment must be made directly to the qualifying educational organization and it must be for tuition. No educational exclusion is allowed for amounts paid for books, supplies, room and board, or other similar expenses that are not direct tuition costs. To the extent that the payment to the educational organization was for something other than tuition, it is a gift to the individual for whose benefit it was made, and may be offset by the annual exclusion if it is otherwise available.

Contributions to a qualified tuition program (QTP) on behalf of a designated beneficiary do not qualify for the educational exclusion. See *Line B—Qualified Tuition Programs (529 Plans or Programs)* in the instructions for Schedule A, later.

Medical exclusion. The gift tax does not apply to an amount you paid on behalf of an individual to a person or institution that provided medical care for the individual. The payment must be to the care provider. The medical care must meet the requirements of section 213(d) (definition of medical care for income tax deduction purposes). Medical care includes expenses incurred for the diagnosis, cure, mitigation, treatment, or prevention of disease, or for the purpose of affecting any structure or function of the body, or for transportation primarily for and essential to medical care. Medical care also includes amounts paid for medical insurance on behalf of any individual.

The medical exclusion does not apply to amounts paid for medical care that are reimbursed by the donee's insurance. If payment for a medical expense is reimbursed by the donee's insurance company, your payment for that expense, to the extent of the reimbursed amount, is not eligible for the medical exclusion and you are considered to have made a gift to the donee of the reimbursed amount.

To the extent that the payment was for something other than medical care, it is a gift to the individual on whose behalf the payment was made and may be offset by the annual exclusion if it is otherwise available.

The medical and educational exclusions are allowed without regard to the relationship between you and the donee. For examples illustrating these exclusions, see Regulations section 25.2503-6(c).

Qualified disclaimers. A donee's refusal to accept a gift is called a *disclaimer*. If a person makes a qualified disclaimer of any interest in property, the property will be treated as if it had never been transferred to that person. Accordingly, the disclaimant is not regarded as making a gift to the person who receives the property because of the qualified disclaimer.

Requirements. To be a qualified disclaimer, a refusal to accept an interest in property must meet the following conditions.

1. The refusal must be in writing.

2. The refusal must be received by the donor, the legal representative of the donor, the holder of the legal title to the property disclaimed, or the person in possession of the property within 9 months after the later of:

a. The day the transfer creating the interest is made, or

b. The day the disclaimant reaches age 21.

3. The disclaimant must not have accepted the interest or any of its benefits.

4. As a result of the refusal, the interest must pass without any direction from the disclaimant to either:

a. The spouse of the decedent, or

b. A person other than the disclaimant.

5. The refusal must be irrevocable and unqualified.

The 9-month period for making the disclaimer generally is determined separately for each taxable transfer. For gifts, the period begins on the date the transfer is a completed transfer for gift tax purposes.

Annual Exclusion

The first $15,000 of gifts of present interest to each donee during the calendar year is subtracted from total gifts in figuring the amount of taxable gifts. For a gift in trust, each beneficiary of the trust is treated as a separate donee for purposes of the annual exclusion.

All of the gifts made during the calendar year to a donee are fully excluded under the annual exclusion if they are all gifts of present interest and they total $15,000 or less.

Note. For gifts made to spouses who are not U.S. citizens, the annual exclusion has been increased to $152,000, provided the additional (above the $15,000 annual exclusion) $137,000 gift would otherwise qualify for the gift tax marital deduction (as described in the Schedule A, Part 4, line 4, instructions, later).

Note. Only the annual exclusion applies to gifts made to a nonresident not a citizen of the United States. Deductions and credits are not considered in determining gift tax liability for such transfers.

A gift of a future interest cannot be excluded under the annual exclusion.

A gift is considered a present interest if the donee has all immediate rights to the use, possession, and enjoyment of the property or income from the property.

A gift is considered a future interest if the donee's rights to the use, possession, and enjoyment of the property or income from the property will not begin until some future date. Future interests include reversions, remainders, and other similar interests or estates.

A contribution to a QTP on behalf of a designated beneficiary is considered a gift of a present interest.

A gift to a minor is considered a present interest if all of the following conditions are met.

1. Both the property and its income may be expended by, or for the benefit of, the minor before the minor reaches age 21.

2. All remaining property and its income must pass to the minor on the minor's 21st birthday.

3. If the minor dies before the age of 21, the property and its income will be payable either to the minor's estate or to whomever the minor may appoint under a general power of appointment.

The gift of a present interest to more than one donee as joint tenants qualifies for the annual exclusion for each donee.

Nonresidents not Citizens of the United States

Nonresidents not citizens of the United States are subject to gift and GST taxes for gifts of tangible property situated in the United States. A person is considered a *nonresident not a citizen of the United States* if he or she, at the time the gift is made, (1) was not a citizen of the United States and did not reside there, or (2) was domiciled in a U.S. possession and acquired citizenship solely by reason of birth or residence in the possession. Under certain circumstances, they also are subject to gift and GST taxes for gifts of intangible property. See section 2501(a).

If you are a nonresident not a citizen of the United States who made a gift subject to gift tax, you must file a gift tax return when any of the following apply.

- You gave any gifts of future interests.
- Your gifts of present interests to any donee other than your spouse total more than $15,000.
- Your outright gifts to your spouse who is not a U.S. citizen total more than $152,000.

Transfers Subject to the GST Tax

You must report on Form 709 the GST tax imposed on inter vivos direct skips. An *inter vivos direct skip* is a transfer made during the donor's lifetime that is:

- Subject to the gift tax,
- Of an interest in property, and

• Made to a skip person. (See *Gifts Subject to Both Gift and GST Taxes*, later.)

A transfer is subject to the gift tax if it is required to be reported on Schedule A of Form 709 under the rules contained in the gift tax portions of these instructions, including the split gift rules. Therefore, transfers made to political organizations, transfers made to certain exempt organizations, transfers that qualify for the medical or educational exclusions, transfers that are fully excluded under the annual exclusion, and most transfers made to your spouse are not subject to the GST tax.

Transfers subject to the GST tax are described in further detail in the instructions.

CAUTION *Certain transfers, particularly transfers to a trust, that are not subject to gift tax and are therefore not subject to the GST tax on Form 709 may be subject to the GST tax at a later date. This is true even if the transfer is less than the $15,000 annual exclusion. In this instance, you may want to apply a GST exemption amount to the transfer on this return or on a Notice of Allocation. For more information, see* Schedule D, Part 2—GST Exemption Reconciliation *and* Schedule A, Part 3—Indirect Skips*, later.*

Transfers Subject to an Estate Tax Inclusion Period (ETIP)

Certain transfers that are direct skips receive special treatment. If the transferred property would have been includible in the donor's estate if the donor had died immediately after the transfer (for a reason other than the donor having died within 3 years of making the gift), the direct skip will be treated as having been made at the end of the ETIP rather than at the time of the actual transfer.

For example, if A transferred her house to her granddaughter, B, but retained the right to live in the house until her death (a retained life estate), the value of the house would be includible in A's estate if she died while still holding the life estate. In this case, the transfer to B is a completed gift (it is a transfer of a future interest) and must be reported on Part 1 of Schedule A. The GST portion of the transfer would not be reported until A died or otherwise gave up her life estate in the house.

Report the gift portion of such a transfer on Schedule A, Part 1, at the time of the actual transfer. Report the GST portion on Schedule A, Part 2, but only at the close of the ETIP. Use Form 709 only to report those transfers where the ETIP closed due to something other than the donor's death. (If the ETIP closed as the result of the donor's death, report the transfer on Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return.)

If you are filing this Form 709 solely to report the GST portion of transfers subject to an ETIP, complete the form as you normally would with the following exceptions.

1. Write “ETIP” at the top of page 1.
2. Complete only lines 1 through 6, 8, and 9 of *Part 1—General Information*.
3. Complete Schedule A, Part 2, as explained in the instructions for that schedule.
4. Complete Schedule D. Complete column B of Schedule D, Part 1, as explained in the instructions for that schedule.
5. Complete only lines 10 and 11 of Schedule A, Part 4.
6. Complete *Part 2—Tax Computation*.

Section 2701 Elections

The special valuation rules of section 2701 contain three elections that you can make only with Form 709.

1. A transferor may elect to treat a qualified payment right he or she holds (and all other rights of the same class) as other than a qualified payment right.
2. A person may elect to treat a distribution right held by that person in a controlled entity as a qualified payment right.
3. An interest holder may elect to treat as a taxable event the payment of a qualified payment that occurs more than 4 years after its due date.

The elections described in (1) and (2) must be made on the Form 709 that is filed by the transferor to report the transfer that is being valued under section 2701. The elections are made by attaching a statement to Form 709. For information on what must be in the statement and for definitions and other details on the elections, see section 2701 and Regulations section 25.2701-2(c).

The election described in (3) may be made by attaching a statement to the Form 709 filed by the recipient of the qualified payment for the year the payment is received. If the election is made on a timely filed return, the taxable event is deemed to occur on the date the qualified payment is received. If it is made on a late filed return, the taxable event is deemed to occur on the first day of the month immediately preceding the month in which the return is filed. For information on what must be in the statement and for definitions and other details on this election, see section 2701 and Regulations section 25.2701-4(d).

All of the elections may be revoked, but only with the consent of the IRS.

When To File

Form 709 is an annual return.

Generally, you must file Form 709 no earlier than January 1, but not later than April 15, of the year after the gift was made. However, in instances when April 15 falls on a Saturday, Sunday, or legal holiday, Form 709 will be due on the next business day. See section 7503.

If the donor died during 2018, the executor must file the donor's 2018 Form 709 not later than the earlier of:
• The due date (with extensions) for filing the donor's estate tax return; or
• April 15, 2019, or the extended due date granted for filing the donor's gift tax return.

Extension of Time To File

There are two methods of extending the time to file the gift tax return. Neither method extends the time to pay the gift or GST taxes. If you want an extension of time to pay the gift or GST taxes, you must request that separately. See Regulations section 25.6161-1.

By extending the time to file your income tax return. Any extension of time granted for filing your calendar year 2018 federal income tax return also will automatically extend the time to file your 2018 federal gift tax return. Income tax extensions are made by using Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return, or Form 2350, Application for Extension of Time To File U.S. Income Tax Return. You may only use these forms to extend the time for filing your gift tax return if you also are requesting an extension of time to file your income tax return.

By filing Form 8892. If you do not request an extension for your income tax return, use Form 8892, Application for Automatic Extension of Time To File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax, to request an automatic 6-month extension of time to file your federal gift tax return. In addition to containing an extension request, Form 8892 also serves as a payment voucher (Form 8892-V) for a balance due on federal gift taxes for which you are extending the time to file. For more information, see Form 8892.

Private Delivery Services (PDSs)

Filers can use certain PDSs designated by the IRS to meet the “timely mailing as timely filing” rule for tax returns. Go to *IRS.gov/PDS* for the current list of designated services.

The PDS can tell you how to get written proof of the mailing date.

For the IRS mailing address to use if you're using a PDS, go to *IRS.gov/PDSstreetAddresses*.

CAUTION *PDSs can't deliver items to P.O. boxes. You must use the U.S. Postal Service to mail any item to an IRS P.O. box address.*

Where To File

Prior to January 1, 2019, file Form 709 at the following address.

Department of the Treasury
Internal Revenue Service Center
Cincinnati, OH 45999

If submitting Form 709 by a PDS, mail to:

Internal Revenue Service
201 West Rivercenter Boulevard
Covington, KY 41011

Effective January 1, 2019, file Form 709 at the following address.

Department of the Treasury
Internal Revenue Service Center
Kansas City, MO 64999

If submitting Form 709 by a PDS, mail to:

Internal Revenue Service
333 W. Pershing Road
Kansas City, MO 64108

TIP *See the Caution under* Lines 12–18. Split Gifts*, later, before you mail the return.*

Adequate Disclosure

CAUTION *To begin the running of the statute of limitations for a gift, the gift must be adequately disclosed on Form 709 (or an attached statement) filed for the year of the gift.*

In general, a gift will be considered adequately disclosed if the return or statement includes the following.

- A full and complete Form 709.
- A description of the transferred property and any consideration received by the donor.
- The identity of, and relationship between, the donor and each donee.
- If the property is transferred in trust, the trust's employer identification number (EIN) and a brief description of the terms of the trust (or a copy of the trust instrument in lieu of the description).
- Either a qualified appraisal or a detailed description of the method used to determine the fair market value of the gift.

See Regulations section 301.6501(c)-1(e) and (f) for details, including what constitutes a qualified appraisal, the information required if no appraisal is provided, and the information required for transfers under sections 2701 and 2702.

Penalties

Late filing and late payment. Section 6651 imposes penalties for both late filing and late payment, unless there is reasonable cause for the delay.

Reasonable cause determinations. If you receive a notice about penalties after you file Form 709, send an explanation and we will determine if you meet reasonable-cause criteria. Do **not** attach an explanation when you file Form 709.

There also are penalties for willful failure to file a return on time, willful attempt to evade or defeat payment of tax, and valuation understatements that cause an underpayment of the tax. A substantial valuation understatement occurs when the reported value of property entered on Form 709 is 65% or less of the actual value of the property. A gross valuation understatement occurs when the reported value listed on the Form 709 is 40% or less of the actual value of the property.

Return preparer. Penalties also may be applied to tax return preparers, including gift tax return preparers.

The Small Business and Work Opportunity Tax Act of 2007 extended section 6694 income tax return preparer penalties to all tax return preparers, including gift tax return preparers. Now, gift tax return preparers who prepare any return or claim for refund with an understatement of tax liability due to willful or reckless conduct can be penalized $5,000 or 75% of the fee received (or fee to be received), whichever is greater, for each return. See section 6694, its regulations, and Ann. 2009-15, 2009-11 I.R.B. 687, available at *IRS.gov/pub/irs-irbs/irb09-11.pdf*, for more information.

Joint Tenancy

If you buy property with your own funds and the title to the property is held by you and a donee as joint tenants with right of survivorship and if either you or the donee may give up those rights by severing your interest, you have made a gift to the donee in the amount of half the value of the property.

If you create a joint bank account for yourself and a donee (or a similar kind of ownership by which you can get back the entire fund without the donee's consent), you have made a gift to the donee when the donee draws on the account for his or her own benefit. The amount of the gift is the amount that the donee took out without any obligation to repay you.

If you buy a U.S. savings bond registered as payable to yourself or a donee, there is a gift to the donee when he or she cashes the bond without any obligation to account to you.

Transfer of Certain Life Estates Received From Spouse

If you received a qualified terminable interest (see *Line 12. Election Out of QTIP Treatment of Annuities* in the instructions for Schedule A, later) from your spouse for which a marital deduction was elected on your spouse's estate or gift tax return, you will be subject to the gift tax (and GST tax, if applicable) if you dispose of all or part of your life income interest (by gift, sale, or otherwise).

Generally, the entire value of the property transferred will be treated as a taxable gift less:

1. The amount you received (if any) for the life income interest; and
2. The amount (if any) determined after the application of section 2702, valuing certain retained interests at zero, for the life income interest you retained after the transfer.

That portion of the property's value that is attributable to the remainder interest is a gift of a future interest for which no annual exclusion is allowed. To the extent that you transferred the life income interest without receiving any value in return, the transfer is a gift, and you may claim an annual exclusion, treating the person to whom you transferred the interest as the donee for purposes of figuring the annual exclusion.

Specific Instructions

Part 1—General Information

Lines 4 and 6. Address. Enter your current mailing address.

Foreign address. If your address is outside of the United States or its possessions or territories, enter the information as follows: city, province or state, and name of country. Follow the country's practice for entering the postal code. Do not abbreviate the country name.

Line 5. Legal residence (domicile). In general, your legal residence (also known as your domicile) is acquired by living in a place, for even a brief period of time, with no definite present intention of moving from that place.

Enter the state of the United States (including the District of Columbia) or a foreign country in which you legally reside or are domiciled at the time of the gift.

Line 7. Citizenship. Enter your citizenship.

The term “citizen of the United States” includes a person who, at the time of making the gift:

- Was domiciled in a possession of the United States,
- Was a U.S. citizen, and
- Became a U.S. citizen for a reason other than being a citizen of a U.S. possession or being born or residing in a possession.

Note. A taxpayer is considered a resident of the United States if one of two tests are passed. See *IRS.gov/Substantial-Presence-Test* for more information. Generally, a resident of the United States is subject to the same tax rules as citizens.

A *nonresident not a citizen of the United States* includes a person who, at the time of making the gift:

- Was domiciled in a possession of the United States,
- Was a U.S. citizen, and
- Became a U.S. citizen only because he or she was a citizen of a possession or was born or resided in a possession.

Lines 12–18. Split Gifts

CAUTION *A married couple may not file a joint gift tax return. However, if after reading the instructions below, you and your spouse agree to split your gifts, you should file both of your individual gift tax returns together (that is, in the same envelope) to help the IRS process the returns and to avoid correspondence from the IRS.*

If you and your spouse both consent, all gifts (including gifts of property held with your spouse as joint tenants or tenants by the entirety) either of you make to third parties during the calendar year will be considered as made one-half by each of you if all of the following apply.

- You and your spouse were married to one another at the time of the gift.
- If divorced or widowed after the gift, you did not remarry during the rest of the calendar year.
- Neither of you was a nonresident not a citizen of the United States at the time of the gift.
- You did not give your spouse a general power of appointment over the property interest transferred.

If you transferred property partly to your spouse and partly to third parties, you can only split the gifts if the interest transferred to the third parties is ascertainable at the time of the gift.

The consent is effective for the entire calendar year; therefore, all gifts made by both you and your spouse to third parties during the calendar year (while you were married) must be split.

If the consent is effective, the liability for the entire gift tax of each spouse is joint and several.

If you meet these requirements and want your gifts to be considered made one-half by you and one-half by your spouse, check the “Yes” box on line 12, complete lines 13 through 17, and have your spouse sign the consent on line 18.

If you are not married or do not wish to split gifts, skip to line 19.

Line 15. If you were married to one another for all of 2018, check the “Yes” box and skip to line 17. If you were married for only part of the year, check the “No” box and go to line 16. If you were divorced or widowed after you made the gift, you cannot elect to split gifts if you remarried before the end of 2018.

Line 16. Check the box that explains the change in your marital status during the year and give the date you were married, divorced, or widowed.

Consent of Spouse

Your spouse must sign the consent for your gift-splitting election to be valid. The consent may generally be signed at any time after the end of the calendar year. However, there are two exceptions.

1. The consent may not be signed after April 15 following the end of the year in which the gift was made. But if neither you nor your spouse has filed a gift tax return for the year on or before that date, the consent must be made on the first gift tax return for the year filed by either of you.

2. The consent may not be signed after a notice of deficiency for the gift tax for the year has been sent to either you or your spouse.

The executor for a deceased spouse or the guardian for a legally incompetent spouse may sign the consent.

When the Consenting Spouse Also Must File a Gift Tax Return

In general, if you and your spouse elect gift splitting, then both spouses must file his or her own individual gift tax return.

However, only one spouse must file a return if the requirements of either of the exceptions below are met. In these exceptions, *gifts* means transfers (or parts of transfers) that do not qualify for the political organization, educational, or medical exclusions.

Exception 1. During the calendar year:

- Only one spouse made any gifts,
- The total value of these gifts to each third-party donee does not exceed $30,000, and
- All of the gifts were of present interests.

Exception 2. During the calendar year:

- Only one spouse (the donor spouse) made gifts of more than $15,000 but not more than $30,000 to any third-party donee,
- The only gifts made by the other spouse (the consenting spouse) were gifts of not more than $15,000 to third-party donees other than those to whom the donor spouse made gifts, and
- All of the gifts by both spouses were of present interests.

If either of the above exceptions is met, only the donor spouse must file a return and the consenting spouse signifies consent on that return.

Specific instructions for *Part 2—Tax Computation* are discussed later. Because you must complete Schedules A, B, C, and D to fill out Part 2, you will find instructions for these schedules later.

Line 19. Application of DSUE Amount

If the donor is a citizen or resident of the United States and his or her spouse died after December 31, 2010, the donor may be eligible to use the deceased spouse's unused exclusion (DSUE) amount. The executor of his or her spouse's estate must have elected on Form 706 to allow use of the unused exclusion amount. See the instructions for Form 706, *Part 6—Portability of Deceased Spousal Unused Exclusion*. If the executor of the estate made this election, attach the first four pages of Form 706 filed by the estate. Include any attachments related to DSUE that were filed with Form 706 and calculations of any adjustments to the DSUE amount like audit reports or previously filed Forms 709. See also section 2010(c)(4) and related regulations.

Using the checkboxes provided, indicate whether the donor is applying or has applied a DSUE amount from a predeceased spouse to gifts reported on this or a previous Form 709. If so, complete Schedule C before going to *Part 2—Tax Computation*.

Schedule A. Computation of Taxable Gifts

Do not enter on Schedule A any gift or part of a gift that qualifies for the political organization, educational, or medical exclusions. In the instructions below, *gifts* means transfers (or parts of transfers) that do not qualify for the political organization, educational, or medical exclusions.

Line A. Valuation Discounts

If the value of any gift you report in either Part 1, Part 2, or Part 3 of Schedule A includes a discount for lack of marketability, a minority interest, a fractional interest in real estate, blockage, market absorption, or for any other reason, answer “Yes” to the question at the top of Schedule A. Also attach an explanation giving the basis for the claimed discounts and showing the amount of the discounts taken.

Line B. Qualified Tuition Programs (529 Plans or Programs)

If in 2018, you contributed more than $15,000 to a qualified tuition plan (QTP) on behalf of any one person, you may elect to treat up to $75,000 of the contribution for that person as if you had made it ratably over a 5-year period. The election allows you to apply the annual exclusion to a portion of the contribution in each of the 5 years, beginning in 2018. You can make this election for as many separate people as you made QTP contributions.

You can only apply the election to a maximum of $75,000. You must report all of your 2018 QTP contributions for any single person that exceed $75,000 (in addition to any other gifts you made to that person).

For each of the 5 years, you report in Part 1 of Schedule A one-fifth (20%) of the amount for which you made the election. In column E of Part 1 (Schedule A), list the date of the gift as the calendar year for which you are deemed to have made the gift (that is, the year of the current Form 709 you are filing). Do not list the actual year of contribution for subsequent years.

However, if in any of the last 4 years of the election, you did not make any other gifts that would require you to file a Form 709, you do not need to file Form 709 to report that year's portion of the election amount.

Example. In 2018, D contributed $100,000 to a QTP for the benefit of her son. D elects to treat $75,000 of this contribution as having been made ratably over a 5-year period. Accordingly, for 2018, D reports the following.

$25,000	(the amount of the contribution that exceeded $75,000)
+ $15,000	(the 1/5 portion from the election)
$40,000	the total gift to her son listed in Part 1 of Schedule A for 2018

In 2019, D gives a gift of $20,000 cash to her niece and no other gifts. On her 2019 Form 709, D reports in Part 1 of Schedule A the $20,000 gift to her niece and a $15,000 gift to her son (the one-fifth portion of the 2018 gift that is treated as made in 2019). In column E of Part 1 (Schedule A), D lists “2019” as the date of the gift.

D makes no gifts in 2020, 2021, or 2022. She is not required to file Form 709 in any of those years to report the one-fifth portion of the QTP gift because she is not otherwise required to file Form 709.

You make the election by checking the box on line B at the top of Schedule A. The election must be made for the calendar year in which the contribution is made. Also attach an explanation that includes the following.

- The total amount contributed per individual beneficiary.
- The amount for which the election is being made.
- The name of the individual for whom the contribution was made.

If you are electing gift splitting, apply the gift-splitting rules before applying the QTP rules. Each spouse would then decide individually whether to make this QTP election.

CAUTION *Contributions to QTPs do not qualify for the education exclusion.*

How To Complete Parts 1, 2, and 3

After you determine which gifts you made in 2018 that are subject to the gift tax, list them on Schedule A. You must divide these gifts between:

1. Part 1—those subject only to the gift tax (gifts made to nonskip persons—see *Part 1—Gifts Subject Only to Gift Tax*),
2. Part 2—those subject to both the gift and GST taxes (gifts made to skip persons—see *Gifts Subject to Both Gift and GST Taxes* and *Part 2—Direct Skips*), and
3. Part 3—those subject only to the gift tax at this time but which could later be subject to GST tax (gifts that are indirect skips—see *Part 3—Indirect Skips*).

If you need more space, attach a separate sheet using the same format as Schedule A.

TIP *Use the following guidelines when entering gifts on Schedule A.*

- *Enter a gift only once—in Part 1, Part 2, or Part 3.*
- *Do not enter any gift or part of a gift that qualified for the political organization, educational, or medical exclusion.*
- *Enter gifts under “Gifts made by spouse” only if you have chosen to split gifts with your spouse and your spouse is required to file a Form 709 (see* Part 1—General Information, Lines 12–18. Split Gifts*).*
- *In column F, enter the full value of the gift (including those made by your spouse, if applicable). If you have chosen to split gifts, that one-half portion of the gift is entered in column G.*

Gifts to Donees Other Than Your Spouse

You must always enter all gifts of future interests that you made during the calendar year regardless of their value.

Gift splitting not elected. If the total gifts of present interests to any donee are more than $15,000 in the calendar year, then you must enter all such gifts that you made during the year to or on behalf of that donee, including those gifts that will be excluded under the annual exclusion. If the total is $15,000 or less, you need not enter on Schedule A any gifts (except gifts of future interests) that you made to that donee. Enter these gifts in the top half of Part 1, 2, or 3, as applicable.

Gift splitting elected. Enter on Schedule A the entire value of every gift you made during the calendar year while you were married, even if the gift's value will be less than $15,000 after it is split in column G of Part 1, 2, or 3 of Schedule A.

Gifts made by spouse. If you elected gift splitting and your spouse made gifts, list those gifts in the space below “Gifts made by spouse” in Part 1, 2, or 3. Report these gifts in the same way you report gifts you made.

Gifts to Your Spouse

Except for the gifts described below, you do not need to enter any of your gifts to your spouse on Schedule A.

Terminable interests. Terminable interests are defined in the instructions for Part 4, line 4. If all the terminable interests you gave to your spouse qualify as life estates with power of appointment (defined under *Life estate with power of appointment*, later), you do not need to enter any of them on Schedule A.

However, if you gave your spouse any terminable interest that does not qualify as a life estate with power of appointment, you must report on Schedule A all gifts of terminable interests you made to your spouse during the year.

Charitable remainder trusts. If you make a gift to a charitable remainder trust and your spouse is the only noncharitable beneficiary (other than yourself), the interest you gave to your spouse is not considered a terminable interest and, therefore, should not be shown on Schedule A. See section 2523(g)(1). For definitions and rules concerning these trusts, see section 2056(b)(8)(B).

Future interest. Generally, you should not report a gift of a future interest to your spouse unless the future interest also is a terminable interest that is required to be reported as described earlier. However, if you gave a gift of a future interest to your spouse and you are required to report the gift on Form 709 because you gave the present interest to a donee other than your spouse, then you should enter the entire gift, including the future interest given to your spouse, on Schedule A. You should use the rules under *Gifts Subject to Both Gift and GST Taxes*, later, to determine whether to enter the gift on Schedule A, Part 1, 2, or 3.

Spouses who are not U.S. citizens. If your spouse is not a U.S. citizen and you gave him or her a gift of a future interest, you must report on Schedule A all gifts to your spouse for the year. If all gifts to your spouse were present interests, do not report on Schedule A any gifts to your spouse if the total of such gifts for the year does not exceed $152,000 and all gifts in excess of $15,000 would qualify for a marital deduction if your spouse were a U.S. citizen (see the instructions for Schedule A, Part 4, line 4). If the gifts exceed $152,000, you must report all of the gifts even though some may be excluded.

Gifts Subject to Both Gift and GST Taxes

Definitions

Direct skip. The GST tax you must report on Form 709 is that imposed only on inter vivos direct skips. An *inter vivos direct skip* is a transfer that is:

- Subject to the gift tax,
- Of an interest in property, and
- Made to a skip person.

All three requirements must be met before the gift is subject to the GST tax.

A gift is "subject to the gift tax" if you are required to list it on Schedule A of Form 709. However, if you make a nontaxable gift (which is a direct skip) to a trust for the benefit of an individual, this transfer is subject to the GST tax unless:

1. During the lifetime of the beneficiary, no corpus or income may be distributed to anyone other than the beneficiary; and

2. If the beneficiary dies before the termination of the trust, the assets of the trust will be included in the gross estate of the beneficiary.

Note. If the property transferred in the direct skip would have been includible in the donor's estate if the donor died immediately after the transfer, see *Transfers Subject to an Estate Tax Inclusion Period (ETIP)*, earlier.

To determine if a gift "is of an interest in property" and "is made to a skip person," you must first determine if the donee is a "natural person" or a "trust," as defined below.

Trust. For purposes of the GST tax, a *trust* includes not only an ordinary trust, but also any other arrangement (other than an estate) that although not explicitly a trust, has substantially the same effect as a trust. For example, a *trust* includes life estates with remainders, terms for years, and insurance and annuity contracts. A transfer of property that is conditional on the occurrence of an event is a transfer in trust.

Interest in property. If a gift is made to a *natural person,* it is always considered a gift of an interest in property for purposes of the GST tax.

If a gift is made to a trust, a natural person will have an *interest in the property* transferred to the trust if that person either has a present right to receive income or corpus from the trust (such as an income interest for life) or is a permissible current recipient of income or corpus from the trust (for example, possesses a general power of appointment).

Skip person. A donee, who is a natural person, is a *skip person* if that donee is assigned to a generation that is two or more generations below the generation assignment of the donor. See *Determining the Generation of a Donee* below.

A donee that is a trust is a skip person if all the interests in the property transferred to the trust (as defined above) are held by skip persons.

A trust also will be a skip person if there are no interests in the property transferred to the trust held by any person, and future distributions or terminations from the trust can be made only to skip persons.

Nonskip person. A *nonskip person* is any donee who is not a skip person.

Determining the Generation of a Donee

Generally, a generation is determined along family lines as follows.

1. If the donee is a lineal descendant of a grandparent of the donor (for example, the donor's cousin, niece, nephew, etc.), the number of generations between the donor and the descendant (donee) is determined by subtracting the number of generations between the grandparent and the donor from the number of generations between the grandparent and the descendant (donee).

2. If the donee is a lineal descendant of a grandparent of a spouse (or former spouse) of the donor, the number of generations between the donor and the descendant (donee) is determined by subtracting the number of generations between the grandparent and the spouse (or former spouse) from the number of generations between the grandparent and the descendant (donee).

3. A person who at any time was married to a person described in (1) or (2) above is assigned to the generation of that person. A person who at any time was married to the donor is assigned to the donor's generation.

4. A relationship by adoption or half-blood is treated as a relationship by whole-blood.

A person who is not assigned to a generation according to (1), (2), (3), or (4) above is assigned to a generation based on his or her birth date as follows.

1. A person who was born not more than 12 1/2 years after the donor is in the donor's generation.

2. A person born more than 12 1/2 years, but not more than 37 1/2 years, after the donor is in the first generation younger than the donor.

3. Similar rules apply for a new generation every 25 years.

If more than one of the rules for assigning generations applies to a donee, that donee is generally assigned to the youngest of the generations that would apply.

If an estate, trust, partnership, corporation, or other entity (other than governmental entities and certain charitable organizations and trusts, described in sections 511(a)(2) and 511(b)(2), as discussed later) is a donee, then each person who indirectly receives the gift through the entity is treated as a donee and is assigned to a generation as explained in the above rules.

Charitable organizations and trusts, described in sections 511(a)(2) and 511(b)(2), and governmental entities are assigned to the donor's generation. Transfers to such organizations are therefore not subject to the GST tax. These gifts should always be listed in Part 1 of Schedule A.

Generation assignments under Notice 2017-15. Notice 2017-15 permits a taxpayer to reduce his or her GST exemption allocated to transfers that were made to or for the benefit of transferees whose generation assignment is changed as a result of the *Windsor* decision. A taxpayer's GST exemption that was allocated to a transfer to a transferee (or a trust for the sole benefit of such transferee) whose generation assignment should have been determined on the basis of a familial relationship as the result of the *Windsor* decision, and are nonskip persons, is deemed void. For additional information, go to *IRS.gov/Estate-and-Gift-Taxes*.

Charitable Remainder Trusts

Gifts in the form of charitable remainder annuity trusts, charitable remainder unitrusts, and pooled income funds are not transfers to skip persons and therefore are not direct skips. You should always list these gifts in Part 1 of Schedule A even if all of the life beneficiaries are skip persons.

Generation Assignment Where Intervening Parent Is Deceased

If you made a gift to your grandchild and at the time you made the gift, the grandchild's parent (who is your or your spouse's or your former spouse's child) is deceased, then for purposes of generation assignment, your grandchild is considered to be your child rather than your grandchild. Your grandchild's children will be treated as your grandchildren rather than your great-grandchildren.

This rule also is applied to your lineal descendants below the level of grandchild. For example, if your grandchild is deceased, your great-grandchildren who are lineal descendants of the deceased grandchild are considered your grandchildren for purposes of the GST tax.

This special rule also may apply in other cases of the death of a parent of the transferee. If property is transferred to a descendant of a parent of the transferor and that person's parent (who is a lineal descendant of the parent of the transferor) is deceased at the time the transfer is subject to gift or estate tax, then for purposes of generation assignment, the individual is treated as if he or she is a member of the generation that is one generation below the lower of:

- The transferor's generation, or
- The generation assignment of the youngest living ancestor of the individual who also is a descendant of the parent of the transferor.

The same rules apply to the generation assignment of any descendant of the individual.

This rule does not apply to a transfer to an individual who is not a lineal descendant of the transferor if the transferor at the time of the transfer has any living lineal descendants.

If any transfer of property to a trust would have been a direct skip except for this generation assignment rule, then the rule also applies to transfers from the trust attributable to such property.

Ninety-day rule. For assigning individuals to generations for purposes of the GST tax, any individual who dies no later than 90 days after a transfer occurring by reason of the death of the transferor is treated as having predeceased the transferor. The 90-day rule applies to transfers occurring on or after July 18, 2005. See Regulations section 26.2651-1(a)(2)(iii) for more information.

Examples

The GST rules can be illustrated by the following examples.

Example 1. You give your house to your daughter for her life with the remainder then passing to her children. This gift is made to a "trust" even though there is no explicit trust instrument. The interest in the property transferred (the present right to use the house) is transferred to a nonskip person (your daughter). Therefore, the trust is not a skip person because there is an interest in the transferred property that is held by a nonskip person, and the gift is not a direct skip. The transfer is an indirect skip, however, because on the death of the daughter, a termination of her interest in the trust will occur that may be subject to the GST tax. See the instructions for *Part 3—Indirect Skips*, later, for a discussion of how to allocate GST exemption to such a trust.

Example 2. You give $100,000 to your grandchild. This gift is a direct skip that is not made in trust. You should list it in Part 2 of Schedule A.

Example 3. You establish a trust that is required to accumulate income for 10 years and then pay its income to your grandchildren for their lives and upon their deaths distribute the corpus to their children. Because the trust has no current beneficiaries, there are no present interests in the property transferred to the trust. All of the persons to whom the trust can make future distributions (including distributions upon the termination of interests in property held in trust) are skip persons (that is, your grandchildren and great-grandchildren). Therefore, the trust itself is a skip person and you should list the gift in Part 2 of Schedule A.

Example 4. You establish a trust that pays all of its income to your grandchildren for 10 years. At the end of 10 years, the corpus is to be distributed to your children. Since for this purpose interests in trusts are defined only as present interests, all of the interests in this trust are held by skip persons (the children's interests are future interests). Therefore, the trust is a skip person and you should list the entire amount you transferred to the trust in Part 2 of Schedule A even though some of the trust's ultimate beneficiaries are nonskip persons.

Part 1—Gifts Subject Only to Gift Tax

List in Part 1 gifts subject only to the gift tax. Generally, all of the gifts you made to your spouse (that are required to be listed, as described earlier), to your children, and to charitable organizations are not subject to the GST tax and should, therefore, be listed only in Part 1.

Group the gifts in four categories.

- Gifts made to your spouse.
- Gifts made to third parties that are to be split with your spouse.
- Charitable gifts (if you are not splitting gifts with your spouse).
- Other gifts.

If a transfer results in gifts to two or more individuals (such as a life estate to one with remainder to the other), list the gift to each separately.

Number and describe all gifts (including charitable, public, and similar gifts) in the columns provided in Schedule A.

Column B

Describe each gift in enough detail so that the property can be easily identified, as explained below.

For real estate, give:

- A legal description of each parcel;
- The street number, name, and area if the property is located in a city; and
- A short statement of any improvements made to the property.

For bonds, give:

- The number of bonds transferred;
- The principal amount of each bond;
- Name of obligor;
- Date of maturity;
- Rate of interest;
- Date or dates when interest is payable;
- Series number, if there is more than one issue;
- Exchanges where listed or, if unlisted, give the location of the principal business office of the corporation; and
- CUSIP number. The CUSIP number is a nine-digit number assigned by the American Banking Association to traded securities.

For stocks:

- Give number of shares;
- State whether common or preferred;
- If preferred, give the issue, par value, quotation at which returned, and exact name of corporation;
- If unlisted on a principal exchange, give the location of the principal business office of the corporation, the state in which incorporated, and the date of incorporation;
- If listed, give principal exchange; and
- CUSIP number.

For interests in property based on the length of a person's life, give the date of birth of the person. If you transfer any interest in a closely held entity, provide the EIN of the entity.

For life insurance policies, give the name of the insurer and the policy number.

Clearly identify in the description column which gifts create the opening of an ETIP as described under *Transfers Subject to an Estate Tax Inclusion Period (ETIP)*, earlier. Describe the interest that is creating the ETIP. An allocation of GST exemption to property subject to an ETIP that is made prior to the close of the ETIP becomes effective no earlier than the date of the close of the ETIP. See *Schedule D. Computation of GST Tax,* later.

Column D. Donor's Adjusted Basis of Gifts

Show the basis you would use for income tax purposes if the gift were sold or exchanged. Generally, this means cost plus improvements, less applicable depreciation, amortization, and depletion.

For more information on adjusted basis, see Pub. 551, Basis of Assets.

Columns E and F. Date and Value of Gift

The value of a gift is the fair market value (FMV) of the property on the date the gift is made (valuation date). The FMV is the price at which the property would change hands between a willing buyer and a willing seller, when neither is forced to buy or to sell, and when both have reasonable knowledge of all relevant facts. FMV may not be determined by a forced sale price, nor by the sale price of the item in a market other than that in which the item is most commonly sold to the public. The location of the item must be taken into account whenever appropriate.

The FMV of a stock or bond (whether listed or unlisted) is the mean between the highest and lowest selling prices quoted on the valuation date. If only the closing selling prices are available, then the FMV is the mean between the quoted closing selling price on the valuation date and on the trading day before the valuation date. If there were no sales on the valuation date, figure the FMV as follows.

1. Find the mean between the highest and lowest selling prices on the nearest trading date before and the nearest trading date after the valuation date. Both trading dates must be reasonably close to the valuation date.
2. Prorate the difference between mean prices to the valuation date.
3. Add or subtract (whichever applies) the prorated part of the difference to or from the mean price figured for the nearest trading date before the actual valuation date.

If no actual sales were made reasonably close to the valuation date, make the same computation using the mean between the bona fide bid and the asked prices instead of sales prices. If actual sales prices or bona fide bid and asked prices are available within a reasonable period of time before the valuation date but not after the valuation date, or vice versa, use the mean between the highest and lowest sales prices or bid and asked prices as the FMV.

Stock of close corporations or inactive stock must be valued on the basis of net worth, earnings, earning and dividend capacity, and other relevant factors.

Generally, the best indication of the value of real property is the price paid for the property in an arm's-length transaction on or before the valuation date. If there has been no such transaction, use the comparable sales method. In comparing similar properties, consider differences in the date of the sale, and the size, condition, and location of the properties, and make all appropriate adjustments.

The value of all annuities, life estates, terms for years, remainders, or reversions is generally the present value on the date of the gift.

Sections 2701 and 2702 provide special valuation rules to determine the amount of the gift when a donor transfers an equity interest in a corporation or partnership (section 2701) or makes a gift in trust (section 2702). The rules only apply if, immediately after the transfer, the donor (or an applicable family member) holds an applicable retained interest in the corporation or partnership, or retains an interest in the trust. For details, see sections 2701 and 2702, and their regulations.

Column G. Split Gifts

Enter an amount in this column only if you have chosen to split gifts with your spouse.

Split Gifts—Gifts Made by Spouses

If you elected to split gifts with your spouse and your spouse has given a gift(s) that is being split with you, enter in this area of Part 1 information on the gift(s) made by your spouse. If only you made gifts and you are splitting them with your spouse, do not make an entry in this area.

Generally, if you elect to split your gifts, you must split all gifts made by you and your spouse to third-party donees. The only exception is if you gave your spouse a general power of appointment over a gift you made.

Supplemental Documents

To support the value of your gifts, you must provide information showing how it was determined.

For stock of close corporations or inactive stock, attach balance sheets, particularly the one nearest the date of the gift, and statements of net earnings or operating results and dividends paid for each of the 5 preceding years.

For each life insurance policy, attach Form 712, Life Insurance Statement.

Note for single premium or paid-up policies. In certain situations, for example, where the surrender value of the policy exceeds its replacement cost, the true economic value of the policy will be greater than the amount shown on line 59 of Form 712. In these situations, report the full economic value of the policy on Schedule A. See Rev. Rul. 78-137, 1978-1 C.B. 280, for details.

If the gift was made by means of a trust, attach a certified or verified copy of the trust instrument to the return on which you report your first transfer to the trust. However, to report subsequent transfers to the trust, you may attach a brief description of the terms of the trust or a copy of the trust instrument.

Also attach any appraisal used to determine the value of real estate or other property.

If you do not attach this information, Schedule A must include a full explanation of how value was determined.

Part 2—Direct Skips

List in Part 2 only those gifts that are currently subject to both the gift and GST taxes. You must list the gifts in Part 2 in the chronological order that you made them. Number, describe, and value the gifts as described in the instructions for Part 1.

If you made a transfer to a trust that was a direct skip, list the entire gift as one line entry in Part 2.

Column C. Section 2632(b) Election

If you elect under section 2632(b)(3) to not have the automatic allocation rules of section 2632(b) apply to a transfer, enter a check in column C next to the transfer. You also must attach a statement to Form 709 clearly describing the transaction and the extent to which the automatic allocation is not to apply. Reporting a direct skip on a timely filed Form 709 and paying the GST tax on the transfer will qualify as such a statement.

How to report generation-skipping transfers after the close of an ETIP. If you are reporting a generation-skipping transfer that was subject to an ETIP (provided the ETIP closed as a result of something other than the death of the transferor; see Form 706), and you also are reporting gifts made during the year, complete Schedule A as you normally would with the transfer subject to an ETIP listed on Schedule A, Part 2.

Column B. In addition to the information already requested, describe the interest that is closing the ETIP, explain what caused the interest to terminate, and list the year the gift portion of the transfer was reported and its item number on Schedule A that was originally filed to report the gift portion of the ETIP transfer.

Column E. Give the date the ETIP closed rather than the date of the initial gift.

Columns F, G, and H. Enter "N/A" in these columns.

The value is entered only in column B of Part 1, Schedule D. See *Column B*, earlier.

Split Gifts—Gifts Made by Spouse

See this heading under Part 1.

Part 3—Indirect Skips

Some gifts made to trusts are subject only to gift tax at the time of the transfer but later may be subject to GST tax. The GST tax could apply either at the time of a distribution from the trust, at the termination of the trust, or both.

Section 2632(c) defines indirect skips and applies special rules to the allocation of GST exemption to such transfers. In general, an indirect skip is a transfer of property that is subject to gift tax (other than a direct skip) and is made to a GST trust. A GST trust is a trust that could have a generation-skipping transfer with respect to the transferor, unless the trust provides for certain distributions of trust corpus to nonskip persons. See section 2632(c)(3)(B) for details.

List in Part 3 those gifts that are indirect skips as defined in section 2632(c) or may later be subject to GST tax. This includes indirect skips for which election 2, described below, will be made in the current year or has been made in a previous year. You must list the gifts in Part 3 in the chronological order that you made them.

Column C. Section 2632(c) Election

Section 2632(c) provides for the automatic allocation of the donor's unused GST exemption to indirect skips. This section also sets forth three different elections you may make regarding the allocation of exemption.

Election 1. You may elect not to have the automatic allocation rules apply to the current transfer made to a particular trust.

Election 2. You may elect not to have the automatic rules apply to both the current transfer and any and all future transfers made to a particular trust.
Election 3. You may elect to treat any trust as a GST trust for purposes of the automatic allocation rules.

See section 2632(c)(5) for details.

When to make an election. Election 1 is timely made if it is made on a timely filed gift tax return for the year the transfer was made or was deemed to have been made.

Elections 2 and 3 may be made on a timely filed gift tax return for the year for which the election is to become effective.

To make one of these elections, check column C next to the transfer to which the election applies. You also must attach an explanation as described below. If you are making election 2 or 3 on a return on which the transfer is not reported, simply attach the statement described below.

If you are reporting a transfer to a trust for which election 2 or 3 was made on a previously filed return, do not make an entry in column C for that transfer and do not attach a statement.

Attachment. Attach a statement to Form 709 that describes the election you are making and clearly identifies the trusts and/or transfers to which the election applies.

Split Gifts—Gifts Made by Spouse

See this heading under Part 1.

Part 4—Taxable Gift Reconciliation

Line 1

Enter only gifts of the donor. If gift splitting has been elected, enter only the value of the gift that is attributable to the spouse that is filing the return.

Line 2

Enter the total annual exclusions you are claiming for the gifts listed on Schedule A. See *Annual Exclusion*, earlier. If you split a gift with your spouse, the annual exclusion you claim against that gift may not be more than the smaller of your half of the gift or $15,000.

Deductions

Line 4. Marital Deduction

Enter all of the gifts to your spouse that you listed on Schedule A and for which you are claiming a marital deduction. Do not enter any gift that you did not include on Schedule A. On the dotted line on line 4, indicate which numbered items from Schedule A are gifts to your spouse for which you are claiming the marital deduction.

TIP *Do not enter on line 4 any gifts to your spouse who was not a U.S. citizen at the time of the gift.*

You may deduct all gifts of nonterminable interests made during the year that you entered on Schedule A regardless of amount, and certain gifts of terminable interests as outlined below.

Terminable interests. Generally, you cannot take the marital deduction if the gift to your spouse is a terminable interest. In most instances, a terminable interest is nondeductible if someone other than the donee spouse will have an interest in the property following the termination of the donee spouse's interest. Some examples of terminable interests are:

- A life estate,
- An estate for a specified number of years, or
- Any other property interest that after a period of time will terminate or fail.

If you transfer an interest to your spouse as sole joint tenant with yourself or as a tenant by the entirety, the interest is not considered a terminable interest just because the tenancy may be severed.

Life estate with power of appointment. You may deduct, without an election, a gift of a terminable interest if all four requirements below are met.

1. Your spouse is entitled for life to all of the income from the entire interest.

2. The income is paid yearly or more often.

3. Your spouse has the unlimited power, while he or she is alive or by will, to appoint the entire interest in all circumstances.

4. No part of the entire interest is subject to another person's power of appointment (except to appoint it to your spouse).

If either the right to income or the power of appointment given to your spouse pertains only to a specific portion of a property interest, the marital deduction is allowed only to the extent that the rights of your spouse meet all four of the above conditions. For example, if your spouse is to receive all of the income from the entire interest, but only has a power to appoint one-half of the entire interest, then only one-half qualifies for the marital deduction.

A partial interest in property is treated as a specific portion of an entire interest only if the rights of your spouse to the income and to the power are a fractional or percentile share of the entire property interest. This means that the interest or share will reflect any increase or decrease in the value of the entire property interest. If the spouse is entitled to receive a specified sum of income annually, the capital amount that would produce such a sum will be considered the specific portion from which the spouse is entitled to receive the income.

Election to deduct qualified terminable interest property (QTIP). You may elect to deduct a gift of a terminable interest if it meets requirements (1), (2), and (4) earlier, even though it does not meet requirement (3).

You make this election simply by listing the qualified terminable interest property on Schedule A and deducting its value from Schedule A, Part 4, line 4. You are presumed to have made the election for all qualified property that you both list and deduct on Schedule A. You may not make the election on a late filed Form 709.

Line 5

Enter the amount of the annual exclusions that were claimed for the gifts listed on line 4.

Line 7. Charitable Deduction

You may deduct from the total gifts made during the calendar year all gifts you gave to or for the use of:

- The United States, a state or political subdivision of a state or the District of Columbia for exclusively public purposes;
- Any corporation, trust, community chest, fund, or foundation organized and operated only for religious, charitable, scientific, literary, or educational purposes, or to prevent cruelty to children or animals, or to foster national or international amateur sports competition (if none of its activities involve providing athletic equipment unless it is a qualified amateur sports organization), as long as no part of the earnings benefits any one person, no substantial propaganda is produced, and no lobbying or campaigning for any candidate for public office is done;
- A fraternal society, order, or association operating under a lodge system, if the transferred property is to be used only for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; or
- Any war veterans' organization organized in the United States (or any of its possessions), or any of its auxiliary departments or local chapters or posts, as long as no part of any of the earnings benefits any one person.

On line 7, show your total charitable, public, or similar gifts (minus annual exclusions allowed). On the dotted line, indicate which numbered items from the top of Schedule A are charitable gifts.

Line 10. GST Tax

If GST tax is due on any direct skips reported on this return, the amount of that GST tax also is considered a gift and must be added to the value of the direct skip reported on this return.

If you entered gifts on Part 2, or if you and your spouse elected gift splitting and your spouse made gifts subject to the GST tax that you are required to show on your Form 709, complete Schedule D, and enter on line 10 the total from Schedule D, Part 3, column H. Otherwise, enter zero on line 10.

Line 12. Election Out of QTIP Treatment of Annuities

Section 2523(f)(6) creates an automatic QTIP election for gifts of joint and survivor annuities where the spouses are the only possible recipients of the annuity prior to the death of the last surviving spouse.

The donor spouse can elect out of QTIP treatment, however, by checking the box on line 12 and entering the item number from Schedule A for the annuities for which you are making the election. Any annuities entered on line 12 cannot also be entered on line 4 of Schedule A, Part 4. Any such annuities that are not listed on line 12 must be entered on line 4 of Part 4, Schedule A. If there is more than one such joint and survivor annuity, you are not required to make the election for all of them. Once made, the election is irrevocable.

Schedule B. Gifts From Prior Periods

If you did not file gift tax returns for previous periods, check the “No” box on page 1 of Form 709, line 11a, of *Part 1—General Information*. If you filed gift tax returns for previous periods, check the “Yes” box on line 11a and complete Schedule B by listing the years or quarters in chronological order as described below. If you need more space, attach a separate sheet using the same format as Schedule B.

CAUTION *Complete Schedule A before beginning Schedule B.*

Column A. If you filed returns for gifts made before 1971 or after 1981, show the calendar years in column A. If you filed returns for gifts made after 1970 and before 1982, show the calendar quarters.

Column B. In column B, identify the IRS office where you filed the returns. If you have changed your name, be sure to list any other names under which the returns were filed. If there was any other variation in the names under which you filed, such as the use of full given names instead of initials, please explain.

Column C. To determine the amount of applicable credit (formerly unified credit) used for gifts made after 1976, use the Worksheet for Schedule B, Column C (Credit Allowable for Prior Periods), unless your prior gifts total $500,000 or less.

Prior gifts totaling $500,000 or less. In column C, enter the amount of applicable credit actually applied in the prior period.

Prior gifts totaling over $500,000. See *Redetermining the Applicable Credit*, later.

Column D. In column D, enter the amount of specific exemption claimed for gifts made in periods ending before January 1, 1977.

Column E. In column E, show the correct amount (the amount finally determined) of the taxable gifts for each earlier period.

See Regulations section 25.2504-2 for rules regarding the final determination of the value of a gift.

Note. Amounts shown in column E should reflect all taxable gifts, even if no gift tax was paid due to the applicable (formerly unified) credit.

Redetermining the Applicable Credit

To redetermine the applicable credit for prior gifts in excess of $500,000, use the Worksheet for Schedule B, Column C (Credit Allowable for Prior Periods).

Instructions for Worksheet for Schedule B, Column C (Credit Allowable for Prior Periods)

Column	
Beginning with the earliest year after 1976 in which gifts using a credit amount were made, determine the credit amount (at current rates) for each quarter/year as follows.	
A **Period**	Enter the quarter/year of the prior gift(s). Pre-1977 gifts will be on the first row.
B **Taxable Gifts for Current Period**	Enter the amount of all taxable gifts for the year in Column A. The total of all pre-1977 gifts should be combined in the first row.
C **Taxable Gifts for Prior Periods**	Enter the amount from Column D of the ***previous*** row.
D **Cumulative Taxable Gifts Including Current Period**	Enter the sum of Columns B and C from the current row.
E **Tax on Gifts for Prior Periods**	Enter the amount from Column F of the ***previous*** row.
F **Tax on Cumulative Gifts Including Current Period**	Enter the tax based on the amount in Column D of the current row using the Table for Computing Gift Tax.
G **Tax on Gifts for Current Period**	Subtract the amount in Column E from the amount in Column F of the current row and enter here.
H **Used DSUE Amount From Predeceased Spouse(s) and Restored Exclusion Amount**	Enter the sum of (a) total DSUE amount (if any) received from the estate of the donor's last deceased spouse and used by the donor in prior periods and the current period, and (b) Restored Exclusion Amount (if any). DSUE may not be applied to gifts made before the DSUE arose. Restored Exclusion Amount may not be applied to gifts made before the taxpayer restored the exclusion expended on a taxable gift to the taxpayer's same-sex spouse. The Restored Exclusion Amount is applied in the first year that the taxpayer restores the exclusion and every subsequent year.
I **Basic Exclusion Amount for Year of Gift**	Enter the exclusion amount corresponding with the year listed in Column A of the current row. (See Table of Basic Exclusion and Credit Amounts.)
J **Applicable Exclusion Amount**	Add the amounts in Columns H and I of the current row and enter here.
K **Applicable Credit Amount (Based on Amount in Column J)**	Using the Table for Computing Gift Tax, determine the credit corresponding to the amount in Column J of the current row and enter here. For each row in Column K, subtract 20% of any amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977.
L **Applicable Credit Amount Used in Prior Periods**	Enter the total of the amounts in Columns L and N of the ***previous*** row.
M **Available Credit in Current Period**	Subtract the amount in Column L from the amount in Column K of the current row and enter here.
N **Credit Allowable**	Enter the lesser of Column G or Column M of the current row.
Repeat this process for each prior year with taxable gifts. Do not enter less than zero.	

Worksheet for Schedule B, Column C (Credit Allowable for Prior Periods)

Prior Years Credit Recalculation (for Form 709 Schedule B, Column C)
(Keep for your records.)

A	B	C	D	E	F	G	H	I	J	K	L	M	N
Period	**Taxable Gifts for Current Period**	**Taxable Gifts for Prior Periods**[1]	**Cumulative Taxable Gifts Including Current Period** *(Col. B + Col. C)*	**Tax on Gifts for Prior Periods (Col. C)**[2, 3]	**Tax on Cumulative Gifts Including Current Period (Col. D)**[3]	**Tax on Gifts for Current Period** *(Col. F – Col. E)*	**DSUE From Pre-deceased Spouse(s) and Restored Exclusion Amount**	**Basic Exclusion for Year of Gift**[4]	**Applicable Exclusion Amount** *(Col. H + Col. I)*	**Applicable Credit Amount Based on Column J**[3, 5]	**Applicable Credit Amount Used in Prior Periods**[3, 6]	**Available Credit in Current Period** *(Col. K – Col. L)*	**Credit Allowable** *(lesser of Col. G or Col. M)*
Pre-1977													
YYYY													
YYYY													
YYYY													
Total Applicable Credit Used in Prior Periods *(Enter the Total of Column N on Schedule B, Line 1, Column C)* **:**													

[1] Column C: Enter amount from Column D of the ***previous*** row.
[2] Column E: Compute the tax on the amount in Column C or enter amount from Column F of the ***previous*** row.
[3] To compute tax or credit amount, see Table for Computing Gift Tax.
[4] For years prior to 2010, the basic exclusion amount equals the applicable exclusion amount.
[5] For each row in Column K, subtract 20% of any amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977.
[6] Enter the total of Columns L and N of the ***previous*** row.

Example 1. Prior Years Credit Recalculation (for Form 709 Schedule B, Column C)
(Three post-1976 years involved. All have the same maximum credit available. Tentative tax exceeds available credit.)

A	B	C	D	E	F	G	H	I	J	K	L	M	N
Period	**Taxable Gifts for Current Period**	**Taxable Gifts for Prior Periods**[1]	**Cumulative Taxable Gifts Including Current Period** *(Col. B + Col. C)*	**Tax on Gifts for Prior Periods (Col. C)**[2, 3]	**Tax on Cumulative Gifts Including Current Period (Col. D)**[3]	**Tax on Gifts for Current Period** *(Col. F – Col. E)*	**DSUE From Pre-deceased Spouse(s) and Restored Exclusion Amount**	**Basic Exclusion for Year of the Gift**[4]	**Applicable Exclusion Amount** *(Col. H + Col. I)*	**Applicable Credit Amount Based on Column J**[3, 5]	**Applicable Credit Amount Used in Prior Periods**[3, 6]	**Available Credit in Current Period** *(Col. K – Col. L)*	**Credit Allowable** *(lesser of Col. G or Col. M)*
Pre-1977													
2004	800,000	0	800,000	0	267,800	267,800	0	1,000,000	1,000,000	345,800	0	345,800	267,800
2007	300,000	800,000	1,100,000	267,800	385,800	118,000	0	1,000,000	1,000,000	345,800	267,800	78,000	78,000
2009	200,000	1,100,000	1,300,000	385,800	465,800	80,000	0	1,000,000	1,000,000	345,800	345,800	0	0
Total Applicable Credit Used in Prior Periods *(Enter the Total of Column N on Schedule B, Line 1, Column C)* **:**													345,800

[1] Column C: Enter amount from Column D of the ***previous*** row.
[2] Column E: Compute the tax on the amount in Column C or enter amount from Column F of the ***previous*** row.
[3] To compute tax or credit amount, see Table for Computing Gift Tax.
[4] For years prior to 2010, the basic exclusion amount equals the applicable exclusion amount.
[5] For each row in Column K, subtract 20% of any amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977.
[6] Enter the total of Columns L and N of the ***previous*** row.

Example 2. Prior Years Credit Recalculation (for Form 709 Schedule B, Column C)
(Pre-1977 gifts plus 3 post-1976 years: Earlier years' gifts exceed credit then available. Last gift made after credit increased.)

A	B	C	D	E	F	G	H	I	J	K	L	M	N
Period	**Taxable Gifts for Current Period**	**Taxable Gifts for Prior Periods**[1]	**Cumulative Taxable Gifts Including Current Period** *(Col. B + Col. C)*	**Tax on Gifts for Prior Periods (Col. C)**[2, 3]	**Tax on Cumulative Gifts Including Current Period (Col. D)**[3]	**Tax on Gifts for Current Period** *(Col. F – Col. E)*	**DSUE From Pre-deceased Spouse(s) and Restored Exclusion Amount**	**Basic Exclusion for Year of the Gift**[4]	**Applicable Exclusion Amount** *(Col. H + Col. I)*	**Applicable Credit Amount Based on Column J**[3, 5]	**Applicable Credit Amount Used in Prior Periods**[3, 6]	**Available Credit in Current Period** *(Col. K – Col. L)*	**Credit Allowable** *(lesser of Col. G or Col. M)*
Pre-1977	200,000		200,000		54,800								
1987	600,000	200,000	800,000	54,800	267,800	213,000	0	600,000	600,000	192,800	0	192,800	192,800
1999	200,000	800,000	1,000,000	267,800	345,800	78,000	0	650,000	650,000	211,300	192,800	18,500	18,500
2002	100	1,000,000	1,000,100	345,800	345,840	40	0	1,000,000	1,000,000	345,800	211,300	134,500	40
Total Applicable Credit Used in Prior Periods *(Enter the Total of Column N on Schedule B, Line 1, Column C)* **:**													211,340

[1] Column C: Enter amount from Column D of the ***previous*** row.
[2] Column E: Compute the tax on the amount in Column C or enter amount from Column F of the ***previous*** row.
[3] To compute tax or credit amount, see Table for Computing Gift Tax.
[4] For years prior to 2010, the basic exclusion amount equals the applicable exclusion amount.
[5] For each row in Column K, subtract 20% of any amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977.
[6] Enter the total of Columns L and N of the ***previous*** row.

Example 3. Prior Years Credit Recalculation (for Form 709 Schedule B, Column C) ($6M gift exceeds the applicable credit, $5M DSUE received prior to subsequent $4M gift in the same year.)													
A	B	C	D	E	F	G	H	I	J	K	L	M	N
Period	Taxable Gifts for Current Period	Taxable Gifts for Prior Periods[1]	Cumulative Taxable Gifts Including Current Period *(Col. B + Col. C)*	Tax on Gifts for Prior Periods (Col. C)[2, 3]	Tax on Cumulative Gifts Including Current Period (Col. D)[3]	Tax on Gifts for Current Period *(Col. F – Col. E)*	DSUE From Pre-deceased Spouse(s) and Restored Exclusion Amount[4]	Basic Exclusion for Year of the Gift[5]	Applicable Exclusion Amount *(Col. H + Col. I)*	Applicable Credit Amount Based on Column J[3, 6]	Applicable Credit Amount Used in Prior Periods[3, 7]	Available Credit in Current Period *(Col. K – Col. L)*	Credit Allowable *(lesser of Col. G or Col. M)*
Pre-1977													
2011	10,000,000	0	10,000,000	0	3,945,800	3,945,800	4,000,000	5,000,000	9,000,000	3,545,800	0	3,545,800	3,545,800
YYYY													
YYYY													
Total Applicable Credit Used in Prior Periods *(Enter the Total of Column N on Schedule B, Line 1, Column C)* **:**													3,545,800

[1] Column C: Enter amount from Column D of the ***previous*** row.
[2] Column E: Compute the tax on the amount in Column C or enter amount from Column F of the ***previous*** row.
[3] To compute tax or credit amount, see Table for Computing Gift Tax.
[4] DSUE may not be applied to gifts made prior to when it arises. Consequently, the available DSUE for the current period is limited to $4,000,000, the value of gifts made after the DSUE arose.
[5] For years prior to 2010, the basic exclusion amount equals the applicable exclusion amount.
[6] For each row in Column K, subtract 20% of any amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977.
[7] Enter the total of Columns L and N of the ***previous*** row.

Example 4. Prior Years Credit Recalculation (for Form 709 Schedule B, Column C) (Prior gift exceeds applicable credit, $5M DSUE received prior to subsequent gift.)													
A	B	C	D	E	F	G	H	I	J	K	L	M	N
Period	Taxable Gifts for Current Period	Taxable Gifts for Prior Periods[1]	Cumulative Taxable Gifts Including Current Period *(Col. B + Col. C)*	Tax on Gifts for Prior Periods (Col. C)[2, 3]	Tax on Cumulative Gifts Including Current Period (Col. D)[3]	Tax on Gifts for Current Period *(Col. F – Col. E)*	DSUE From Pre-deceased Spouse(s) and Restored Exclusion Amount	Basic Exclusion for Year of the Gift[4]	Applicable Exclusion Amount *(Col. H + Col. I)*	Applicable Credit Amount Based on Column J[3, 5]	Applicable Credit Amount Used in Prior Periods[3, 6]	Available Credit in Current Period *(Col. K – Col. L)*	Credit Allowable *(lesser of Col. G or Col. M)*
Pre-1977													
2002	4,000,000	0	4,000,000	0	1,545,800	1,545,800	0	1,000,000	1,000,000	345,800	0	345,800	345,800
2011	4,000,000	4,000,000	8,000,000	1,545,800	3,145,800	1,600,000	4,000,000	5,000,000	9,000,000	3,545,800	345,800	3,200,000	1,600,000
YYYY													
Total Applicable Credit Used in Prior Periods *(Enter the Total of Column N on Schedule B, Line 1, Column C)* **:**													1,945,800

[1] Column C: Enter amount from Column D of the ***previous*** row.
[2] Column E: Compute the tax on the amount in Column C or enter amount from Column F of the ***previous*** row.
[3] To compute tax or credit amount, see Table for Computing Gift Tax.
[4] For years prior to 2010, the basic exclusion amount equals the applicable exclusion amount.
[5] For each row in Column K, subtract 20% of any amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977.
[6] Enter the total of Columns L and N of the ***previous*** row.

Table of Basic Exclusion and Credit Amounts

(as Recalculated for 2018 Rates)

Period	Exclusion Amounts	Credit Amounts
1977 (Quarters 1 & 2)	$30,000	$6,000
1977 (Quarters 3 & 4)	$120,667	$30,000
1978	$134,000	$34,000
1979	$147,333	$38,000
1980	$161,563	$42,500
1981	$175,625	$47,000
1982	$225,000	$62,800
1983	$275,000	$79,300
1984	$325,000	$96,300
1985	$400,000	$121,800
1986	$500,000	$155,800
1987 through 1997	$600,000	$192,800
1998	$625,000	$202,050
1999	$650,000	$211,300
2000 and 2001	$675,000	$220,550
2002 through 2010	$1,000,000	$345,800
2011	$5,000,000	$1,945,800
2012	$5,120,000	$1,993,800
2013	$5,250,000	$2,045,800
2014	$5,340,000	$2,081,800
2015	$5,430,000	$2,117,800
2016	$5,450,000	$2,125,800
2017	$5,490,000	$2,141,800
2018	$11,180,000	$4,417,800

Schedule C. Portability of Deceased Spousal Unused Exclusion (DSUE) Amount and Restored Exclusion Amount

Section 303 of the Tax Relief, Unemployment Insurance Reauthorization, and Job Creation Act of 2010 authorized estates of decedents dying on or after January 1, 2011, to elect to transfer any unused exclusion to the surviving spouse. The amount received by the surviving spouse is called the *deceased spousal unused exclusion, or DSUE*, amount. If the executor of the decedent's estate elects transfer, or portability, of the DSUE amount, the surviving spouse can apply the DSUE amount received from the estate of his or her last deceased spouse (defined later) against any tax liability arising from subsequent lifetime gifts and transfers at death.

CAUTION *Complete Schedule A before beginning Schedule C.*

Note. A nonresident surviving spouse who is not a citizen of the United States may not take into account the DSUE amount of a deceased spouse, except to the extent allowed by treaty with his or her country of citizenship.

Last Deceased Spouse Limitation

The *last deceased spouse* is the most recently deceased person who was married to the surviving spouse at the time of that person's death. The identity of the last deceased spouse is determined as of the day a taxable gift is made and is not impacted by whether the decedent's estate elected portability or whether the last deceased spouse had any DSUE amount available. Remarriage also does not affect the designation of the last deceased spouse and does not prevent the surviving spouse from applying the DSUE amount to taxable transfers.

When a taxable gift is made, the DSUE amount received from the last deceased spouse is applied before the surviving spouse's basic exclusion amount. A surviving spouse who has more than one predeceased spouse is not precluded from using the DSUE amount of each spouse in succession. A surviving spouse may not use the sum of DSUE amounts from multiple predeceased spouses at one time nor may the DSUE amount of a predeceased spouse be applied after the death of a subsequent spouse.

When a surviving spouse applies the DSUE amount to a lifetime gift, the IRS may examine any return of a predeceased spouse whose executor elected portability to verify the allowable DSUE amount. The DSUE may be adjusted or eliminated as a result of the examination; however, the IRS may make an assessment of additional tax on the return of a predeceased spouse only within the applicable limitations period under section 6501.

Restored Exclusion Amount. Prior to the decision of the Supreme Court in *United States* v. *Windsor*, 570 U.S. 744, 133 S. Ct. 2675 (2013), the Defense of Marriage Act (DOMA), Public Law 104-199 (110 Stat. 2419) required that marriages of couples of the same sex should not be treated as being married for federal tax purposes. As a result, taxpayers in a same-sex marriage were not entitled to claim a marital deduction for gifts or bequests to each other. Those taxpayers were required to use their applicable exclusion amount to defray any gift or estate tax imposed on the transfer or were required to pay gift or estate taxes, to the extent the taxpayer's exclusion previously had been exhausted.

In *Windsor*, the Supreme Court declared that DOMA was unconstitutional. For federal tax purposes, marriages of couples of the same sex are treated the same as marriages of couples of the opposite sex. The term “spouse” includes an individual married to a person of the same sex. However, individuals who have entered into a registered domestic partnership, civil union, or other similar relationship that isn't considered a marriage under state law aren't considered married for federal tax purposes.

Under a new procedure, a donor who made a transfer to the donor's same-sex spouse, which resulted in a reduction of the donor's applicable exclusion amount, can now recalculate the remaining applicable exclusion. This procedure is only available to transfers that did not qualify for the marital deduction for federal gift tax purposes at the time of the transfer, based solely on the application of DOMA. If the limitations period has expired, the donor may recalculate the remaining applicable exclusion. However, once the limitations period on assessment of tax has expired, neither the value of the transferred interest nor any position concerning a legal issue (other than the existence of the marriage) related to the transfer can be changed. Similarly, no credit or refund of the gift taxes paid on the donor's transfer to the donor's same-sex spouse can be given once the limitations period on claims for credit or refund has expired.

The first step of the procedure is to determine the amount of applicable exclusion that was expended on a taxable gift to a same-sex spouse. In any given year, the amount of applicable exclusion expended on a taxable gift to a same-sex spouse is equal to the amount of applicable exclusion expended on all taxable gifts multiplied by the ratio of the amount of taxable gifts to the same-sex spouse over total taxable gifts. The amount of applicable exclusion expended on all taxable gifts is equal to the **lesser** of the available applicable exclusion or the amount of all taxable gifts.

Example. In 2011, A made $5 million of taxable gifts. A made a $3 million taxable gift to his same-sex spouse, B, and a $2 million taxable gift to another individual, C. A's marriage to B was recognized by the state where they got married, but was not recognized by the federal government. The transfer to B would qualify for the marital deduction if A's marriage to B was recognized by the federal government. A has a basic exclusion of $5 million. A had previously used $1 million of his applicable exclusion on other gifts in previous years. This means that A had $4 million of applicable exclusion available in 2011. Since A's available applicable exclusion ($4 million) is less than the amount of all taxable gifts for the year ($5 million), A expended all $4 million of his available applicable exclusion on all taxable gifts during the year.

Example of Calculation of Restored Exclusion Amount

$$\text{Applicable exclusion expended on all taxable gifts} \times \frac{\text{Taxable gifts to B}}{\text{Total taxable gifts}} = \text{Applicable exclusion allocable to gifts to B}$$

$$\$4 \text{ million} \times \frac{\$3 \text{ million}}{\$5 \text{ million}} = \$2{,}400{,}000$$

In 2011, A expended $2,400,000 of his applicable exclusion on the taxable gift to B.

The second step of the procedure is to repeat the first step for every year where the donor made a taxable gift to a same-sex spouse.

The third step of the procedure is to add up the result for all the years. The result is the total amount of applicable exclusion expended on the same-sex spouse. This amount of applicable exclusion will be restored to the donor for use on future gifts and bequests and is known as the Restored Exclusion Amount. Enter this amount on line 3 of Schedule C.

Attach a statement to Form 709 detailing the calculation of the above procedure on the first Form 709 that you claim a Restored Exclusion Amount.

CAUTION *The Restored Exclusion Amount will have to be accounted for the donor on every subsequent Form 709 (and Form 706) that will be filed. This means that on all future Forms 709 that will be filed, the Restored Exclusion Amount will need to be entered on Schedule C. (The Restored Exclusion Amount will be entered on line 9c of* Part 2—Tax Computation *on Form 706.) In addition, the Worksheet for Schedule B, Column C (Credit Allowable for Prior Periods) should reflect the Restored Exclusion Amount. For the period where the applicable exclusion was first restored, and on every subsequent period listed on the worksheet, add the Restorable Exclusion Amount to the total DSUE amount (if any) and enter the sum on column H.*

Completing Schedule C

Complete Schedule C if the donor is a surviving spouse who received a DSUE amount from one or more predeceased spouses, or if the donor is a taxpayer who made a taxable transfer to his or her same-sex spouse which resulted in a reduction of the taxpayer's available applicable exclusion amount (or both).

Schedule C requests information on all DSUE amounts received from the donor's last deceased spouse and any previously deceased spouses. Each line in the chart should reflect a different predeceased spouse. Attach proof of each portability election reported on Schedule C.

Part 1. DSUE Received From the Last Deceased Spouse

In this Part, include information about the DSUE amount from the donor's most recently deceased spouse (whose date of death is after December 31, 2010). In column E, enter the total of the amount in column D that the donor has applied to gifts in previous years and is applying to gifts reported on this return. A donor may apply DSUE only to gifts made after the DSUE arose.

Part 2. DSUE Received From Other Predeceased Spouse(s)

Enter information about the DSUE amount from the spouse(s), if any, who died prior to the donor's most recently deceased spouse (but not before January 1, 2011) if the prior spouse's executor elected portability of the DSUE amount. In column D, indicate the amount of DSUE received from the estate of each predeceased spouse. In column E, enter the portion of the amount of DSUE shown in column D that was applied to prior lifetime gifts or transfers. A donor may apply DSUE only to gifts made after the DSUE arose.

CAUTION *Any remaining DSUE from a predeceased spouse cannot be applied against tax arising from lifetime gifts if that spouse is not the most recently deceased spouse on the date of the gift. This rule applies even if the last deceased spouse had no DSUE amount or made no valid portability election, or if the DSUE amount from the last deceased spouse has been fully applied to gifts in previous periods.*

Determining the Applicable Credit Amount Including DSUE and the Restored Exclusion Amount

On line 1, enter the donor's basic exclusion amount; for 2018, this amount is $11,180,000. Add the amounts listed in column E from Parts 1 and 2 and enter the total on line 2. On line 3, enter the Restored Exclusion Amount. On line 4, enter the total of lines 1, 2, and 3. Using the Table for Computing Gift Tax, determine the donor's applicable credit by applying the appropriate tax rate to the amount on line 4. Enter this amount on line 5 and on line 7 of *Part 2—Tax Computation*.

Schedule D. Computation of GST Tax

Part 1—Generation-Skipping Transfers

Enter in Part 1 all of the gifts you listed in Part 2 of Schedule A, in the same order and showing the same values.

Column B

If you are reporting a generation-skipping transfer that occurred because of the close of an ETIP, complete column B for such transfer as follows.

1. If the GST exemption is being allocated on a timely filed (including extensions) gift tax return, enter the value as of the close of the ETIP.
2. If the GST exemption is being allocated on a late filed (past the due date including extensions) gift tax return, enter the value as of the date the gift tax return was filed.

Column C

You are allowed to claim the gift tax annual exclusion currently allowable for your reported direct skips (other than certain direct skips to trusts—see *Note* below), using the rules and limits discussed earlier for the gift tax annual exclusion. However, you must allocate the exclusion on a gift-by-gift basis for GST computation purposes. You must allocate the exclusion to each gift to the maximum allowable amount and in chronological order, beginning with the earliest gift that qualifies for the exclusion. Be sure that you do not claim a total exclusion of more than $15,000 per donee.

Note. You may not claim any annual exclusion for a transfer made to a trust unless the trust meets the requirements discussed under *Part 2—Direct Skips*.

Part 2—GST Exemption Reconciliation

Line 1

Every donor is allowed a lifetime GST exemption. The amount of the exemption for 2018 is $11,180,000. For transfers made through 1998, the GST exemption was $1 million. The exemption amounts for 1999 through 2018 are as follows.

Year	Amount
1999	$1,010,000
2000	$1,030,000
2001	$1,060,000
2002	$1,100,000
2003	$1,120,000
2004 and 2005	$1,500,000
2006, 2007, and 2008	$2,000,000
2009	$3,500,000
2010 and 2011	$5,000,000
2012	$5,120,000
2013	$5,250,000
2014	$5,340,000
2015	$5,430,000
2016	$5,450,000
2017	$5,490,000
2018	$11,180,000

In general, each annual increase can only be allocated to transfers made (or appreciation occurring) during or after the year of the transfer.

Example. A donor made $1,750,000 in GSTs through 2005, and allocated all $1,500,000 of the exemption to those transfers. In 2018, the donor makes a $2,000,000 taxable generation-skipping transfer. The donor can allocate $2,000,000 of exemption to the 2018 transfer but cannot allocate the $7,680,000 of unused 2018 exemption to pre-2018 transfers.

However, if in 2005, the donor made a $1,750,000 transfer to a trust that was not a direct skip, but from which generation-skipping transfers could be made in the future, the donor could allocate the increased exemption to the trust, even though no additional transfers were made to the trust. See Regulations section 26.2642-4 for the redetermination of the applicable fraction when additional exemption is allocated to the trust.

Keep a record of your transfers and exemption allocations to make sure that any future increases are allocated correctly.

Enter on line 1 of Part 2 the maximum GST exemption you are allowed. This will not necessarily be the highest indexed amount if you made no generation-skipping transfers during the year of the increase.

The donor can apply this exemption to inter vivos transfers (that is, transfers made during the donor's life) on Form 709. The executor can apply the exemption on Form 706 to transfers taking effect at death. An allocation is irrevocable.

In the case of inter vivos direct skips, a portion of the donor's unused exemption is automatically allocated to the transferred property unless the donor elects otherwise. To elect out of the automatic allocation of exemption, you must file Form 709 and attach a statement to it clearly describing the transaction and the extent to which the automatic allocation is not to apply. Reporting a direct skip on a timely filed Form 709 and paying the GST tax on the transfer will prevent an automatic allocation.

Special QTIP election. If you elect QTIP treatment for any gifts in trust listed on Schedule A, then on Schedule D you also may elect to treat the entire trust as non-QTIP for purposes of the GST tax. The election must be made for the entire trust that contains the particular gift involved on this return. Be sure to identify the item number of the specific gift for which you are making this special QTIP election.

Line 5

Enter the amount of GST exemption you are applying to transfers reported in Part 3 of Schedule A.

Section 2632(c) provides an automatic allocation to indirect skips of any unused GST exemption. The unused exemption is allocated to indirect skips to the extent necessary to make the inclusion ratio zero for the property transferred. You may elect out of this automatic allocation as explained in the instructions for Part 3.

Line 6

Notice of allocation. You may wish to allocate GST exemption to transfers not reported on this return, such as a late allocation.

To allocate your exemption to such transfers, attach a statement to this Form 709 and entitle it "Notice of Allocation." The notice must contain the following for each trust (or other transfer).

- Clear identification of the trust, including the trust's EIN, if known.
- If this is a late allocation, the year the transfer was reported on Form 709.
- The value of the trust assets at the effective date of the allocation.
- The amount of your GST exemption allocated to each gift (or a statement that you are allocating exemption by means of a formula such as "an amount necessary to produce an inclusion ratio of zero").
- The inclusion ratio of the trust after the allocation.

Total the exemption allocations and enter this total on line 6.

Note. Where the property involved in such a transfer is subject to an ETIP because it would be includible in the donor's estate if the donor died immediately after the transfer (other than by reason of the donor having died within 3 years of making the gift), an allocation of the GST exemption at the time of the transfer will only become effective at the end of the ETIP. For details, see *Transfers Subject to an Estate Tax Inclusion Period (ETIP)*, earlier, and section 2642(f).

Part 3—Tax Computation

You must enter in Part 3 every gift you listed in Part 1 of Schedule D.

Column C

You are not required to allocate your available exemption. You may allocate some, all, or none of your available exemption, as you wish, among the gifts listed in Part 3 of Schedule D. However, the total exemption claimed in column C may not exceed the amount you entered on line 3 of Part 2 of Schedule D.

Column D

Carry your computation to 3 decimal places (for example, "1.000").

Part 2—Tax Computation (Page 1 of Form 709)

Lines 4 and 5

To compute the tax for the amount on line 3 (to be entered on line 4) and the tax for the amount on line 2 (to be entered on line 5), use the Table for Computing Gift Tax.

Line 7

The applicable credit (formerly unified credit) amount is the tentative tax on the applicable exclusion amount. For gifts made in 2018, the applicable exclusion amount equals:

- The basic exclusion amount of $11,180,000, PLUS
- Any deceased spousal unused exclusion (DSUE) amount, PLUS
- Any Restored Exclusion Amount.

If you are a citizen or resident of the United States, you must apply any available applicable credit against gift tax. If you are not eligible to use a DSUE amount from a predeceased spouse, or Restored Exclusion Amount on taxable gifts made to a same-sex spouse, enter $4,417,800 on line 7. Nonresidents not citizens of the United States may not claim the applicable credit and should enter zero on line 7.

If you are eligible to use a DSUE amount from a predeceased spouse or a Restored Exclusion Amount for taxable gifts to a same-sex spouse (or both), complete *Schedule C—Deceased Spousal Unused Exclusion (DSUE) Amount* and enter the amount from line 5 of that schedule on line 7 of *Part 2—Tax Computation*.

Determine the tentative tax on the applicable exclusion amount using the rates in the Table for Computing Gift Tax, and enter the result on line 7.

Table for Computing Gift Tax

Column A	Column B	Column C	Column D
Taxable amount over	Taxable amount not over—	Tax on amount in Column A	Rate of tax on excess over amount in Column A
- - - - -	$10,000	- - - - -	18%
$10,000	20,000	$1,800	20%
20,000	40,000	3,800	22%
40,000	60,000	8,200	24%
60,000	80,000	13,000	26%
80,000	100,000	18,200	28%
100,000	150,000	23,800	30%
150,000	250,000	38,800	32%
250,000	500,000	70,800	34%
500,000	750,000	155,800	37%
750,000	1,000,000	248,300	39%
1,000,000	- - - - -	345,800	40%

Line 10

Enter 20% of the amount allowed as a specific exemption for gifts made after September 8, 1976, and before January 1, 1977. (These amounts will be among those listed in Schedule B, column D, for gifts made in the third and fourth quarters of 1976.)

Line 13

Gift tax conventions are in effect with Australia, Austria, Denmark, France, Germany, Japan, and the United Kingdom. If you are claiming a credit for payment of foreign gift tax, figure the credit and attach the calculation to Form 709, along with evidence that the foreign taxes were paid. See the applicable convention for details of computing the credit.

Line 19

Make your check or money order payable to "United States Treasury" and write the donor's social security number on it. You may not use an overpayment on Form 1040 to offset the gift and GST taxes owed on Form 709.

No checks of $100 million or more accepted. The IRS cannot accept a single check (including a cashier's check) for amounts of $100,000,000 ($100 million) or more. If you're sending $100 million or more by check, you'll need to spread the payments over two or more checks, with each check made out for an amount less than $100 million. The $100 million or more amount limit **does not** apply to other methods of payment (such as electronic payments), so please consider paying by means other than checks.

Signature

As a donor, you must sign the return. If you pay another person, firm, or corporation to prepare your return, that person also must sign the return as preparer unless he or she is your regular full-time employee.

Remember, if you and your spouse have consented to split gifts, your spouse must also sign and date the return in Part 1, line 18.

Third-party designee. If you want to allow the return preparer (listed on the bottom of page 1 of Form 709) to discuss your 2018 Form 709 with the IRS, check the "Yes" box to the far right of your signature on page 1 of your return.

If you check the "Yes" box, you (and your spouse, if splitting gifts) are authorizing the IRS to call your return preparer to answer questions that may arise during the processing of your return. You also are authorizing the return preparer of your 2018 Form 709 to:

- Give the IRS any information that is missing from your return;
- Call the IRS for information about the processing of your return or the status of your payment(s);
- Receive copies of notices or transcripts related to your return, upon request; and
- Respond to certain IRS notices about math errors, offsets, and return preparation.

You are not authorizing your return preparer to receive any refund check, to bind you to anything (including any additional tax liability), or otherwise represent you before the IRS. If you want to expand the authorization of your return preparer, see Pub. 947, Practice Before the IRS and Power of Attorney.

The authorization will automatically end 3 years from the date of filing Form 709. If you wish to revoke the authorization before it ends, see Pub. 947.

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.

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

Recordkeeping	52 min.
Learning about the law or the form	1 hr., 53 min.
Preparing the form	2 hr., 21 min.
Copying, assembling, and sending the form to the IRS	1 hr., 3 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 send us comments from *IRS.gov/FormsComments*. Or you can write to the Internal Revenue Service, Tax Forms and Publications Division, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224. Don't send the tax form to this office. Instead, see *Where To File*, earlier.