1998

Department of the Treasury
Internal Revenue Service

Instructions for Form 709

(Revised January 1999)

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

(For gifts made during calendar year 1998.)
For Privacy Act Notice, see the Instructions for Form 1040.
Section references are to the Internal Revenue Code unless otherwise noted.

If you are filing this form solely to elect gift-splitting for gifts of not more than $20,000 per donee, you may be able to use Form 709–A, United States Short Form Gift Tax Return, instead of this form. See "Who Must File" on page 2 and "When the Consenting Spouse Must Also File a Gift Tax Return" beginning on page 4.

For Gifts Made After	and	Before	Use Revision Of Form 709 Dated
— — —		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		January 1, 1991	October 1990
October 8, 1990		January 1, 1992	November 1991
December 31, 1992		January 1, 1998	December 1996

Items To Note

- Form 709 is now being revised annually, and the year of the revision will appear on the form.
- For gifts made in 1998, the unified credit has increased to $202,050.
- For gifts made in 1998, if the only gifts you made for the year were deductible gifts to charities, you are no longer required to file Form 709 for the year. This does not apply if you gave only a partial interest in the property. For details, see **Who Must File** on page 2.
- Beginning with contributions made after August 5, 1997, you may elect to treat certain contributions to qualified state tuition programs as being made ratably over a 5–year period. For details, see **Qualified State Tuition Programs** on page 4.
- The limitations on the assessment and collection of the gift tax provided in section 6501 do not apply to any gifts (without regard to the annual exclusion) made after August 5, 1997, including transfers valued under sections 2701 and 2702, until the transfer is disclosed in a gift tax return, or in a statement attached to a gift tax return, in a manner that is adequate to apprise the IRS of the nature of the transaction. At the time this form was printed, guidance had not been issued on what constitutes adequate disclosure. See also **Section 2701 Elections** on page 2.
- Spouses **cannot** file a joint Form 709. However, to avoid correspondence with the IRS, spouses should file their separate returns together if they are splitting gifts and the consenting spouse is also required to file a return (see instructions on page 4).

General Instructions

Note: *If you meet all of the following requirements, you are **not** required to file Form 709:*

1. *You made no gifts during the year to your spouse;*

2. *You gave no more than $10,000 during the year to any one donee; and*

3. *All of the gifts you made were of present interests.*

*For additional information, see **Transfers Not Subject to the Gift Tax** below and **Who Must File** on page 2.*

Purpose of Form

Use Form 709 to report transfers subject to the Federal gift and certain generation-skipping transfer (GST) taxes and to figure the tax, if any, due on those transfers.

All gift and GST taxes are computed and filed on a calendar year basis regardless of your income tax accounting period.

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 to a donee.

The gift tax applies not only to the gratuitous transfer of any kind of property, but also to sales or exchanges, not made in the ordinary course of business, where money or money's worth is exchanged but the value of the money (or property) or money's worth 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 subject to 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 may also apply to the forgiveness of a debt, to interest-free or below market interest rate loans, to the assignment of the benefits of an insurance policy, to certain property settlements in divorce cases, and to the giving up of some amount of annuity in exchange for the creation of a survivor annuity.

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

Code 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.

Transfers Not Subject to the Gift Tax

Three types of transfers are not subject to the gift tax. These are transfers to political organizations and payments that qualify for the educational and medical exclusions. 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.

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 do not constitute direct tuition costs. To the extent that the payment to the educational institution 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 state tuition program on behalf of a designated beneficiary do not qualify for the educational exclusion.

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 have made a gift to the donee.

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.

Qualified disclaimers.— A donee's refusal to accept a gift is called a disclaimer. If a person makes a qualified disclaimer with respect to 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 to which the interest relates or the person in possession of the property within 9 months after the later of **(a)** the day on which the transfer creating the interest is made, or **(b)** the day on which 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; and

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. For a transfer by will, it begins on the date of the decedent's death.

Transfers Subject to the Generation-Skipping Transfer Tax

You must report on Form 709 the GST tax imposed on inter vivos direct skips. (See Regulations section 26.2662-1(b), for instructions on how to report other generation-skipping transfers.) An *inter vivos direct skip* is a transfer made during the donor's lifetime that is: **(1)** subject to the gift tax; **(2)** of an interest in property; and **(3)** made to a skip person. (See page 5.)

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 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 for Schedule A, on page 4.

Important: *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 $10,000 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* ***Part 2—GST Exemption Reconciliation*** *on page 7.*

Transfers Subject to an "Estate Tax Inclusion Period"

If property that is transferred by gift in a GST direct skip would have been includible in the donor's estate if the donor had died immediately after the transfer (other than by reason of 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 "estate tax inclusion period" (ETIP) rather than at the time it was actually made. For details, see section 2642(f).

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.

If you are filing this Form 709 solely to report 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 1–4, 6, 8, and 9 of Part 1, General Information;

3. Complete Schedule A, Part 2, as explained in the instructions for that schedule on page 6;

4. Complete Column B of Schedule C, Part 1, as explained in the instructions for that schedule on page 7;

5. Complete only lines 14 and 15 of Schedule A, Part 3. (Also list here direct skips that are subject only to the GST tax as the result of the termination of an "estate tax inclusion period." See instructions for Schedule C on page 7.)

Section 2701 Elections

The special valuation rules of section 2701 contain three elections that you must make 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 four 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 either a timely or a late filed 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 are revocable only with the consent of the IRS.

Who Must File

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.

A married couple may not file a joint gift tax return. However, see **Split Gifts—Gifts by Husband or Wife to Third Parties** on page 3.

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.

Citizens or Residents of the United States

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:

Gifts to your spouse.— Except as described below, 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.

You must file a gift tax return if your spouse is **not** a U.S. citizen and the total gifts you made to your spouse during the year exceed $100,000, or if you made any gift of a terminable interest that does not meet the exception described in **Life Estate With Power of Appointment** on page 7.

You must also file a gift tax return to make the QTIP (Qualified Terminable Interest Property) election described on page 7.

Gifts to donees other than your spouse.— You must file a gift tax return if you gave gifts to any such donee that are not fully excluded under the $10,000 annual exclusion (as described on page 3). Thus, you must file a gift tax return to report any gift of a future interest (regardless of amount) or to report gifts to any donee that total more than $10,000 for the year.

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.

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

Gift splitting.— You must file a gift tax return to split gifts (regardless of their amount) with your spouse as described in the **Specific Instructions** for Part 1 below.

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.

Annual Exclusion

The first $10,000 of gifts of present interests 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 interests* and if they total $10,000 or less.

Note: *For gifts made to spouses who are **not** U.S. **citizens,** the annual exclusion has been increased from $10,000 to $100,000, provided the additional $90,000 gift would otherwise qualify for the gift tax marital deduction (as described in the line 8 instructions on page 7).*

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 and 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 and income from the property will not begin until some future date. Future interests include reversions, remainders, and other similar interests or estates.

Note: *A contribution to a qualified state tuition plan 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; and

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.

Nonresident Aliens

Nonresident aliens are subject to gift and GST taxes for gifts of tangible property situated in the United States. Under certain circumstances, they are also subject to gift and GST taxes for gifts of intangible property. (See section 2501(a).)

If you are a nonresident alien who made a gift subject to gift tax, you must file a gift tax return if: **(1)** you gave *any* gifts of future interests; or **(2)** your gifts of present interests to *any donee* other than your spouse total more than $10,000; or **(3)** your outright gifts to your spouse who is not a U.S. citizen total more than $100,000.

When To File

Form 709 is an annual return.

Generally, you must file the 1998 Form 709 on or after January 1 but not later than April 15, 1999.

If the donor of the gifts died during the year in which the gifts were made, the executor must file the donor's Form 709 not later than the earlier of: **(1)** the due date (with extensions) for filing the donor's estate tax return; or **(2)** April 15 of the year following the calendar year when the gifts were made. Under this rule, Form 709 may be due before April 15 if the donor died before July 15 of the year in which the gifts were made. If the donor died after July 14, the due date for Form 709 (without extensions) will always be April 15 of the following year. If no estate tax return is required to be filed, the due date for Form 709 (without extensions) is April 15. For more information, see Regulations section 25.6075-1.

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 letter.— You can request an extension of time to file your gift tax return by writing to the district director or service center for your area. You must explain the reasons for the delay. You **MUST** use a letter to request an extension of time to file your gift tax return unless you are also requesting an extension to file your income tax return.

By form.— Any extension of time granted for filing your calendar year Federal income tax return will also extend the time to file any gift tax return. Income tax extensions are made by using Form 4868, 2688, or 2350, which have checkboxes for Form 709. You may only use one of these forms to extend the time for filing your gift tax return if you are also requesting an extension of time to file your income tax return.

Where To File

File Form 709 with the Internal Revenue Service Center where you would file your Federal income tax return. See the Form 1040 instructions for a list of filing locations.

Penalties

The law provides for penalties for both late filing of returns and late payment of tax unless you have reasonable cause. There are also penalties for valuation understatements that cause an underpayment of the tax, willful failure to file a return on time, and willful attempt to evade or defeat payment of tax.

The late filing penalty will not be imposed if the taxpayer can show that the failure to file a timely return is due to reasonable cause. Those filing late (after the due date, including extensions) should attach an explanation to the return to show reasonable cause.

A valuation understatement occurs when the reported value of property entered on Form 709 is 50% or less of the actual value of the property.

Joint Tenancy

If you buy property with your own funds and the title to such property is held by yourself and the 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 the 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 the 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

If you received a qualifying terminable interest (see page 7) 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 (and GST, if applicable) tax if you dispose of all or part of your life income interest (by gift, sale, or otherwise).

The entire value of the property involved less: **(1)** the amount you received on the disposition, and **(2)** the amount (if any) of the life income interest you retained after the transfer will be treated as a taxable gift. 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 you made a gift of the life income interest, you may claim an annual exclusion, treating the person to whom you transferred the interest as the donee for purposes of computing the annual exclusion.

Specific Instructions

Part I—General Information

Split Gifts—Gifts by Husband or Wife to Third Parties

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 (i.e., in the same envelope) to avoid correspondence from the IRS.

If you and your spouse agree, 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:

- 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 alien at the time of the gift; and
- 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.

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, page 1; 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 Schedule A.

Line 15.— If you were married to one another for the entire calendar year, 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.

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

To have your gifts (and generation-skipping transfers) considered as made one-half by each of you, your spouse must sign the consent. 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 or GST 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.

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 and GST taxes of each spouse is joint and several.

When the Consenting Spouse Must Also File a Gift Tax Return

If the spouses elect gift splitting (described under **Split Gifts,** on page 3), then both the donor spouse and the consenting spouse must each file separate gift tax returns unless all the requirements of either **Exception 1** or **2** below are met.

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 $20,000; 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 $10,000 but not more than $20,000 to any third-party donee;
- The only gifts made by the other spouse (the consenting spouse) were gifts of not more than $10,000 to third-party donees other than those to whom the donor spouse made gifts; and
- All of the gifts by both spouses were of present interests.

If either **Exception 1** or **2** is met, only the donor spouse must file a return and the consenting spouse signifies consent on that return. This return may be made on **Form 709-A,** United States Short Form Gift Tax Return. This form is much easier to complete than Form 709, and you should consider filing it whenever either of the above **exceptions** is met and the gifts consist entirely of present interests in tangible personal property, cash, U.S. Savings Bonds, or stocks and bonds listed on a stock exchange.

Specific instructions for **Part 2—Tax Computation** are continued on page 8. Because you must complete Schedules A, B, and C to fill out Part 2, you will find instructions for these schedules below.

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 gifts (or parts of gifts) that do not qualify for the political organization, educational, or medical exclusions.

Valuation Discounts

If the value of any gift you report in either Part 1 or Part 2 of Schedule A reflects 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 factual basis for the claimed discounts and the amount of the discounts taken.

Qualified State Tuition Programs

If your total 1998 contributions to a qualified state tuition plan on behalf of any individual beneficiary exceed $10,000, then for purposes of the annual exclusion you may elect under section 529(c)(2)(B) to treat up to $50,000 of your total contributions as having been made ratably over a 5-year period beginning in 1998.

You must report in 1998 the entire amount of the contribution in excess of $50,000.

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 make this election, report only 1/5 (20%) of your total contributions (up to $50,000) on the 1998 Form 709. You must then report an additional 20% of the total in each of the succeeding 4 years. If you are electing gift splitting for the contributions, apply the gift-splitting rules before applying these rules. In this case, both spouses must make the section 529(c)(2)(B) election on their respective returns.

Note: *Contributions to qualified state tuition plans do not qualify for the educational exclusion.*

How To Complete Schedule A

After you determine which gifts you made are subject to the gift tax and therefore should be listed on Schedule A, you must divide these gifts between those subject only to the gift tax (gifts made to non-skip persons—see page 5) and those subject to both the gift and GST taxes (gifts made to skip persons—see page 5). Gifts made to non-skip persons are entered on Part 1. Gifts made to skip persons are entered on Part 2.

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

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.

If you do not elect gift splitting.— If the total gifts of *present interests* to any donee are more than $10,000 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 $10,000 or less, you need not enter on Schedule A any gifts (except gifts of future interests) that you made to that donee.

If you elect gift splitting.— 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 $10,000 after it is split on line 2 of Part 3.

Gifts to Your Spouse

You do not need to enter any of your gifts to your spouse on Schedule A unless you gave a gift of a terminable interest to your spouse, you gave a gift of a future interest to your spouse as described below, or your spouse was not a citizen of the United States at the time of the gift.

Terminable interest.— Terminable interests are defined in the instructions to line 8. If all the terminable interests you gave to your spouse qualify as life estates with power of appointment (defined on page 7) 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. You should not report any gifts you made to your spouse who is a U.S. citizen that are not terminable interests (except as described under **Future interest** below); however, you must report all terminable interests, whether or not they can be deducted.

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. For definitions and rules concerning these trusts, see section 2056(b)(8)(B) and Regulations section 20.2055-2.

Future interest.— Generally, you should not report gifts of future interests to your spouse unless the future interest is also a terminable interest that is required to be reported as described above. 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,** below, to determine whether to enter the gift on Schedule A, Part 1 or Part 2.

Non-U.S. citizen spouse donee.— 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 $100,000 and all gifts in excess of $10,000 would qualify for a marital deduction if your spouse were a U.S. citizen (see the instructions for Schedule A, Part 3, line 8, on page 7). If the gifts exceed $100,000, you must report all of the gifts even though some may be excluded.

Gifts Subject to Both Gift and GST Taxes

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 gift that **(a)** is

subject to the gift tax, **(b)** is an interest in property, and **(c)** is 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 (as described on page 4). However, if you make a nontaxable gift (which is a direct skip) to a trust for the benefit of an individual, this transfer is also 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 had died immediately after the transfer, see* **Transfers Subject to an "Estate Tax Inclusion Period"** *on page 2.*

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, trust includes not only an explicit 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, 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 (e.g., 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 who 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 will also 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.

Non-Skip Person

A non-skip 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 (e.g., 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.

5. 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:

a. A person who was born not more than 12½ years after the donor is in the donor's generation.

b. A person born more than 12½ years, but not more than 37½ years, after the donor is in the first generation younger than the donor.

c. 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 or trust, partnership, corporation, or other entity (other than certain charitable organizations and trusts described in sections 511(a)(2) and 511(b)(2) and governmental entities) 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.

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 on Part 1 of Schedule A even if all of the life beneficiaries are skip persons.

Generation Assignment Where Intervening Parent Is Dead

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 dead, then for purposes of generation assignment, your grandchild will be considered to be your child rather than your grandchild. Your grandchild's children will be treated as your grandchildren rather than your greatgrandchildren.

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

This special rule may also apply in other cases of the death of a parent of the transferee. Beginning with gifts made in 1998, the existing rule that applies to grandchildren of the decedent has been extended to apply to other lineal descendants.

If property is transferred to an individual who is a descendant of a parent of the transferor, and that individual's parent (who is a lineal descendant of the parent of the transferor) is dead 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 is also 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 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.

Examples

The generation-skipping transfer 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 non-skip 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 non-skip person. The gift is not a direct skip and you should list it on Part 1 of Schedule A. (However, on the death of the daughter, a termination of her interest in the trust will occur that may be subject to the generation-skipping transfer tax. See the instructions for line 5, Part 2, Schedule C (on page 8) 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 on 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 (i.e., your grandchildren and greatgrandchildren). Therefore, the trust itself is a skip person and you should list the gift on 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 on Part 2 of Schedule A even though some of the trust's ultimate beneficiaries are non-skip persons.

Part 1—Gifts Subject Only to Gift Tax

List gifts subject only to the gift tax on Part 1. 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 on 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); and 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. Describe each gift in enough detail so that the property can be easily identified, as explained below.

For real estate provide:

- 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 location of principal business office of corporation, state in which incorporated, and date of incorporation;
- If listed, give principal exchange; and
- CUSIP number. The CUSIP number is a nine-digit number assigned by the American Banking Association to traded securities.

For interests in property based on the length of a person's life, give the date of birth of the person.

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 estate tax inclusion period (ETIP) as described under **Transfers Subject to an "Estate Tax Inclusion Period"** on page 2. Describe the interest that is creating the ETIP. You may not allocate the GST exemption to these transfers until the close of the ETIP. See the instructions for Schedule C on page 7.

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.

Date and Value of Gift

The value of a gift is the fair market value of the property on the date the gift is made. The fair market value 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. Fair market value 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 wherever appropriate.

The fair market value 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 fair market value is the mean between the quoted closing selling price on the valuation date and on the trading day before the valuation date. To figure the fair market value if there were no sales on the valuation date, see the instructions for Schedule B of Form 706.

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.

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 56 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. You do not need to attach the trust to returns on which you report subsequent transfers to the trust, unless the trust provisions have been revised.

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

If you do not attach this information, you must include in Schedule A full information to explain how the value was determined.

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

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

If you made a gift in trust, list the entire gift as one line entry in Part 2. Enter the entire value of the property transferred to the trust even if the trust has non-skip person future beneficiaries.

How to report GST transfers after the close of an ETIP.— If you are reporting a generation-skipping transfer that was subject to an "estate tax inclusion period" (ETIP) (provided the ETIP closed as a result of something other than the death of the transferor—see Form 706), and you are also reporting gifts made during the year, complete Schedule A as you normally would with the following changes:

Report the transfer subject to an ETIP on Schedule A, Part 2.

1. 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 of the Form 709 that was originally filed to report the gift portion of the ETIP transfer.

2. Column D.—Give the date the ETIP closed rather than the date of the initial gift.

3. Column E.—Enter "N/A" in Column E.

The value is entered only in Column B, Part 1, Schedule C. See the instructions for Schedule C.

Part 3—Taxable Gift Reconciliation

If you have made no gifts yourself and are filing this return only to report gifts made by your spouse but which are being split with you, skip lines 1–3 and enter your share of the split gifts on line 4.

Line 2.— If you are not splitting gifts with your spouse, skip this line and enter the amount from line 1 on line 3. If you are splitting gifts with your spouse, show half of the gifts you made to third parties on line 2. On the dotted line indicate which numbered items from Parts 1 and 2 of Schedule A you treated this way. 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.

Line 4.— If you are not splitting gifts, skip this line and go to line 5. If you gave all of the gifts, and your spouse is only filing to show his or her half of those gifts, you need not enter any gifts on line 4 of your return, or include your spouse's half anywhere else on your return. Your spouse should enter the amount from Schedule A, line 2, of your return on Schedule A, line 4, of his or her return.

If both you and your spouse make gifts for which a return is required, the amount each of you shows on Schedule A, line 2, of his or her return must be shown on Schedule A, line 4, of the other's return.

Line 6.— Enter the total annual exclusions you are claiming for the gifts listed on Schedule A (including gifts listed on line 4). See **Annual Exclusion** on page 3. If you split a gift with your spouse, the annual exclusion you claim against that gift may not be more than your half of the gift.

Deductions

Line 8.— Enter on line 8 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 8, indicate which numbered items from Schedule A are gifts to your spouse for which you are claiming the marital deduction.

Do not enter on line 8 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 this time 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; and

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 4 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 constitute 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** above, 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 on line 8, Part 3, Schedule A. There is no longer a box to check to make the election. 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 9.— Enter the amount of the annual exclusions that were claimed for the gifts you listed on line 8.

Line 11.— 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;
- 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 11, 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 (or line 4) are charitable gifts.

Line 14.— If you will pay GST tax with this return on any direct skips reported on this return, the amount of that GST tax is also considered a gift and must be added to your other gifts 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 C, and enter on line 14 the total of Schedule C, Part 3, column H. Otherwise, enter zero on line 14.

Line 17.— 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 17 and entering the item number from Schedule A for the annuities for which you are making the election. Any annuities entered on line 17 cannot also be entered on line 8 of Schedule A, Part 3. Any such annuities that are not listed on line 17 must be entered on line 8 of Part 3, 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 line 11a of Part 1, page 1, and skip to the Tax Computation on page 1. (However, be sure to complete Schedule C, if applicable.) 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 than that provided, attach a separate sheet, using the same format as Schedule B.

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.

In column B, identify the Internal Revenue Service 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.

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

Schedule C—Computation of Generation-Skipping Transfer Tax

Part 1—Generation-Skipping Transfers

You must enter on Part 1 all of the gifts you listed on Part 2 of Schedule A in that order and using those same values.

Column B. Transfers subject to an ETIP.— If you are reporting a generation-skipping transfer that occurred because of the close of an "estate tax inclusion period" (ETIP), complete column B for such transfer as follows:

1. Provided the GST exemption is being allocated on a timely filed gift tax return, enter the value as of the close of the ETIP;

2. If the exemption is being allocated after the due date (including extensions) for the gift tax return on which the transfer should be reported, enter the value as of the time the exemption allocation was made.

Column C.— If you elected gift splitting, enter half the value of each gift entered in column B. If you did not elect gift splitting, enter zero in column C.

Column E.— You are allowed to claim the gift tax annual exclusion currently allowable with respect to your reported direct skips (other than certain direct skips to trusts), 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 $10,000 per donee.

Note: *You may not claim any annual exclusion for a direct skip made to a trust unless the trust meets the requirements discussed under* **Direct Skip** *on page 4.*

Part 2—GST Exemption Reconciliation

Every donor is allowed a $1 million lifetime GST exemption. The donor can apply this exemption to inter vivos transfers (i.e., 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 application 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 qualify as such a statement.

Special QTIP election.— If you have elected QTIP treatment for any gifts in trust listed on Schedule A, Part 1, then you may make an election on Schedule C 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 by item number the specific gift for which you are making this special QTIP election.

Line 5.— You may wish to allocate your exemption to transfers made in trust that are not direct skips. For example, if you transferred property to a trust that has your children as its present beneficiaries and your grandchildren and greatgrandchildren as future beneficiaries, the transfer was not a direct skip because the present interests in the trust are held by non-skip persons. **However, future terminations and distributions made from this trust would be subject to the GST tax.**

You may elect to reduce the trust's inclusion ratio by allocating part or all of your exemption to the transfer. Because this transfer would be entered on Schedule A, Part 1, it will not be shown on Schedule C.

In other cases you may wish to allocate your exemption to a trust that is not involved in a transfer listed on Schedule A or C. For example, if your only gift for the year was $10,000 transferred to a trust that had your children as present beneficiaries and your grandchildren as future beneficiaries, you would not be required to file Form 709 for the year. However, future distributions from the trust or the termination of the trust may result in GST tax being due. In this case, you may want to allocate GST exemption to the transfer at the time of the transfer.

To allocate your exemption to such transfers, attach a statement to this Form 709 and entitle it "Notice of Allocation." You may file one Notice of Allocation and consolidate on it all of your Schedule A, Part 1, transfers, plus all transfers not appearing on Form 709, to which you wish to allocate your exemption. The notice must contain the following for each trust:

- Clearly identify the trust, including the trust's EIN, if known;
- The item number(s) from column A, Schedule A, Part 1, of the gifts to that trust;
- The values shown in column E, Schedule A, Part 1, for the gifts (adjusted to account for split gifts, if any, reported on Schedule A, Part 3, line 2)(or, if the allocation is late, the value of the trust assets at the time 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;") and
- The inclusion ratio of the trust after the allocation.

Total the exemption allocations and enter this total on line 5.

Note: *Where the property involved in such a transfer is subject to an estate tax inclusion period 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), you cannot allocate the GST exemption at the time of the transfer but must wait until the end of the estate tax inclusion period. For details, see* **Transfers Subject to an "Estate Tax Inclusion Period"** *on page 2, and section 2642(f).*

Part 3—Tax Computation

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

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 C. However, the total exemption claimed in column C may not exceed the amount you entered on line 3 of Part 2 of Schedule C.

You may enter an amount in column C that is greater than the amount you entered in column B.

Column D.— Carry your computation to three decimal places (e.g., "1.000").

Part 2—Tax Computation (Page 1 of Form)

Line 7.— If you are a citizen or resident of the United States, you must take any available unified credit against gift tax. Nonresident aliens may not claim the unified credit. If you are a nonresident alien, delete the 202,050 entry and write in zero on line 11.

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 column D of Schedule B, 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 on an attached sheet and attach 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.

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

Paperwork Reduction Act Notice.— We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential, as required by section 6103.

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

Recordkeeping	40 min.
Learning about the law or the form	1 hr., 6 min.
Preparing the form	1 hr., 52 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 write to the Tax Forms Committee, Western Area Distribution Center, Rancho Cordova, CA 95743–0001. **DO NOT** send the tax form to this office. Instead, see **Where To File** on page 3.

Table for Computing 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	1,250,000	345,800	41%
1,250,000	1,500,000	448,300	43%
1,500,000	2,000,000	555,800	45%
2,000,000	2,500,000	780,800	49%
2,500,000	3,000,000	1,025,800	53%
3,000,000	10,000,000	1,290,800	55%
10,000,000	17,184,000	5,140,800	60%
17,184,000	- - - - -	9,451,200	55%