# The Probate Team 2025

# Probate Power Hour

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1. <u>ESTATE/GIFT/GENERATION-SKIPPING TRANSFER TAX UPDATE</u>

   a. Last year, the Probate Team reported that the exemptions will decrease by about 50% "[u]nless Congress and the President make the bonus exemption permanent."

   b. On July 4, 2025, that is exactly what happened.

      i. The "One Big Beautiful Bill Act", Pub. L. 119-21.

   c. Effective January 1, 2026, instead of the exemption for gift and estate taxes dropping by half, the exemption increases to $15 million.

      i. Going forward, the exemption is indexed for inflation beginning in 2027.

   d. Portability remains unchanged.

      i. Not for generation-skipping transfer exemption.

      ii. But danger zone - see below.

   e. Annual exclusion - no changes and at $19,000 for 2025.

2. <u>PORTABILITY DANGERS</u>

   a. When is portability an issue:

      i. Always when a surviving spouse?

      ii. Depending upon who you represent?

   b. When is a portability return due:

      i. The estate tax return is always initially due nine months after death

         (1) A six month extension is available but the extension form (Form 4768) must be timely (within nine months after death) filed filing with IRS.

         (2) I.R.C. §6075(a)

      ii. If the estate tax return is not otherwise required, Rev. 2017-34 as amended by Rev. Proc 2022-32 allows filing up to five years after date of death without filing for special relief.

         (1) After five years, a return not otherwise required may still be allowed by the government with a requested under Section 9100.

            (a) This request will essentially be a Private Letter Ruling request.

c. When preparing a portability return, a relaxed standard is allowed under Rev. Proc 2017-34 and Treas. Reg. §20.2010-2(a)(7)(ii).

i. Reliance on this relaxed standard can be risky.

(1) Simplified reporting only applies to property qualifying for marital or charitable deductions.

(2) Improper use of simplified reporting results in an incomplete return.

(a) A portability election cannot be made on an incomplete return.

(b) Therefore, the portability election was determined to be invalid.

(c) *Estate of Rowland v. Commissioner*, T.C. Memo. 2025-76 (July 15, 2025)

d. Minimize risk by letting the client decide:

i. When representing surviving spouse.

ii. When not representing surviving spouse.

(1) Consider any contractual requirements for filing the portability return, such as in a marital agreement.

e. Minimize risk by excluding from scope of representation.

3. <u>NEW FORMS AND NOT SO NEW FORMS</u>

a. New Estate Tax Return - Form 706.

i. Draft released on May 30, 2025.

ii. Instructions released on April 1, 2025.

iii. Final form released September 4, 2025 (Rev. 8-2025).

(1) Form 706 is only 5 pages without schedules.

(a) Schedules are now separate documents.

(2) See Appendices.

iv. Still long title: United States Estate (and Generation-Skipping Transfer) Tax Return.

b. Newish Gift Tax Return - Form 709.

i. Released on January 1, 2025 for 2024 gifts.

ii. Instructions released on January 24, 2025.

c. Don't forget 706-GS series.

i. Form 706-GS(D):

(1) Generation-Skipping Transfer Tax Return for Distributions.

(2) Any skip person who receives a taxable distribution from a trust must file unless the inclusion ratio is zero.

(3) See Appendices.

ii. Form 706-GS(D-1):

(1) Notification of Distribution from a Generation-Skipping Trust.

(2) A trustee of any trust that makes a taxable distribution must file for each skip person *even if* the inclusion ratio is zero.

(3) See Appendices.

iii. Form 706-GS(T):

(1) Generation-Skipping Transfer Tax Return for Terminations.

(2) A trustee of any trust making a taxable termination must file, *even if* the inclusion ration is zero.

(3) See Appendices.

4. <u>TAX-RELATED OPPORTUNITIES</u>

a. If estate tax is not an issue, then the original primary purpose of many trusts (exclusion from the gross estate) no longer exists.

b. Those trusts for surviving spouses (family, bypass, credit shelter, A/B trusts) may now produce suboptimal tax results. The suboptimal result is missing out on a new cost basis when the beneficiary passes. This concept applies to surviving spouses and other beneficiaries with relatively short life expectancies.

c. Consider this situation as an opportunity:

i. Distribute to beneficiary, either surviving spouse or other beneficiary.

(1) Exposes trust property to creditors of surviving spouse/other beneficiary.

(2) Assets may pass to different beneficiaries.

(3) Risks include a future reduction of estate tax exemption.

(a) To mitigate these concerns, find another means of inclusion in the estate for estate tax purposes.

ii. Grant the surviving spouse a general power of appointment.

(1) Risks include exercise by the surviving spouse.

(a) To mitigate that risk, require participation by non-adverse party.

(2) See Appendices for Final Judgment Regarding Modification of Trust.

5. DECANTING - 2025 LEGISLATION

a. Basic decanting concept:

i. Trustee of first trust distributes trust property to trustee of second trust.

b. Florida was the leader in decanting.

i. *Phipps v. Palm Beach Trust Co.*, 142 So. 299 (Fla. 1940)

c. Florida Trust Code includes statutory decanting.

i. Florida Statutes §733.04117 enacted initially in 2007.

(1) Requiring the absolute power to be held by a trustee as existed in *Phipps*, statutory decanting initially was limited to trustees who have "a power to invade principal that is not limited to specific or ascertainable purposes, such as health, education, maintenance, and support, regardless of whether the term "absolute" is used. A power to invade principal for purposes such as best interests, welfare, comfort, or happiness constitutes an absolute power not limited to specific or ascertainable purposes."

ii. Current Florida law allows decanting, with some limitations, even if the trustee does not have absolute power. Florida Statutes §736.04117(3) added in 2018.

d. In 2025, the Florida's Legislature "clarified" that:

i. For decanting only, a trustee of a first trust who creates a second trust will not be considered the settlor of the second trust. Accordingly, that trustee may also be the trustee of the second trust.

ii. The second trust can be established by modifying the first trust rather than creating a new trust. This clarification will eliminate the need for establishing a new trust and should greatly simplify the mechanics of decantings.

iii. A trust disclosure document does not begin the statute of limitations for decanting unless the trust disclosure document is provided after the effective date of the decanting.

(1) To what extent can a trustee limit liability when decanting?

iv. Florida statutory decanting is available to all trusts governed by Florida law and to all trusts with a principal place of administration in Florida.

(1) The statutory change refers to "*a* principal place of administration" (emphasis supplied).

(2) Of course, there can only be one <u>principal</u> place of administration. See, Florida Trust Code §736.0108.

6. <u>FINALITY FOR OUTGOING TRUSTEE (?) - 2025 LEGISLATION</u>

a. The Florida Trust Code has long shielded a successor trustee who does not pursue a prior trustee under certain established circumstances. Florida Trust Code §732.08125.

b. Florida Trust Code §736.10085 adds protection for a prior trustee (or is it a former trustee?).

i. A successor trustee may not pursue claims against a prior trustee if the beneficiary whose interests are represented by the successor trustee could not have brought the claim directly against the prior trustee.

c. This change is designed to prevent a prior trustee, after having barred claims by a beneficiary (by accountings, limitations, releases, etc.), from being re-exposed to the same claims from a successor trustee.

i. That objective makes sense, maybe. But maybe not always.

(1) A settlor often creates a trust because of concerns regarding the beneficiaries ability to protect themselves.

(2) In that situation, should the successor trustee be precluded from pursuing the prior trustee because a beneficiary who needed protection has been barred by the prior trustee?

d. This statutory change may give the prior trustee a false sense of security. The statutory change does not expressly address situations when some, but not all, of the beneficiaries are barred. The new statue refers to a single "beneficiary" when almost all trusts have more than one beneficiary, i.e., a current beneficiary and a remainder beneficiary.

i. When at least one beneficiary is not barred, if the successor trustee can pursue an action against the prior trustee on behalf of that one beneficiary, then this change may not provide the expected protection for prior trustees.

(1) Perhaps the damages that can be obtained from the prior trustee is limited in some way to only benefit the unbarred trustee. But that is not much of protection when the remedy sought is removal.

ii. On the other hand, if this protection exists when less than all of the beneficiaries are barred, then those non-barred beneficiaries may be harmed if the successor trustee is not able to pursue the prior trustee.

e. The title to this new section refers to "former trustees" while the text of the law refers to "successor trustee." A distinction without a difference?

## 7. <u>Community Property Trusts - 2025 Legislation</u>

a. Since 2021, Florida has permitted the creation of community property trusts.

i. Part XV, Florida Trust Code.

b. Three clarifications were enacted in 2025.

i. In case "deeming" is not the same as "being" this change was enacted:

(1) The property owned by a community property trust pursuant to this part and the appreciation of and income from such property <u>are</u> ~~shall be deemed to be~~ community property...

ii. A community property trust may be created by an amendment, restatement, or modification of an existing trust.

iii. A transfer of homestead property to a community property trust will not be a change of ownership that would cause reassessing the property.

8. CHARITABLE TRUSTS - 2025 LEGISLATION

a. When the Florida Attorney General loses in court, a legislative change is not surprising.

i. Alfred I. duPont created a testamentary charitable trust which in turn created the Nemours Foundation. After the Florida Supreme Court declined the opportunity to review the reversal by the Fifth District, the Attorney General of the State of Delaware had standing. 49 Fla. L. Weekly D1154 (Fla. 5th DCA 2024).

ii. The holding is going to be of limited utility in practice.

iii. The legislative "fix" might be more far-reaching.

b. When asserting the rights of a qualified beneficiary, the Attorney General of Florida now has exclusive authority to represent the general public, unnamed charitable beneficiaries, and any person other than a named charitable beneficiary having a special interest in a charitable trust, in any judicial proceedings within this state or elsewhere, with respect to all matters relating to the administration of the charitable trust, including and without limitation, contract and trust law claims relating to charitable distributions and the exercise of trustee powers. The Attorney General of another state or any other public officer of another state does not have standing to assert such rights or interests.

c. To remove doubt, the new legislation also provides that the enforcement provisions for charitable trusts may not be construed to afford standing to the Attorney General of any other state, or another public officer of another state, with respect to any charitable trust having its principal place of administration in this state.

9. <u>Notarizing Your Own Signature?</u>

a. The trial court held that a mortgage was "facially deficient" and "legally invalid on its face" because the notary was also a witness.

b. The lender, wanting to enforce the mortgage, appealed.

c. Recognizing that Florida Statutes §117.05(1) prohibit a notary public from notarizing his own signature, the appellate court explained that is not the same as the notary also being a witness.

d. The opinion reminds us the presumption is that notarization applies to all signatures on a document and that presumption can be overridden by specific notation otherwise. The document at issue clearly identified the person whose signature was being notarized and that person was not the notary.

e. The appellate court found the notarization was proper and remanded to the lower court.

f. *13110 Investments LLC v. Dumervile*, 50 Fla. L.Weekly D1226a (Fla.4th DCA June 4, 2025)

10. <u>Generous to a Fault?</u>

a. Man and woman entered into a premarital agreement in which the soon to be husband agreed to leave the soon to be wife the greater of $250,000 or an amount equal to ten percent of his estate.

b. Two months after the marriage, the husband amended his estate plan to include a testamentary gift using the same terms as in the premarital agreement.

c. Six years later, the husband amended his estate plan and included a provision leaving the wife $1,000,000 upon the husband's death and explicitly revoking the previous amendment.

d. Upon the husband's death, the wife received $1,000,000 from the husband's estate (which was unquestionably more than 10% of this estate).

e. But that was not enough for the wife.

f. She then filed a claim for an additional amount pursuant to the premarital agreement.

g. The trial court held that when an estate plan provides more than is required by a premarital agreement, the greater amount of the testamentary gift satisfies the lesser amount of the contractual obligation. So, the wife received the $1,000,000 and no more.

h. The wife was also determined because she appealed the trial court's decision.

i. The Third DCA disposed of the appeal by a *per curiam affirmance*.

j. Three practice pointers:

   i. when preparing estate planning documents for a client that has obligations, such as in a premarital agreement, acknowledge the agreement and indicate that the provisions are in full satisfaction of the contractual obligations;

   ii. when making distributions do so pursuant to an agreement by which the beneficiary acknowledges the beneficiary is getting all to which the beneficiary is entitled; and

   iii. consider the myriad of issues that are created when a devise is expressed in terms of a pecuniary amount or a percentage.

   iv. *Adelson v. Kalter*, 50 Fla. L. Weekly D998b (Fla.3d DCA Apr. 30, 2025)

11. <u>REFORMATION TO THE RESCUE</u>

a. Grandfather executed Lady Bird deeds in favor of two of his grandchildren.

b. Grandfather then died.

c. A daughter of the grandfather initiated litigation in which she pointed out that the real property at issue was titled to her father as trustee of a trust that he had established in 2006. The daughter asserted that the deeds did not convey the real property because the deeds were executed by the grandfather individually not as trustee of the trust.

d. The grandchildren counterclaimed seeking to reform the deeds to include the correct grantor.

e. The trial court reformed the deeds with the result that the grandchildren receive the real property at issue.

f. The appellate decision describes the requirements for reformation and affirmed the lower court's decision.

g. *Johnson v. Johnson,* 50 Fla. L. Weekly D1021a (Fla.1st DCA May 7, 2025)

12. TRUST PROTECTORS; SHOULD IS PERMISSIVE

a. Trust protectors are more prevalent in practice. Consequently, trust protectors will be more prevalent in litigation.

b. The settlor named a trust protector with broad powers, including the power to remove officers of a family company "with or without cause" and the authority to interpret or amend ambiguous provisions.

c. The trust instrument stated the trust protector "should make a reasonable inquiry" before exercising powers, leading to a dispute over whether the inquiry was a mandatory duty or an advisory suggestion.

d. Even though the trust protector believed he was not under a mandatory duty, he exercised his authority to amend the trust instrument to "correct ambiguities" and to "settle disputes concerning ... interpretation.." by adding the following to the trust instrument:

> The use of the word "should" in the last sentence signifies it is not mandatory. If the Trust Protector reasonably believes that he or she has sufficient information independent of any inquiry to decide on the exercise of the Trust Protector's powers under this Trust Agreement, then the Trust Protector is under no obligation to make any further inquiry or seek any other information that bears upon the Trust Protector's decision. No inquiry is ever required when the Trust Protector is authorized to order the removal of a person "without cause" or perform any other act "without cause."

e. The trial court read "should" as imposing a duty on the trust protector before he could exercise his powers. Further the trial court found the use of the word "shall" was not ambiguous, and therefore rejected the amendment (which was only allowed to correct ambiguities).

f. The appellate court reversed, holding that "should" is advisory or at least ambiguous; if ambiguous, the exercise of the amendment power resolved the matter, eliminating any role for the court.

g. *Liberman v. Sloto*, 50 Fla. L. Weekly D561e (Fla. 3rd DCA 2025)

13. <u>SHALL VERSUS MUST</u>

a. "Shall is the most misused word in the legal vocabulary."

i. J. Kimble, *The Many Misues of Shall*, 3 Scribes J. of Legal Writing (1992).

ii. See Appendices.

14. <u>E-FILING AND RELATED RULES</u>

a. On March 20, 2025, the Florida Supreme Court entered its Corrected Order in SC2023-1401, In Re: Amendments to Florida Rules of General Practice and Judicial Administration.

b. This case is the successor to a case that began in 2019 and ended with the entry of an order on March 5, 2021, SC19-2163.

> We have been urged by the RJAC to adopt agreed-upon changes and those that require only minor changes by the Court to the amendments proposed. *We decline the invitation for the Court to perform this exercise.* Instead, we request the RJAC to re-engage with the interested parties and resubmit a proposal in more final form, with greater consensus and narrowed issues. To the extent there are agreed-to changes that can be separated from the matters in dispute that require additional work, the RJAC may resubmit those proposed changes in final form for consideration by the Court. Any resubmissions must be filed in new cases after submission to the Board. (*Emphasis added*)

c. The proposals by the various rules committees in the 2019 case essentially ignored the practical differences that exist in probate administrations.

d. The proposals in the 2023 case addressed those issues and eventually incorporated a system that can be effectively and efficiently used in routine probate administrations.

e. Rule 2.515(b)(1)(A)(iii) now allows an attorney to electronically file a document on behalf of an unrepresented party (think: beneficiary and creditor) by the:

i. “Placement of an electronic signature indicator above the printed name of the unrepresented party on whose behalf the filing is being made and who has requested that the attorney affix the unrepresented party’s electronic signature indicator and file the document” or

ii. “Signature of the unrepresented party in any form recognized by law on the paper document and the inclusion of that document as part of an electronically filed document or with a notice of filing containing the style of the case, the name of the document, and certificate of service.”

iii. “The electronic signature indicator may be an “/s/” in front of the signer’s printed name or may be in any other form that meets with the Florida Courts Technology Standards.”

iv. Importantly, unlike when making filings, this process of filing by an attorney for an unrepresented person does not result in the filer being considered as having signed the document.

f. This order also establishes firmer guardrails for clerks diverting filings to the correction queue. The order confirms that the clerk does not have discretion to decide whether to accept the document. The only course of action available to the clerk is to place the filing in the correction queue and then only if the filing:

i. Is filed after a case number is assigned and lacks a correct case number and the correct case number cannot be reliably and easily identified;

ii. Lacks a case style or has the wrong case style;

iii. Consists of multiple documents filed as one document;

iv. Consists of a multi-page document filed as separate documents;

v. Is a proposed order, unless it is filed under a notice of filing for purposes of preserving a record;

vi. Is illegible, corrupt, or blank; or

vii. Is barred by order of court or is otherwise incapable of being filed in the clerk’s case maintenance system.

15. <u>PROCESS IS DUE, AGAIN AND AGAIN; DEADLINE FOR OBJECTING</u>

a. Even in probate administrations, process is due to interested persons. This is particularly when a personal representative is being removed.

b. The decedent's Last Will and Testament was admitted to probate and one of his daughters was appointed as the personal representative.

c. Another daughter filed a petition for partial revocation and a son of the decedent filed a petition to remove the personal representative.

d. Separate hearings were scheduled at separate times on those two petitions. The night before the other daughter's petition was to be heard, she dismissed her petition.

e. The court held the hearing with only the son's counsel present. Although the removal petition was not then noticed for hearing, the court *sua sponte* removed the personal representative. The removal was without notice to the daughter.

f. The appellate court found fundamental error by violating the removed personal representative's due process, citing to the Constitutions of both the United States of America and the State of Florida, and reversed the order removing the personal representative and the revoking of the Letters of Administration.

g. *Maestrales v. Maestrales*, 50 Fla. L. Weekly D1795a (Fla. 4$^{th}$ DCA 2025)

h. The lawyer for the son could have avoided the appeal if he had pointed out to the court the obvious lack of due process. The court was likely going to proceed as it had indicated even with a day or two delay to give the personal representative notice.

16. <u>E-SERVICE FOR FORMAL NOTICE; DEADLINE FOR OBJECTING TO CLAIMS</u>

a. The Florida Supreme Court amended Rule 5.040 to require that formal notice be served electronically on a lawyer who has appeared in a matter for an interested person in accordance with Florida Rule of General Practice and Judicial Administration 2.516 (Service of Pleadings and Documents). For unrepresented persons, formal notice must continue to be served in one of the manners listed in rule 5.040.

b. The Florida Supreme Court also amended Rule 5.499 in connection with the deadline to serve an objection on a claimant by changing from "within 10 days after the filing of the objection" to "at the time of filing [the objection] or promptly thereafter." This change conforms rule 5.499(e) to section 733.705(2).

c. Florida Supreme Court amended form 5.904(d) to align with Florida Statutes §744.3675(1)(b)2 by the replacing the phrase "no more than 90 days before the end of the report period" in paragraph 6 with "no more than 90 days before the beginning of the applicable reporting period."

d. *In Re: Amendments to Florida Probate Rules*, 50 Fla. L. Weekly S53a (Fla. 2025).

17. <u>MORE FLORIDA PROBATE RULE CHANGES</u>

a. On September 5, 2024, as reported in the 2024 Probate Team, the Florida Supreme Court modified several probate rules. The court invited comments and that resulted in the Court further amending those rules by an order entered on February 27, 2025.

   i. These amendments impact rules 5.240, 5.241, and 5.550.

b. Rules 5.240 and 5.241 are amended to require that both the Notice of Administration and the Notice to Creditors include the following statement: "The written demand must be filed with the clerk."

   (1) This statement is to be added at the end of the section that refers to Florida Uniform Disposition of community Property Rights at Death Act.

c. Rule 5.550 is amended to delete from the Petition to Determine Incapacity certain words that were added at the request of the Probate Rules Committee just a few months previously. Those words are "or supported decision making agreements: and "agreements."

d. In Re: Amendments to Florida Probate Rules, 50 Fla. L. Weekly S33a (Fla. 2025).

18. <u>UPDATE ON "IS THERE A BETTER WAY?"</u>

a. The Workgroup on Uncontested Probates was created by order of the Florida Supreme Court in 2024, with direction to:

   (1) Examine this state's practices, rules of court, and laws for uncontested probate proceedings.

(2) Review processes and procedures for addressing uncontested probate proceedings in other states to identify reforms that may improve the efficient and effective resolution of such proceedings in this state.

(3) Make recommendations, if warranted, to improve the processes and procedures for uncontested probate proceedings and propose any revisions to practices, rules of court, or statutes that are needed to implement the Workgroup's recommendations.

(4) *Workgroup on Uncontested Probate Proceedings*, AOSC2024-20

b. The final report of the Workgroup was accepted by the Judicial Management Counsel in July 2025, and delivered to the court with unanimous approval.

c. Stay tuned and imagine a world where uncontested probate administrations are simple throughout the state.

19. CONCLUSION

**Appendices**

1. FORM 706 WITH SCHEDULES A THROUGH W
2. FORM 706-GS(D)
3. FORM 706-GS(D-1)
4. FORM 706(GS)-T
5. FINAL JUDGMENT REGARDING MODIFICATION OF TRUST
6. THE MANY MISUSES OF SHALL

Form **706**

(Rev. August 2025)

Department of the Treasury
Internal Revenue Service

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

**Estate of a citizen or resident of the United States (see instructions). To be filed for decedents dying after December 31, 2024.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

## Part I Decedent and Executor (see instructions)

| | | | |
|---|---|---|---|
| **1a** Decedent's first name and middle initial (and maiden name, if any) | **1b** Decedent's last name | | **2 Decedent's social security no.** |
| **3a** City, town, or post office. For foreign addresses, also complete lines 3e, 3f, and 3g. | **3b** County | **3c** State | **3d** ZIP code |
| **3e** Foreign country name | **3f** Foreign province/state/county | **3g** Foreign postal code | **4** Year domicile established |
| **5** Date of birth | **6** Date of death | | |
| **7a** Name of executor | | | **7b** Executor's TIN |
| **7c** Executor's address (number and street) | | | **7d** Apt. or suite no. |
| **7e** City, town, or post office. For foreign addresses, also complete lines 7h, 7i, and 7j. | | **7f** State | **7g** ZIP code |
| **7h** Foreign country name | **7i** Foreign province/state/county | **7j** Foreign postal code | **7k** Executor's phone no. |

**7l** ☐ Check here if there are multiple executors. If checked, attach a list with the names, addresses, telephone numbers, and SSNs of the additional executors.

| | | |
|---|---|---|
| **8a** Name of court where will was probated or estate administered | **8b** Location of court where will was probated or estate administered | **8c** Case number |

**Check all that apply**

- **9a** ☐ The decedent died testate.
- **b** ☐ You attached a certified copy of the Will.
- **10** ☐ You attached the death certificate. **Note.** A death certificate must be attached.
- **11** ☐ You extended the time to file this Form 706.
- **12** ☐ You are estimating the value of assets included in the gross estate on Part II, line 1 pursuant to the special rule of Reg. section 20.2010-2(a)(7)(ii).
- **13** ☐ This is a supplemental return.
- **14a** ☐ You previously filed a section 2053 protective claim for refund that is now ready for consideration.
- **b** If line 14a is checked, enter the filing date(s) of the initial section 2053 protective claim(s) for refund:

## Part II Tax Computation (see instructions)

| | | | | | |
|---|---|---|---|---|---|
| **1** | Total gross estate less exclusion from Part V, item 13 | | | **1** | |
| **2** | Tentative total allowable deductions from Part V, item 24 | | | **2** | |
| **3a** | Tentative taxable estate. Subtract line 2 from line 1 | | | **3a** | |
| **b** | State death tax deduction | | | **3b** | |
| **c** | Taxable estate. Subtract line 3b from line 3a | | | **3c** | |
| **4** | Adjusted taxable gifts. See instructions | | | **4** | |
| **5** | Add lines 3c and 4 | | | **5** | |
| **6** | Tentative tax on the amount on line 5 from Table A in the instructions | | | **6** | |
| **7** | Total gift tax paid or payable. See instructions | | | **7** | |
| **8** | Gross estate tax. Subtract line 7 from line 6 | | | **8** | |
| **9a** | Basic exclusion amount | **9a** | | | |
| **b** | Deceased spousal unused exclusion (DSUE) amount from predeceased spouse(s), if any, from Part VI, Section D, line 4 | **9b** | | | |
| **c** | Restored exclusion amount. See instructions | **9c** | | | |
| **d** | Applicable exclusion amount. Add lines 9a, 9b, and 9c | **9d** | | | |
| **e** | Applicable credit amount. Tentative tax on the amount on line 9d from Table A in the instructions | **9e** | | | |
| **10** | Adjustment to applicable credit amount. Do not enter more than $6,000. See instructions | **10** | | | |
| **11** | Allowable applicable credit amount. Subtract line 10 from line 9e | | | **11** | |
| **12** | Subtract line 11 from line 8. If zero or less, enter -0- | | | **12** | |

**For Privacy Act and Paperwork Reduction Act Notice, see separate instructions.** Cat. No. 20548R Form **706** (Rev. 8-2025) Created 5/30/25

## Part II Tax Computation (see instructions) *(continued)*

| | | | |
|---|---|---|---|
| 13 | Credit for foreign death taxes from Schedule P (Form 706). Attach Form(s) 706-CE | 13 | |
| 14 | Credit for tax on prior transfers from Schedule Q (Form 706) | 14 | |
| 15 | Credit for pre-1977 federal gift taxes under section 2012 | 15 | |
| 16 | Marital credit under the 1995 Canadian Protocol | 16 | |
| 17 | Total credits. Add lines 13 through 16 | 17 | |
| 18 | Net estate tax. Subtract line 17 from line 12 | 18 | |
| 19 | Generation-skipping transfer (GST) taxes payable from Schedule R (Form 706), Part II, line 11 | 19 | |
| 20 | Total transfer taxes. Add lines 18 and 19 | 20 | |
| 21 | Prior payments. Explain in an attached statement | 21 | |
| 22 | **Tax due.** If the amount on line 20 is more than the amount on line 21, subtract line 21 from line 20. For details on how to pay, go to *www.irs.gov/Payments* or see the instructions | 22 | |
| 23a | **Overpayment.** If the amount on line 21 is more than the amount on line 20, subtract line 20 from line 21 and complete lines 23b, 23c, and 23d. See instructions | 23a | |
| b | Routing number | | |
| c | Type: ☐ Checking ☐ Savings | | |
| d | Account number | | |

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

**Sign Here**

| | |
|---|---|
| Signature of executor | Date |
| Signature of executor | Date |

**Paid Preparer Use Only**

| | | | | |
|---|---|---|---|---|
| Preparer's name | Preparer's signature | Date | Check ☐ if self-employed | PTIN |
| Firm's name | | | Firm's EIN | |
| Firm's address | | | Phone no. | |

Form **706** (Rev. 8-2025)

## Part III Elections by the Executor (see instructions)

**Note.** For information on electing portability of the decedent's DSUE amount, including how to opt out of the election, see Part VI.
**Caution.** Some of the following elections may require the posting of bonds or liens.

| | **Check "Yes" or "No" for each question.** | **Yes** | **No** |
|---|---|---|---|
| 1 | Do you elect alternate valuation? | | |
| 2 | Do you elect special-use valuation? If "Yes," you must complete and attach Schedule T (Form 706) | | |
| 3 | Do you elect to pay the taxes in installments as described in section 6166? If "Yes," you must attach the additional information described in the instructions. **Note. By electing section 6166 installment payments, you may be required to provide security for estate tax deferred under section 6166 and interest in the form of a surety bond or a section 6324A lien** | | |
| 4 | Do you elect to postpone the part of the taxes due to a reversionary or remainder interest as described in section 6163? | | |

## Part IV General Information (see instructions)

**Note.** Attach the necessary supplemental documents.

**1a** Death certificate number

**1b** Death certificate issuing authority

**2a** Decedent's business or occupation or former business or occupation

**2b** Check here if retired ☐

**3a** Marital status of the decedent at time of death. Also enter the decedent's surviving spouse information on lines 4a, 4b, and 4c, if applicable. See instructions.

☐ Married ☐ Widow/widower ☐ Single ☐ Legally separated ☐ Divorced

**3b** For all prior marriages, list the information below. Under column (iv), indicate whether the marriage ended by annulment, divorce, or death. Attach additional statements if necessary.

| (i) Name of former spouse(s) | (ii) Social security number | (iii) Date marriage ended | (iv) Annulment | (iv) Divorce | (iv) Death |
|---|---|---|---|---|---|
| | | | ☐ | ☐ | ☐ |
| | | | ☐ | ☐ | ☐ |
| | | | ☐ | ☐ | ☐ |
| | | | ☐ | ☐ | ☐ |

**4a** Surviving spouse's name

**4b** Social security number

**4c** Amount surviving spouse received

**5a** Individuals (other than the surviving spouse), trusts, or other estates who receive benefits from the estate (do not include charitable beneficiaries shown in Schedule O (Form 706)). Attach additional statements if necessary.

| (i) Name of individual, trust, or estate receiving $5,000 or more | (ii) Identifying number | (iii) Relationship to decedent | (iv) Amount received |
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|---|---|---|---|
| **b** | Total from attachment, if necessary | **5b** | |
| **c** | All unascertainable beneficiaries and those who receive less than $5,000 | **5c** | |
| **d** | **Total.** Add amounts in column (iv) | **5d** | |

| | Answer each of the following questions. **If you answer "Yes" to any of the questions, you must attach additional information as described.** | **Yes** | **No** |
|---|---|---|---|
| 6 | Is the estate filing a protective claim for refund? If "Yes," complete and attach Schedule PC (Form 706) for each claim | | |
| 7 | Does the gross estate contain any section 2044 property (qualified terminable interest property (QTIP) from a prior gift or estate)? | | |
| 8a | Have federal gift tax returns ever been filed? | | |
| | If "Yes" to line 8a, attach copies of the returns, if available, and furnish the following information. | | |
| b | Period(s) covered — **c** Internal Revenue office(s) where filed | | |
| 9a | Was there any insurance on the decedent's life that is not included on the return as part of the gross estate? | | |
| b | Did the decedent own any insurance on the life of another that is not included in the gross estate? | | |
| 10 | Did the decedent at the time of death own any property as a joint tenant with right of survivorship in which (**a**) one or more of the other joint tenants was someone other than the decedent's spouse, and (**b**) less than the full value of the property is included on the return as part of the gross estate? If "Yes," you must complete and attach Schedule E (Form 706) | | |

## Part IV General Information (see instructions) *(continued)*

| Answer each of the following questions. **If you answer "Yes" to any of the questions, you must attach additional information as described.** | | Yes | No |
|---|---|---|---|
| 11a | Did the decedent, at the time of death, own any interest in a partnership (for example, a family limited partnership), an unincorporated business, or a limited liability company; or own any stock in an inactive or closely held corporation? | | |
| b | If "Yes" to line 11a, was the value of **any** interest owned discounted on this estate tax return? If "Yes," see the instructions on reporting the total accumulated or effective discounts taken on Schedule F (Form 706) or Schedule G (Form 706) | | |
| 12 | Did the decedent make any transfer described in sections 2035, 2036, 2037, or 2038? If "Yes," you must complete and attach Schedule G (Form 706) | | |
| 13a | Were there in existence at the time of the decedent's death any trusts created by the decedent during the decedent's lifetime? | | |
| b | Were there in existence at the time of the decedent's death any trusts not created by the decedent under which the decedent possessed any power, beneficial interest, or trusteeship? | | |
| c | Was the decedent receiving income or eligible to receive any distribution from a trust created after October 22, 1986, by a parent or grandparent? | | |
| d | If "Yes" to line 13c, was there a GST taxable termination (under section 2612) on the death of the decedent? If "Yes," attach a statement of explanation. Attach a copy of the trust or will creating the trust, and give the name, address, and phone number of the current trustee(s) | | |
| e | Did the decedent at any time during the decedent's lifetime transfer or sell an interest in a partnership, limited liability company, or closely held corporation to a trust described in line 13a or 13b? | | |
| f | If "Yes" to line 13e, provide the EIN for the entity in which an interest was transferred/sold: | | |
| 14 | Did the decedent ever possess, exercise, or release any general power of appointment? If "Yes," you must complete and attach Schedule H (Form 706) | | |
| 15 | Did the decedent have an interest in or a signature or other authority over a financial account in a foreign country, such as a bank account, securities account, or other financial account? | | |
| 16 | Was the decedent, immediately before death, receiving an annuity described in the "General" paragraph of the instructions for Schedule I (Form 706) or a private annuity? If "Yes," you must complete and attach Schedule I (Form 706) | | |
| 17 | Was the decedent ever the beneficiary of a trust for which a deduction was claimed by the estate of a predeceased spouse under section 2056(b)(7) and which is not reported on this return? If "Yes," attach a statement of explanation | | |

## Part V Recapitulation (see instructions)

**Note.** If estimating the value of one or more assets pursuant to the special rule of Reg. section 20.2010-2(a)(7)(ii), enter on both items 10 and 23 the amount noted in the instructions for the corresponding range of values.

| Item no. | Gross estate from the applicable schedules of Form 706 | | Alternate value | Value at date of death |
|---|---|---|---|---|
| 1 | Total real estate. Schedule A, line 4 | 1 | | |
| 2 | Total stocks and bonds. Schedule B, line 4 | 2 | | |
| 3 | Total mortgage, notes, and cash. Schedule C, line 4 | 3 | | |
| 4 | Total insurance on the decedent's life. Schedule D, line 4. Attach Form(s) 712 | 4 | | |
| 5 | Total jointly owned property. Schedule E, line 10 | 5 | | |
| 6 | Total other miscellaneous property. Schedule F, line 7 | 6 | | |
| 7 | Total transfers during the decedent's lifetime. Schedule G, line 5 | 7 | | |
| 8 | Total powers of appointment. Schedule H, line 4 | 8 | | |
| 9 | Total annuities. Schedule I, line 5 | 9 | | |
| 10 | Estimated value of assets subject to the special rule of Reg. section 20.2010-2(a)(7)(ii) | 10 | | |
| 11 | Total gross estate. Add items 1 through 10 | 11 | | |
| 12 | Total qualified conservation easement exclusion. Schedule U, line 20 | 12 | | |
| 13 | Total gross estate less exclusion. Subtract item 12 from item 11. Enter here and on Part II, line 1 | 13 | | |

| Item no. | Deductions from the applicable schedules of Form 706 | | Amount |
|---|---|---|---|
| 14 | Total funeral expenses and expenses incurred in administering property subject to claims. Schedule J, line 12 | 14 | |
| 15 | Total debts of the decedent. Schedule K, line 6 | 15 | |
| 16 | Total mortgages and liens on, or in respect of, any property of the decedent. Schedule K, line 10 | 16 | |
| 17 | Add items 14 through 16 | 17 | |
| 18 | Allowable amount of deductions from item 17. See instructions | 18 | |
| 19 | Total net losses during administration. Schedule L, line 4 | 19 | |
| 20 | Total expenses incurred in administering property not subject to claims. Schedule L, line 8 | 20 | |
| 21 | Total amount of property interests for which a marital deduction is being claimed. Schedule M, line 14 | 21 | |
| 22 | Total charitable, public, and similar gifts and bequests. Schedule O, line 8 | 22 | |
| 23 | Estimated value of deductible assets subject to the special rule of Reg. section 20.2010-2(a)(7)(ii) | 23 | |
| 24 | Tentative total allowable deductions. Add items 18 through 23. Enter here and on Part II, line 2 | 24 | |

## Part VI Portability of Deceased Spousal Unused Exclusion (DSUE) (see instructions)

### Portability Election

A decedent with a surviving spouse elects portability of the DSUE amount, if any, by completing and timely filing this return. No further action is required to elect portability of the DSUE amount to allow the surviving spouse to use the decedent's DSUE amount.

### Section A—Opting Out of Portability

☐ Check here for the estate of a decedent with a surviving spouse to opt out of electing portability of the DSUE amount. Do not complete Sections B and C.

**Caution.** Check only if the estate opts **NOT** to elect portability of the DSUE amount.

### Section B—Qualified Domestic Trust (QDOT)

Are any assets of the estate being transferred to a QDOT? . . . . . . ☐ **Yes** ☐ **No**

If "Yes," the DSUE amount portable to a surviving spouse (calculated in Section C, below) is preliminary and shall be redetermined at the time of the final distribution or other taxable event imposing estate tax under section 2056A.

### Section C—DSUE Amount Portable to the Surviving Spouse

(To be completed by the estate of a decedent making a portability election.)

Complete the following calculation to determine the DSUE amount that can be transferred to the surviving spouse.

| | | | |
|---|---|---|---|
| 1 | Enter the amount from Part II, line 9d | 1 | |
| 2 | Enter the value of the cumulative lifetime gifts on which tax was paid or payable. See instructions | 2 | |
| 3 | Add lines 1 and 2 | 3 | |
| 4 | Enter the amount from Part II, line 10 | 4 | |
| 5 | Divide the amount on line 4 by 40% (0.40). If zero or less, enter -0- | 5 | |
| 6 | Subtract line 5 from line 3 | 6 | |
| 7 | Enter the amount from Part II, line 5 | 7 | |
| 8 | Subtract line 7 from line 6. If zero or less, enter -0- | 8 | |
| 9 | Enter the amount from Part II, line 9a | 9 | |
| 10 | DSUE amount portable to surviving spouse. Enter the smaller of line 8 or line 9 | 10 | |

### Section D—DSUE Amount Received From Predeceased Spouse(s)

(To be completed by the estate of a deceased surviving spouse with DSUE amount from predeceased spouse(s).)

Provide the following information to determine the DSUE amount received from deceased spouse(s).

| A<br>Name of deceased spouse (dates of death after December 31, 2010, only) | B<br>Date of death (enter as mm/dd/yy) | C<br>Portability election made?<br>Yes | <br>No | D<br>If "Yes," DSUE amount received from spouse | E<br>DSUE amount applied by decedent to lifetime gifts | F<br>Year of Form 709 reporting use of DSUE amount listed in column E | G<br>Remaining DSUE amount, if any (subtract column E from column D) |
|---|---|---|---|---|---|---|---|
| **1** DSUE received from last deceased spouse: | | | | | | | |
| | | | | | | | |
| **2** DSUE received from other predeceased spouse(s) and used by decedent: | | | | | | | |
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| 3 | Total of all DSUE amounts from predeceased spouse(s) applied. Add line 2, column E | 3 | |
| 4 | Add line 3 and line 1, column D. Enter here and on Part II, line 9b | 4 | |

**SCHEDULE A (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Real Estate

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- For jointly owned property that must be disclosed on Schedule E (Form 706), see instructions.
- Real estate that is part of a sole proprietorship should be shown on Schedule F (Form 706).
- Real estate that is included in the gross estate under sections 2035, 2036, 2037, or 2038 should be shown on Schedule G (Form 706).
- Real estate that is included in the gross estate under section 2041 should be shown on Schedule H (Form 706).
- If you elect section 2032A valuation, you must complete Schedule A (Form 706) and Schedule T (Form 706).
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

**1** Enter real estate the decedent owned or had contracted to purchase. See instructions.

| **(i)** Item number | **(ii)** Description | **(iii)** Alternate valuation date | **(iv)** Alternate value | **(v)** Value at date of death |
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**1** Enter real estate the decedent owned or had contracted to purchase. See instructions. *(continued)*

| **(i)** Item number | **(ii)** Description | **(iii)** Alternate valuation date | **(iv)** Alternate value | **(v)** Value at date of death |
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| **2** Add all amounts in column (iv) or column (v), as applicable . . . . . . . . . . . . | **2** | | |
| **3** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **3** | | |
| **4** **Totals.** Add lines 2 and 3. Enter these amounts on Form 706, Part V, item 1 . . . . . | **4** | | |

**Schedule A (Form 706) (8-2025)**

**SCHEDULE B (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Stocks and Bonds

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- For jointly owned property that must be disclosed on Schedule E (Form 706), see instructions.
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last four columns.

**1** Enter all stocks and bonds that are included in the decedent's gross estate. See instructions.

| **(i)** Item number | **(ii)** Description, including face amount of bonds or number of shares and par value for identification | **(iii)** Enter CUSIP number; or if a trust, partnership, or closely held entity, enter EIN | **(iv)** Unit value | **(v)** Alternate valuation date | **(vi)** Alternate value | **(vii)** Value at date of death |
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**1** Enter all stocks and bonds that are included in the decedent's gross estate. See instructions. *(continued)*

| **(i)** Item number | **(ii)** Description, including face amount of bonds or number of shares and par value for identification | **(iii)** Enter CUSIP number; or if a trust, partnership, or closely held entity, enter EIN | **(iv)** Unit value | **(v)** Alternate valuation date | **(vi)** Alternate value | **(vii)** Value at date of death |
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| **2** Add all amounts in column (vi) or column (vii), as applicable . . . . . . . . . . . . | **2** | | |
| **3** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **3** | | |
| **4** **Total.** Add lines 2 and 3. Enter these amounts on Form 706, Part V, item 2 . . . . . . | **4** | | |

**SCHEDULE C (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Mortgages, Notes, and Cash

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- For jointly owned property that must be disclosed on Schedule E (Form 706), see instructions.
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

**1** Enter all mortgages, notes, or cash that are included in the decedent's gross estate. See instructions.

| **(i)** Item number | **(ii)** Description | **(iii)** Alternate valuation date | **(iv)** Alternate value | **(v)** Value at date of death |
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**1** Enter all mortgages, notes, or cash that are included in the decedent's gross estate. See instructions. *(continued)*

| **(i)** Item number | **(ii)** Description | **(iii)** Alternate valuation date | **(iv)** Alternate value | **(v)** Value at date of death |
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| **2** Add all amounts in column (iv) or column (v), as applicable . . . . . . . . . . . . | **2** | | |
| **3** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **3** | | |
| **4** **Total.** Add lines 2 and 3. Enter these amounts on Form 706, Part V, item 3 . . . . . . | **4** | | |

**Schedule C (Form 706) (8-2025)**

**SCHEDULE D (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Insurance on the Decedent's Life

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- You must list all policies on the life of the decedent and attach a Form 712 for each policy.
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

**1** Enter all insurance on the decedent's life, whether or not it's included in the decedent's gross estate. See instructions.

| **(i)** Item number | **(ii)** Description | **(iii)** Alternate valuation date | **(iv)** Alternate value | **(v)** Value at date of death |
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**1** Enter all insurance on the decedent's life, whether or not it's included in the decedent's gross estate. See instructions. *(continued)*

| **(i)** Item number | **(ii)** Description | **(iii)** Alternate valuation date | **(iv)** Alternate value | **(v)** Value at date of death |
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| **2** Add all amounts in column (iv) or column (v), as applicable . . . . . . . . . . . . | **2** | | |
| **3** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **3** | | |
| **4** **Total.** Add lines 2 and 3. Enter these amounts on Form 706, Part V, item 4 . . . . . . | **4** | | |

**SCHEDULE E (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Jointly Owned Property

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- If you elect section 2032A valuation, you must complete Schedule E (Form 706) and Schedule T (Form 706).
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

## Part I Qualified Joint Interests (see instructions)

**1** Enter each interest held by the decedent and the decedent's spouse as the only joint tenants as described in section 2040(b)(2).

| **(i)** Item number | **(ii)** Description | **(iii)** For securities, enter the CUSIP number; or if trust, partnership, or closely held entity, enter the EIN | **(iv)** Alternate valuation date | **(v)** Alternate value | **(vi)** Value at date of death |
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| **2** Add all amounts in column (v) or column (vi), as applicable . . . . . . . . . . . | **2** | | |
| **3** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **3** | | |
| **4** **Totals.** Add lines 2 and 3 . . . . . . . . . . . . . . . . . . . . | **4** | | |
| **5** Amounts included in gross estate. Multiply line 4 by 50% (0.50) . . . . . . . . . | **5** | | |

**Part II** **All Other Joint Interests** (see instructions)

**6a** Enter the name and address of each surviving co-tenant. If there are more than three surviving co-tenants, list the additional co-tenants on an attached statement.

| | Name | Address (number and street, city, state, and ZIP code) |
|---|---|---|
| **A.** | | |
| **B.** | | |
| **C.** | | |

**b** Enter all other joint interests not listed under Part I.

| **(i)** Item number | **(ii)** Enter letter for co-tenant | **(iii)** Description (including alternate valuation date, if any) | **(iv)** For securities, enter the CUSIP number; or if trust, partnership, or closely held entity, enter the EIN | **(v)** Percentage includible | **(vi)** Includible alternate value | **(vii)** Includible value at date of death |
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| **7** Add all amounts in column (vi) or column (vii), as applicable . . . . . . . . . . . | **7** | | |
| **8** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **8** | | |
| **9** Total other joint interests. Add lines 7 and 8 . . . . . . . . . . . . . . . . . . | **9** | | |
| **10** **Total includible joint interests.** Add line 9 and Part I, line 5. Enter these amounts on Form 706, Part V, item 5 . . . . . . . . . . . . . . . . . . . . . . . . . | **10** | | |

**Schedule E (Form 706) (8-2025)**

**SCHEDULE F (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Other Miscellaneous Property Not Reportable Under Any Other Schedule

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- For jointly owned property that must be disclosed on Schedule E (Form 706), see instructions.
- If you elect section 2032A valuation, you must complete Schedule F (Form 706) and Schedule T (Form 706).
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

| | | Yes | No |
|---|---|---|---|
| **1** | Did the decedent own any works of art, items, or any collections whose artistic or collectible value at date of death exceeded $3,000? If "Yes," you must also complete line 4 and attach appraisals . . . . . . . . . . . . . . | | |
| **2** | Has the decedent's estate, spouse, or any other person received (or will receive) any bonus or award as a result of the decedent's employment or death? If "Yes," you must also complete line 4 . . . . . . . . . . . . . . . . . . | | |
| **3a** | Did the decedent at the time of death have, or have access to, a safe deposit box? . . . . . . . . . . . . . . | | |
| **b** | If ''Yes'' to line 3a, enter the location of the safe deposit box. | | |
| **c** | If the safe deposit box was held jointly by the decedent and another, enter the name and the relationship of the joint depositor. | | |
| **d** | If any of the contents of the safe deposit box are omitted from the schedules in this return, explain fully why they are omitted. | | |

**4** Enter all items that must be included in the gross estate that are not reported on any other schedule. See instructions.

| **(i)** Item number | **(ii)** Description | **(iii)** For securities, enter the CUSIP number; or if trust, partnership, or closely held entity, enter the EIN | **(iv)** Alternate valuation date | **(v)** Alternate value | **(vi)** Value at date of death |
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**4** Enter all items that must be included in the gross estate that are not reported on any other schedule. See instructions. *(continued)*

| **(i)** Item number | **(ii)** Description | **(iii)** For securities, enter the CUSIP number; or if trust, partnership, or closely held entity, enter the EIN | **(iv)** Alternate valuation date | **(v)** Alternate value | **(vi)** Value at date of death |
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| **5** Add all amounts in column (v) or column (vi), as applicable . . . . . . . . . . . . | **5** | | |
| **6** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **6** | | |
| **7** **Total.** Add lines 5 and 6. Enter these amounts on Form 706, Part V, item 6 . . . . . . | **7** | | |

**Schedule F (Form 706) (8-2025)**

**SCHEDULE G (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Transfers During the Decedent's Lifetime

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

Decedent's name as it appears on Form 706 | **Decedent's social security number**

- If you elect section 2032A valuation, you must complete Schedule G (Form 706) and Schedule T (Form 706).
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

**1** Enter any transfers includible under sections 2035(a), 2036, 2037, or 2038. See instructions.

| **(i)** Item number | **(ii)** Description | **(iii)** For securities, enter the CUSIP number. If trust, partnership, or closely held entity, enter the EIN | **(iv)** Alternate valuation date | **(v)** Alternate value | **(vi)** Value at date of death |
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**1** Enter any transfers includible under sections 2035(a), 2036, 2037, or 2038. See instructions. *(continued)*

| **(i)** Item number | **(ii)** Description | **(iii)** For securities, enter the CUSIP number. If trust, partnership, or closely held entity, enter the EIN | **(iv)** Alternate valuation date | **(v)** Alternate value | **(vi)** Value at date of death |
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| **2** Add all amounts in column (v) or column (vi), as applicable . . . . . . . . . . . | **2** | | |
| **3** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **3** | | |
| **4** Gift tax paid or payable by the decedent or the estate for all gifts made by the decedent or the decedent's spouse within 3 years before the decedent's death (section 2035(b)). See instructions . . . . . . . . . . . . . . . . . . . . . . . . . . . . | **4** | | |
| **5** **Total.** Add lines 2, 3, and 4. Enter these amounts on Form 706, Part V, item 7 . . . . . | **5** | | |

**Schedule G (Form 706) (8-2025)**

**SCHEDULE H (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Powers of Appointment

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- Include "5 and 5 lapsing" powers (section 2041(b)(2)) held by the decedent.
- If you elect section 2032A valuation, you must complete Schedule H (Form 706) and Schedule T (Form 706).
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

**1** Enter the property subject to a general power of appointment the decedent possessed, exercised, or released. See instructions.

| **(i)** Item number | **(ii)** Description | **(iii)** Alternate valuation date | **(iv)** Alternate value | **(v)** Value at date of death |
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**1** Enter the property subject to a general power of appointment the decedent possessed, exercised, or released. See instructions. *(continued)*

| **(i)** Item number | **(ii)** Description | **(iii)** Alternate valuation date | **(iv)** Alternate value | **(v)** Value at date of death |
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| **2** Add all amounts in column (iv) or column (v), as applicable . . . . . . . . . . . . | **2** | | |
| **3** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **3** | | |
| **4** **Total.** Add lines 2 and 3. Enter these amounts on Form 706, Part V, item 8 . . . . . . | **4** | | |

**SCHEDULE I (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Annuities

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- Generally, no exclusion is allowed for the estates of decedents dying after December 31, 1984. See instructions.
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entries in the last three columns.

| | | **Yes** | **No** |
|---|---|---|---|
| **1** | Are you excluding from the decedent's gross estate the value of a lump-sum distribution described in section 2039(f)(2) (as in effect before its repeal by the Deficit Reduction Act of 1984)? If "Yes," you must attach Schedule W (Form 706) or additional statements with the information required by the instructions . . . . . . . . . . . . . . . . . . . . . . . . | | |

**2** Enter all annuities the decedent received. See instructions for a description of types of annuities and rules.

| **(i)** Item number | **(ii)** Description. Show the entire value of the annuity before any exclusions | **(iii)** Alternate valuation date | **(iv)** Includible alternate value | **(v)** Includible value at date of death |
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**2** Enter all annuities the decedent received. See instructions for a description of types of annuities and rules. *(continued)*

| **(i)** Item number | **(ii)** Description. Show the entire value of the annuity before any exclusions | **(iii)** Alternate valuation date | **(iv)** Includible alternate value | **(v)** Includible value at date of death |
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| **3** Add all amounts in column (iv) or column (v), as applicable . . . . . . . . . . . . | **3** | | |
| **4** Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . | **4** | | |
| **5** **Totals.** Add lines 3 and 4. Enter these amounts on Form 706, Part V, item 9 . . . . . . | **5** | | |

**Schedule I (Form 706) (8-2025)**

**SCHEDULE J (Form 706)**

(August 2025)

Department of the Treasury
Internal Revenue Service

# Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims

**Attach to Form 706.**

**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- Use Schedule PC (Form 706) to make a protective claim for refund due to an expense not currently deductible. For such a claim, report the expense on Schedule J (Form 706) but without a value in the last column.
- Do not list expenses of administering property not subject to claims on this schedule. To report those expenses, see instructions.
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If executors' commissions, attorney fees, etc., are claimed and allowed as a deduction for estate tax purposes, they are not allowable as a deduction in computing the taxable income of the estate for federal income tax purposes. They are allowable as an income tax deduction on Form 1041, U.S. Income Tax Return for Estates and Trusts, if a waiver is filed to forgo the deduction on Form 706. See the Instructions for Form 1041.

| | | Yes | No |
|---|---|---|---|
| 1 | Are you aware of any actual or potential reimbursement to the estate for any expense claimed as a deduction on this schedule? If "Yes," attach a statement describing the expense(s) subject to potential reimbursement. See instructions . | | |

2 Enter funeral expenses. See instructions.

| **(i)** Item number | **(ii)** Description | **(iii)** Expense amount | **(iv)** Total amount |
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| 3 | Add all amounts in column (iv) . . . . . . . . . . . . . . . . . . . . . . . . | 3 | |
| 4 | Total funeral expenses from Schedule(s) W (Form 706) (or additional statements) attached to this schedule | 4 | |
| 5 | Total funeral expenses. Add lines 3 and 4 . . . . . . . . . . . . . . . . . . . . . | 5 | |

6 Enter administration expenses. See instructions.

| | **(i)** Description | **(ii)** State whether the amount is "estimated," "agreed upon," or "paid" | **(iii)** Total amount |
|---|---|---|---|
| a | Executor commissions | | |
| b | Attorney fees . . . . . . | | |
| c | Accountant fees . . . . . | | |
| 7 | Add all amounts in column (iii) . . . . . . . . . . . . . . . . . . . . . . . . | 7 | |

**For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 706.** Cat. No. 94782B **Schedule J (Form 706) (8-2025)** Created 4/18/25

**8** Enter miscellaneous expenses. See instructions.

| **(i)** Item number | **(ii)** Description | **(iii)** Expense amount | **(iv)** Total amount |
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| **9** | Add all amounts in column (iv) . . . . . . . . . . . . . . . . . . . . . . . . . | **9** | |
| **10** | Total miscellaneous expenses from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | **10** | |
| **11** | Total administration expenses. Add lines 7, 9, and 10 . . . . . . . . . . . . . . . . . . . | **11** | |
| **12** | **Total.** Add lines 5 and 11. Enter the amount on Form 706, Part V, item 14 . . . . . . . . . . . . . | **12** | |

| SCHEDULE K (Form 706) (August 2025) Department of the Treasury Internal Revenue Service | **Debts, Mortgages, and Liens** **Attach to Form 706.** **Go to *www.irs.gov/Form706* for instructions and the latest information.** | OMB No. 1545-0015 |
|---|---|---|

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- Use Schedule PC (Form 706) to make a protective claim for refund due to a claim not currently deductible. For such a claim, report the expense on Schedule K (Form 706) but without a value in the amount column.
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

| | | Yes | No |
|---|---|---|---|
| 1 | Are you aware of any actual or potential reimbursement to the estate for any debt of the decedent, mortgage, or lien claimed as a deduction on this schedule? If "Yes," attach Schedule W (Form 706) or additional statements describing the items subject to potential reimbursement. See instructions . . . . . . . . . . . . . . . . . . . . . . . . | | |
| 2 | Are any of the items on this schedule deductible under Reg. section 20.2053-4(b) and Reg. section 20.2053-4(c)? If "Yes," attach Schedule W (Form 706) or additional statements indicating the applicable provision and documenting the value of the claim . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | | |

## Part I Debts of the Decedent (see instructions)

**3** Enter the debts of the decedent.

| **(i)** Item number | **(ii)** Description Creditor and nature of debt, and allowable death taxes | **(iii)** Amount |
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| **4** | Add all amounts in column (iii) . . . . . . . . . . . . . . . . . . . . . . . . . | **4** | |
| **5** | Total debts of the decedent from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | **5** | |
| **6** | **Total.** Add lines 4 and 5. Enter the amount on Form 706, Part V, item 15 . . . . . . . . . . . . | **6** | |

**For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 706.** Cat. No. 94781Q **Schedule K (Form 706) (8-2025)** Created 3/18/25

**Part II** **Mortgages and Liens** (see instructions)

7 Enter the mortgages and liens on, or in respect of, any property of the decedent.

| (i) Item number | (ii) Description | (iii) Amount |
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| 8 | Add all amounts in column (iii) | 8 | |
| 9 | Total mortgages and liens on, or in respect of, any property of the decedent from Schedule(s) W (Form 706) (or additional statements) attached to this schedule | 9 | |
| 10 | **Total.** Add lines 8 and 9. Enter the amount on Form 706, Part V, item 16 | 10 | |

**Schedule K (Form 706) (8-2025)**

**SCHEDULE L (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Net Losses During Administration and Expenses Incurred in Administering Property Not Subject to Claims

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
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| | |

- Use Schedule PC (Form 706) to make a protective claim for refund due to an expense not currently deductible. For such expenses, report the expense on Schedule L (Form 706) but without a value in the last column.
- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

## Part I Net Losses During Administration (see instructions)

**1** Enter net losses during administration. You may deduct only those losses from thefts, fires, storms, shipwrecks, or other casualties that occurred during the settlement of the estate. Deduct only the amounts not reimbursed by insurance or otherwise.

| **(i)** Item number | **(ii)** Net losses during administration (Do not deduct losses claimed on a federal income tax return.) | **(iii)** Amount |
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| **2** Add all amounts in column (iii) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | **2** | |
| **3** Total net losses during administration from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | **3** | |
| **4** **Total net losses during administration.** Add lines 2 and 3. Enter the amount on Form 706, Part V, item 19 | **4** | |

## Part II Expenses Incurred in Administering Property Not Subject to Claims (see instructions)

5 Enter expenses incurred in administering property not subject to claims. Only deduct these expenses if they were paid before the section 6501 period of limitations for assessment expired.

| (i) Item number | (ii) Expenses incurred in administering property not subject to claims (Indicate whether estimated, agreed upon, or paid.) | (iii) Amount |
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| 6 Add all amounts in column (iii) . . . . . . . . . . . . . . . . . . . . . . . . | 6 | |
| 7 Total expenses incurred in administering property not subject to claims from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . . . . . . . . . . . . . . . . . . . . | 7 | |
| 8 **Total expenses incurred in administering property not subject to claims.** Add lines 6 and 7. Enter the amount on Form 706, Part V, item 20 . . . . . . . . . . . . . . . . . . . . . . . | 8 | |

**SCHEDULE M (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Bequests, etc., to Surviving Spouse

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

- If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entry in the last column.

| | | Yes | No |
|---|---|---|---|
| 1 | Did any property pass to the surviving spouse as a result of a qualified disclaimer? If "Yes," attach a copy of the written disclaimer required by section 2518(b) . . . . . | | |
| 2a | Is the surviving spouse a U.S. citizen? . . . . . | | |
| b | Enter the surviving spouse's date of birth: ______ | | |
| c | Enter the country in which the surviving spouse was born: ______ | | |
| d | If the surviving spouse is a naturalized citizen, enter the date and location when the surviving spouse acquired citizenship. Date: ______ Location: ______ | | |
| e | If the surviving spouse is not a U.S. citizen, enter the country of which the surviving spouse is a citizen: ______ | | |
| 3 | **Election out of QTIP treatment of annuities.** Do you elect under section 2056(b)(7)(C)(ii) not to treat as qualified terminable interest property (QTIP) any joint and survivor annuities that are included in the gross estate and would otherwise be treated as QTIP under section 2056(b)(7)(C)? See instructions . . . . . | | |

4 Enter QTIP property interest included in the gross estate that passes from the decedent to the surviving spouse and for which a marital deduction is claimed.

| **(i)** Item number | **(ii)** Description of QTIP interests passing to surviving spouse **(QTIP property)** | **(iii)** For securities, enter the CUSIP number; or if trust, partnership, or closely held entity, enter the EIN | **(iv)** Amount |
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| 5 | Add all amounts in column (iv) . . . . . | 5 | |
| 6 | Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . . . . . | 6 | |
| 7 | Total QTIP property. Add lines 5 and 6 . . . . . | 7 | |

**8** Enter all other property passing to the surviving spouse not listed on line 4.

| **(i)** Item number | **(ii)** Description of non-QTIP interests passing to surviving spouse **(non-QTIP property)** | **(iii)** For securities, enter the CUSIP number; or if trust, partnership, or closely held entity, enter the EIN | **(iv)** Amount |
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| **9** | Add all amounts in column (iv) . . . . . . . . . . . . . . . . . . . . . . . . . . . . | **9** | |
| **10** | Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule . . . . . . | **10** | |
| **11** | Total of all other property not listed on line 4. Add lines 9 and 10 . . . . . . . . . . . . . . . . . . | **11** | |
| **12** | **Total amount of property interest listed on Schedule M.** Add lines 7 and 11 . . . . . . . . . . . | **12** | |
| **13a** | Federal estate taxes payable out of property interests listed on Schedule M . . **13a** | | |
| **b** | Other death taxes payable out of property interests listed on Schedule M . . . **13b** | | |
| **c** | Federal and state GST taxes payable out of property interests listed on Schedule M . **13c** | | |
| **d** | Add lines 13a, 13b, and 13c . . . . . . . . . . . . . . . . . . . . . . . . . . . . | **13d** | |
| **14** | **Net amount of property interests listed on Schedule M.** Subtract line 13d from line 12. Enter the amount on Part V, item 21 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | **14** | |

**SCHEDULE O (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Charitable, Public, and Similar Gifts and Bequests

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

If more space is needed, attach Schedule(s) W (Form 706) or additional statements.

**Note:** If the value of the gross estate, together with the amount of adjusted taxable gifts, is less than the basic exclusion amount and Form 706 is being filed solely to elect portability of the DSUE amount, consideration should be given as to whether you are required to report the value of assets eligible for the marital or charitable deduction on this schedule. See the instructions for more information. If you are not required to report the value of an asset, identify the property but make no entry in the last column.

| | | **Yes** | **No** |
|---|---|---|---|
| **1a** | If the transfer was made by will, has any action been instituted to contest or have interpreted any of its provisions affecting the charitable deductions claimed in this schedule? If "Yes," you must attach Schedule W (Form 706) or additional statements with full details . . . . . . . . . . . . . . . . . . . . . . . . . . . . | | |
| **b** | According to the information and belief of the person or persons filing this return, is any such action planned? If "Yes," you must attach Schedule W (Form 706) or additional statements with full details . . . . . . . . . . . . . . | | |
| **2** | Did any property pass to charity as the result of a qualified disclaimer? If "Yes," attach a copy of the written disclaimer required by section 2518(b) . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | | |

**3** Enter the charitable, public, and similar gifts and bequests. See instructions.

| **(i)** Item number | **(ii)** Name and address of beneficiary | **(iii)** Character of institution | **(iv)** Amount |
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*(continued on next page)*

**3** Enter the charitable, public, and similar gifts and bequests. See instructions. *(continued)*

| **(i)** Item number | **(ii)** Name and address of beneficiary | **(iii)** Character of institution | **(iv)** Amount |
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| **4** | Add all amounts in column (iv) | | | **4** | |
| **5** | Total from Schedule(s) W (Form 706) (or additional statements) attached to this schedule | | | **5** | |
| **6** | Total. Add lines 4 and 5 | | | **6** | |
| **7a** | Federal estate tax payable out of property interests listed above | **7a** | | | |
| **b** | Other death taxes payable out of property interests listed above | **7b** | | | |
| **c** | Federal and state GST taxes payable out of property interests listed above | **7c** | | | |
| **d** | Add lines 7a, 7b, and 7c | | | **7d** | |
| **8** | **Net value of property interests.** Subtract line 7d from line 6. Enter the amount on Form 706, Part V, item 22 | | | **8** | |

**Schedule O (Form 706) (8-2025)**

**SCHEDULE P (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Credit for Certain Foreign Taxes

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

Decedent's name as it appears on Form 706 | **Decedent's social security number**

## Part I Foreign Countries to Which Death Taxes Have Been Paid and for Which a Credit is Claimed on This Return

1 List all foreign countries to which death taxes have been paid and for which a credit is claimed on this return.

## Part II Foreign Country and Decedent's Citizenship Information

**Caution:** If a credit was claimed for death taxes paid to more than one foreign country, compute the credit for taxes paid to one country on this sheet and attach a separate copy of Schedule P (Form 706) for each of the other countries.

2 Enter the name of death tax(es) the credit is computed for:

3 Enter the name of the country to which the tax was paid:

4 Enter the title of the treaty or statute the credit is computed under:

5 Enter the citizenship (nationality) of the decedent at time of death:

## Part III Credit for Foreign Death Taxes

**Note: All amounts and values must be entered in U.S. dollars.**

| | | | |
|---|---|---|---|
| 6 | Total of estate, inheritance, legacy, and succession taxes imposed in the country listed on line 3 above, attributable to property situated in that country, subjected to these taxes, and included in the gross estate (as defined by statute) | 6 | |
| 7 | Value of the gross estate (adjusted, if necessary, according to the instructions) | 7 | |
| 8 | Value of property situated in that country, subjected to death taxes imposed in that country, and included in the gross estate (adjusted, if necessary, according to the instructions) | 8 | |
| 9 | Tax imposed by section 2001 reduced by the total credits claimed under sections 2010 and 2012. See instructions | 9 | |
| 10 | Amount of federal estate tax attributable to the value of property specified on line 8. Divide line 8 by line 7 and multiply the result by line 9 | 10 | |
| 11 | Credit for death taxes imposed in the country listed on line 3. Enter the smaller of line 6 or line 10. Also enter on Form 706, Part II, line 13 | 11 | |

**For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 706.** Cat. No. 94771U **Schedule P (Form 706) (8-2025)** Created 3/20/25

**SCHEDULE PC (Form 706)**

(August 2025)

Department of the Treasury
Internal Revenue Service

# Protective Claim for Refund

**To be used for decedents dying after December 31, 2011.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

- Timely filing a protective claim for refund preserves the estate's right to claim a refund based on the amount of an unresolved claim or expense that may not become deductible under section 2053 until after the limitation period ends.
- Schedule PC (Form 706) can be used to file a protective claim for refund and, once the claim or expense becomes deductible, Schedule PC (Form 706) can be used to notify the IRS that a refund is being claimed.
- Schedule PC (Form 706) can be used by the estate of a decedent dying after 2011.
- Schedule PC (Form 706) must be filed with Form 706 and cannot be filed separately. (To file a protective claim for refund or notify the IRS that a refund is being claimed on a form separate from the Form 706, use Form 843, Claim for Refund and Request for Abatement.)
- Each separate claim or expense requires a separate Schedule PC (Form 706) (or Form 843, if not filed with Form 706).

## Part I General Information

| | | | |
|---|---|---|---|
| **1** Name of decedent as it appears on Form 706 | | | **2 Decedent's social security no.** |
| **3** Name of fiduciary | | | **4** Date of death |
| **5a** Address (number and street) | | | **5b** Apt. or suite no. |
| **5c** City, town, or post office. For foreign address, also complete lines 5f, 5g, and 5h. | | **5d** State | **5e** ZIP code |
| **5f** Foreign country name | **5g** Foreign province/state/county | **5h** Foreign postal code | **6** Daytime telephone number |

**7 Number of claims.** Enter the number of Schedules PC (Form 706) that are being filed with Form 706: __________

**Note:** If the number on line 7 is greater than one OR if another Schedule PC (Form 706) or Form 843 was previously filed by or on behalf of the estate, complete Part III of this Schedule PC (Form 706).

**8 Fiduciary** ☐ Check here if this Schedule PC (Form 706) is being filed with the original Form 706 or is being filed by the same fiduciary who filed the original Form 706 for the decedent's estate. If a different fiduciary is filing this Schedule PC (Form 706), see the instructions for establishing the legal authority to pursue the claim for refund on behalf of the estate.

## Part II Claim Information

Check the box that applies to this claim for refund.

☐ **9a** Protective claim for refund made for unresolved claim or expense.

**b** Enter the amount in contest: ____________________

☐ **10a** Partial refund claimed. Partial resolution and/or satisfaction of claim or expense for which a protective claim for refund has been filed previously.

**b** Enter the date the protective claim for refund was filed for this claim or expense: ____________________

**c** Enter the amount of the claim or expense partially resolved and/or satisfied and presently claimed as a deduction under section 2053 (do not include amounts previously deducted): ____________________

☐ **11a** Full and final refund claimed for this claim or expense. Resolution and/or satisfaction of the claim or expense for which a protective claim for refund has been filed previously.

**b** Enter the date the protective claim for refund was filed for this claim or expense: ____________________

**c** Enter the amount of the claim or expense finally resolved and/or satisfied and presently claimed as a deduction under section 2053 (do not include amounts previously deducted): ____________________

**For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 706.** Cat. No. 94773Q **Schedule PC (Form 706) (8-2025)** Created 8/11/25

**Part II** **Claim Information** *(continued)*

**12** Enter the claim or expense information.

| **(a)** Form 706 schedule | **(b)** Form 706 schedule line number | **(c)** Form 706 schedule item number | **(d)** **Identification of the claim** • Name(s) of the claimant(s) • Basis of the claim or other description of the pending claim or expense • Reasons and contingencies delaying resolution • Status of contested matters • Attach copies of relevant pleadings or other documents | **(e)** Amount, if any, deducted under Treas. Reg. sections 20.2053-1(d)(4) or 20.2053-4(b) or (c) for the identified claim or expense | **(f)** Amount presently claimed as a deduction under section 2053 for the identified claim | **(g)** Ancillary expenses. Indicate whether: | | | **(h)** Amount of tax to be refunded |
|---|---|---|---|---|---|---|---|---|---|
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## Part III Other Schedules PC (Form 706) and Forms 843 Filed by the Estate

**13** Complete this part, if a Schedule PC (Form 706) or Form 843 was previously filed by the estate, to identify each claim for refund previously reported.

| (a) Date of death | (b) IRS office where claim was filed | (c) Date filed | (d) Indicate whether: | | | (e) Amount in contest |
|---|---|---|---|---|---|---|
| | | | Protective claim for refund | Partial claim for refund | Full and final claim for refund | |
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To inquire about the receipt and/or processing of the protective claim for refund, call 866-699-4083.

**SCHEDULE Q (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Credit for Tax on Prior Transfers

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

## Part I Transferor Information

Enter the transferor information. If you are figuring the credit for more than 3 transferors, see instructions.

| | Name of transferor | Social security number | Date of death |
|---|---|---|---|
| A | | | |
| B | | | |
| C | | | |

**Check here** ☐ if section 2013(f) (special valuation of farm, etc., real property) adjustments to the computation of the credit were made. See instructions.

## Part II Computation of Credit (see instructions)

| | Item | Transferor A | Transferor B | Transferor C | Total A, B, and C |
|---|---|---|---|---|---|
| 1 | Transferee's tax as apportioned, from the worksheet for each column, divide line 7 by line 8, and multiply the result by line 35 . . . . . . . . . . . | | | | |
| 2 | Transferor's tax. From the worksheet for each column, line 20 . . . . . . . . . . . . | | | | |
| 3 | Maximum amount before percentage requirement. For each column, enter the smaller of line 1 or 2 . | | | | |
| 4 | Percentage allowed. For each column, see instructions . . . . . . . . . . . . . | % | % | % | |
| 5 | Credit allowable. For each column, multiply line 3 by line 4 . . . . . . . . . . . . . . . . | | | | |
| 6 | **Total credit allowable.** Add columns A, B, and C of line 5. Enter here and on Form 706, Part II, line 14 . | | | | |

**SCHEDULE R (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Generation-Skipping Transfer Tax

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

The generation-skipping transfer (GST) tax is imposed on taxable transfers of interests in property located outside the United States as well as property located inside the United States. See instructions.

**Note:** To avoid application of the deemed allocation rules, Form 706 and Schedule R (Form 706) should be filed to allocate the GST exemption to trusts that may later have taxable terminations or distributions under section 2612 even if the form is not required to be filed to report estate or GST tax.

## Part I GST Exemption Reconciliation (Section 2631) and Special QTIP Election (Section 2652(a)(3))

**Note:** To make a section 2652(a)(3) (special QTIP) election, list qualifying property in Part I, line 9, below. See instructions for details.

| | | | |
|---|---|---|---|
| 1 | Maximum allowable GST exemption | 1 | |
| 2 | Total GST exemption allocated by the decedent against decedent's lifetime transfers | 2 | |
| 3 | Total GST exemption allocated by the executor, using Form 709, against decedent's lifetime transfers | 3 | |
| 4 | GST exemption allocated on Part II, line 7 | 4 | |
| 5 | GST exemption allocated on Part III, line 7 | 5 | |
| 6 | Total GST exemption allocated on Schedule(s) R-1 (Form 706), Part II, line 7 | 6 | |
| 7 | Total GST exemption allocated to inter vivos transfers and direct skips. Add lines 2, 3, 4, 5, and 6 | 7 | |
| 8 | GST exemption available to allocate to trusts and section 2032A interests. Subtract line 7 from line 1 | 8 | |

9 List the allocation of GST exemption to trusts (as defined for GST tax purposes):

| A<br>Name of trust | B<br>Trust's<br>EIN (if any) | C<br>GST exemption allocated on lines 2–6 above (see instructions) | D<br>Additional GST exemption allocated (see instructions) | E<br>Trust's inclusion ratio (optional) (see instructions) |
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| 10 | Total additional GST exemption allocated. Add all amounts in column D. May not exceed line 8, above | 10 | |
| 11 | GST exemption available to allocate to section 2032A interests received by individual beneficiaries. Subtract line 10 from line 8. You must attach special-use allocation statement. See instructions | 11 | |

**For Privacy Act and Paperwork Reduction Act Notice, see the Instructions for Form 706.** Cat. No. 94772F **Schedule R (Form 706) (8-2025)** Created 3/20/25

## Part II Direct Skips Where the Property Interests Transferred Bear the GST Tax on the Direct Skips

1 Enter the direct skips where property interests transferred are to bear the GST tax on the transfers.

| (i) Name of skip person | (ii) Description of property interest transferred | (iii) Estate tax value |
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| 2 Total estate tax values of all property interests. Add all amounts in column (iii) . . . . . . . . . | 2 | |
| 3 Estate taxes, state death taxes, and other charges borne by the property interests listed above . . | 3 | |
| 4 GST taxes borne by the property interests listed above but imposed on direct skips other than those shown on this Part II. See instructions . . . . . . . . . . . . . . . . . . . . . . . . . . | 4 | |
| 5 Total fixed taxes and other charges. Add lines 3 and 4 . . . . . . . . . . . . . . . . . . . . | 5 | |
| 6 Total tentative maximum direct skips. Subtract line 5 from line 2 . . . . . . . . . . . . . . . | 6 | |
| 7 GST exemption allocated. See instructions . . . . . . . . . . . . . . . . . . . . . . . . | 7 | |
| 8 Subtract line 7 from line 6 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | 8 | |
| 9 GST tax due. Divide line 8 by 3.5 . . . . . . . . . . . . . . . . . . . . . . . . . . . | 9 | |
| 10 Enter the amount from Part III, line 9 . . . . . . . . . . . . . . . . . . . . . . . . . | 10 | |
| 11 **Total GST taxes payable by the estate.** Add lines 9 and 10. Enter here and on Form 706, Part II, line 19 . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | 11 | |

## Part III Direct Skips Where the Property Interests Transferred Do Not Bear the GST Tax on the Direct Skips

**1** Enter the direct skips where property interests transferred **do not** bear the GST tax on the transfers.

| (i) Name of skip person | (ii) Description of property interest transferred | (iii) Estate tax value |
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| **2** Total estate tax values of all property interests. Add all amounts in column (iii) | 2 | |
| **3** Estate taxes, state death taxes, and other charges borne by the property interests listed above | 3 | |
| **4** GST taxes borne by the property interests listed above but imposed on direct skips other than those shown on this Part III. See instructions | 4 | |
| **5** Total fixed taxes and other charges. Add lines 3 and 4 | 5 | |
| **6** Total tentative maximum direct skips. Subtract line 5 from line 2 | 6 | |
| **7** GST exemption allocated. See instructions | 7 | |
| **8** Subtract line 7 from line 6 | 8 | |
| **9** GST tax due. Multiply line 8 by 40% (0.40). Enter here and on Part II, line 10 | 9 | |

**SCHEDULE R-1 (Form 706)**
(Rev. August 2025)
Department of the Treasury
Internal Revenue Service

# Generation-Skipping Transfer Tax

Payment Voucher for Direct Skips From a Trust
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

**Executor:** File one copy with Form 706 and send a copy to the fiduciary. Do not pay the tax shown. See instructions for details.
**Fiduciary:** See the *Instructions for the Trustee*, later, for details. Pay the tax shown on line 9.

## Part I Fiduciary and Executor Information (see instructions)

| | | | |
|---|---|---|---|
| **1** Name of trust | | | **2 Trust's EIN** |
| **3a** Decedent's first name and middle initial | **3b** Decedent's last name | **3c** Decedent's SSN | **4** Service Center where Form 706 was filed |
| **5a** Fiduciary's first name | **5b** Fiduciary's last name | **5c** Fiduciary's title | |
| **5d** Fiduciary's address (number and street) | | | **5e** Apt. or suite no. |
| **5f** City, town, or post office. For foreign addresses, also complete lines 5i, 5j, and 5k. | | **5g** State | **5h** ZIP code |
| **5i** Foreign country name | | **5j** Foreign province/state/county | **5k** Foreign postal code |
| **6a** Executor's first name | **6b** Executor's last name | | |
| **6c** Executor's address (number and street) | | | **6d** Apt. or suite no. |
| **6e** City, town, or post office. For foreign addresses, also complete lines 6h, 6i, and 6j. | | **6f** State | **6g** ZIP code |
| **6h** Foreign country name | | **6i** Foreign province/state/county | **6j** Foreign postal code |
| **7** Decedent's date of death | | **8** Filing due date of Schedule R (Form 706) (with extensions) | |

## Part II GST Tax on the Direct Skip

**1** Enter the estate tax value of all property or interest subject to the direct skip.

| **(i)** Item number | **(ii)** Description of property interests subject to the direct skip | **(iii)** Estate tax value |
|---|---|---|
| 1 | | |
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*(continued on next page)*

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

Signature(s) of executor(s) Date

Date

Signature of fiduciary or officer representing fiduciary Date

**Part II** **GST Tax on the Direct Skip** *(continued)*

If additional entries are needed, duplicate and use this page.

| **(i)** Item number | **(ii)** Description of property interests subject to the direct skip | **(iii)** Estate tax value |
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| **2** | Add amounts in column (iii) | **2** | |
| **3** | Total from column (iii) from additional Parts II attached to this schedule | **3** | |
| **4** | **Total estate tax value.** Add lines 2 and 3 | **4** | |
| **5** | Estate taxes, state death taxes, and other charges borne by the property interests listed above | **5** | |
| **6** | Tentative maximum direct skip from trust (subtract line 5 from line 4) | **6** | |
| **7** | GST exemption allocated | **7** | |
| **8** | Subtract line 7 from line 6 | **8** | |
| **9** | **GST tax due from fiduciary.** Divide line 8 by 3.5. For details on how to pay, go to *www.irs.gov/Payments* or see the instructions. **(See the Instructions for Form 706 if property will not bear the GST tax.)** | **9** | |

# Instructions for the Trustee

## Introduction

Schedule R-1 (Form 706) serves as a payment voucher for the Generation-Skipping Transfer (GST) tax imposed on a direct skip from a trust, which you, the trustee of the trust, must pay. The executor completes the Schedule R-1 (Form 706) and gives you a copy. Sign and create two copies. File one copy and keep the other one for your records.

## How to pay

All payments made to the federal government are to be processed electronically. Go to *www.irs.gov/Payments* to see all your payment options.

**EFTPS.** Payment of the tax due may be submitted electronically through Electronic Federal Tax Payment System (EFTPS). EFTPS is a free service of the Department of the Treasury. To be considered timely, payments made through EFTPS must be completed no later than 8 p.m. Eastern time the day before the due date. All EFTPS payments must be scheduled in advance of the due date and, if necessary, may be changed or canceled up to 2 business days before the scheduled payment date.

To get more information about EFTPS or to enroll in EFTPS, go to *www.eftps.gov* or call 800-555-4477. To contact EFTPS using Telecommunications Relay Services (TRS) for people who are deaf, hard of hearing, or have a speech disability, dial 711 and then provide the TRS assistant the 800-555-4477 number above or 800-733-4829. Additional information about EFTPS is available in Pub. 966, Electronic Federal Tax Payment System: A Guide to Getting Started.

## Signature

You must sign the Schedule R-1 in the space provided.

## What to mail

Mail the copy of Schedule R-1 that you signed.

## Where to mail

Mail to the Department of the Treasury, Internal Revenue Service, Kansas City, MO 64999.

## When to pay

The GST tax is due and payable 9 months after the decedent's date of death (shown on the Schedule R-1). You will owe interest on any GST tax not paid by that date.

## Automatic extension

You have an automatic extension of time to file Schedule R-1 and pay the GST tax. The automatic extension allows you to file and pay by 2 months after the due date (with extensions) for filing the decedent's Schedule R (shown on the Schedule R-1).

If you pay the GST tax under the automatic extension, you will be charged interest (but no penalties).

## Additional information

For more information on how to complete Schedule R-1, see section 2603(a)(2) and the Instructions for Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return.

**SCHEDULE T (Form 706)** (August 2025) Department of the Treasury Internal Revenue Service

# Section 2032A Property Valuation

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

**Note. Schedule T (Form 706) was previously named Schedule A-1 (Form 706) in year 2024 and earlier.**

Before completing Schedule T (Form 706), see the instructions for the information and documents that must be included to make a valid election.

The election is not valid unless the agreement in *Part III, Agreement to Special Valuation Under Section 2032A* is:

- Signed by each qualified heir with an interest in the specially valued property, and
- Attached to Form 706 at the time of filing.

## Part I Type of Election (see instructions)

Before making an election, see the checklist in the instructions.

1 ☐ **Protective election (Reg. section 20.2032A-8(b)).** Complete Part II, line 1, and columns (a), (b), and (c) of lines 10 and 14.

2 ☐ **Regular election.** Complete all of Part II (including line 5, if applicable), Part III, and Part IV (if applicable).

## Part II Notice of Election (Reg. section 20.2032A-8(a)(3)) (see instructions)

**Note.** All real property entered on lines 6 and 10 must also be entered on Form 706, Schedules A, E, F, G, or H, as applicable.

1 Qualified use—check one: ☐ Farm used for farming, or
☐ Trade or business other than farming

2 Enter the value of the total gross estate as adjusted under section 2032A(b)(3)(A). ____________
**Note. Attach a description of the method used to determine the special value based on qualified use.**

| | | Yes | No |
|---|---|---|---|
| 3 | Did the decedent and/or a member of the decedent's family own all property listed on line 6 for at least 5 of the 8 years immediately preceding the date of the decedent's death? | | |
| 4 | Were there any periods during the 8-year period preceding the date of the decedent's death during which the decedent or a member of the decedent's family: | | |
| a | Did not own the property listed on line 6? | | |
| b | Did not use the property listed on line 6 in a qualified use? | | |
| c | Did not materially participate in the operation of the farm or other business within the meaning of section 2032A(e)(6)? | | |

If you answered "Yes" to lines 3, 4a, 4b, or 4c, attach a statement listing the periods. If applicable, describe whether the exceptions of sections 2032A(b)(4) or (5) are met.

**Note. Attach affidavits describing the activities constituting material participation and the identity and relationship to the decedent of the material participants.**

5 **Woodlands election.** Check here ☐ if you wish to make a Woodlands election as described in section 2032A(e)(13). Enter the schedule, line number, and item numbers from Form 706 of the property for which you are making this election.

a Schedule: ____________
b Line number: ____________
c Item numbers: ____________

Attach a statement explaining why you are entitled to make this election. The IRS may issue regulations that require more information to substantiate this election. You will be notified by the IRS if you must supply further information.

**Part II** **Notice of Election** (Reg. section 20.2032A-8(a)(3)) (see instructions) *(continued)*

**6** Enter real property used in a qualified use, passing to qualified heirs, and to be specially valued on Form 706.

- Attach a legal description of all property listed.
- Attach copies of appraisals showing the column (d) values for all property listed.
- Attach additional copies of Part II, line 6, if necessary.

| **(a)** Form 706 schedule | **(b)** Form 706 schedule line number | **(c)** Form 706 schedule item number | **(d)** Full value (without section 2032A(b)(3)(B) adjustment) | **(e)** Adjusted value (with section 2032A(b)(3)(B) adjustment) | **(f)** Value based on qualified use (without section 2032A(b)(3)(B) adjustment) |
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| **7** Add all amounts in each column . . . | **7** | | | | |
| **8** Total from additional Part II, line 6, attached to this schedule . . | **8** | | | | |
| **9** **Total.** Add lines 7 and 8 | **9** | | | | |

**Schedule T (Form 706) (8-2025)**

**Part II** **Notice of Election** (Reg. section 20.2032A-8(a)(3)) (see instructions) *(continued)*

**10** Enter real property used in a qualified use, passing to qualified heirs, but not specially valued on Form 706.

- If you checked Part I, line 2, Regular Election, you must attach copies of appraisals showing the column (d) values for all property listed.
- Attach additional copies of Part II, line 10, if necessary.

| **(a)** Form 706 schedule | **(b)** Form 706 schedule line number | **(c)** Form 706 schedule item number | **(d)** Full value (without section 2032A(b)(3)(B) adjustment) | **(e)** Adjusted value (with section 2032A(b)(3)(B) adjustment) | **(f)** Value based on qualified use (without section 2032A(b)(3)(B) adjustment) |
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| **11** Add all amounts in each column . . . | | **11** | | | |
| **12** Total from additional Part II, line 10, attached to this schedule . . | | **12** | | | |
| **13** **Total.** Add lines 11 and 12 . . . . . | | **13** | | | |

**Part II Notice of Election** (Reg. section 20.2032A-8(a)(3)) (see instructions) *(continued)*

**14** Enter personal property used in a qualified use and passing to qualified heirs. Attach additional copies of Part II, line 14, if necessary.

| **(a)** Form 706 schedule | **(b)** Form 706 schedule line number | **(c)** Form 706 schedule item number | **(d)** Adjusted value (with section 2032A(b)(3)(B) adjustment) |
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| **15** | Add all amounts in column (d) . . . | **15** | |
| **16** | Total from additional Part II, line 14, attached to this schedule . . | **16** | |
| **17** | **Total adjusted value.** Add lines 15 and 16 | **17** | |

## Part II Notice of Election (Reg. section 20.2032A-8(a)(3)) (see instructions) *(continued)*

**18** Persons holding interests. Enter the requested information for each party who received any interest in the specially valued property.

- You must attach a computation of the GST tax savings attributable to direct skips for each person listed below who is a skip person.
- Each of the qualified heirs receiving an interest in the property must sign the agreement in Part III (and IV if more space is needed).
- Attach additional copies of Part II, line 18, if necessary.
- Schedule T (Form 706) must be filed with Form 706.

| (a) Name | (b) Address | (c) Identifying number | (d) Relationship to decedent | (e) Fair market value | (f) Special-use value |
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## Part III Agreement to Special Valuation Under Section 2032A

There cannot be a valid election unless:

- The agreement is executed by each one of the qualified heirs, and
- The agreement in Part III (and IV if more space is needed) is included with Schedule T (Form 706) when the Form 706 is filed.

1. We (list all qualified heirs)

_______________ _______________ _______________
_______________ _______________ _______________
_______________ _______________ _______________
_______________ _______________ _______________ ,

being all the qualified heirs;

2. and (list all other persons having an interest in the property required to sign this agreement)

_______________ _______________ _______________
_______________ _______________ _______________
_______________ _______________ _______________
_______________ _______________ _______________ ,

being all other parties having interests in the property, which is qualified real property and which is valued under section 2032A, do hereby approve of the election made by _______________ ,
Executor/Administrator of the estate of _______________ ,
pursuant to section 2032A to value said property on the basis of the qualified use to which the property is devoted and do hereby enter into this agreement pursuant to section 2032A(d).

The undersigned parties agree and consent to the application of subsection (c) of section 2032A with respect to all the property described on Schedule T (Form 706), Part II, line 6, attached to this agreement. More specifically, the qualified heirs expressly agree and consent to personal liability under subsection (c) of 2032A for the additional estate and GST taxes imposed by that subsection with respect to their respective interests in the above-described property in the event of certain early dispositions of the property or early cessation of the qualified use of the property. It is understood that if a qualified heir disposes of any interest in qualified real property to any member of qualified heir's family, such member may thereafter be treated as the qualified heir with respect to such interest upon filing a Form 706-A, United States Additional Estate Tax Return, and a new agreement.

The undersigned parties (other than qualified heirs) consent to the collection of any additional estate and GST taxes imposed under section 2032A(c) from the specially valued property.

If there is a disposition of any interest which passes, or has passed to the qualified heirs, or if there is a cessation of the qualified use of any specially valued property which passes or passed to the qualified heirs, each of the qualified heirs agrees to file a Form 706-A, and pay any additional estate and GST taxes due within 6 months of the disposition or cessation.

It is understood by the undersigned parties that this agreement is a condition precedent to the election of special-use valuation under section 2032A and must be executed by every party who has an interest in the property being valued based on its qualified use even though that person may not have received the estate (or GST) tax benefits or be in possession of such property.

Each of the undersigned parties understands that by making this election, a lien will be created and recorded pursuant to section 6324B on the property referred to in this agreement for the adjusted tax differences with respect to the estate as defined in section 2032A(c)(2)(C).

The undersigned parties designate the following individual as their agent for all dealings with the Internal Revenue Service (IRS) concerning the continued qualification of the specially valued property under section 2032A and on all issues regarding the special lien under section 6324B. The agent is authorized to act for the parties with respect to all dealings with the IRS on matters affecting the qualified real property described earlier. This includes the authorization:

- To receive confidential information on all matters relating to continued qualification under section 2032A of the specially valued real property and on all matters relating to the special lien arising under section 6324B;
- To furnish the IRS with any requested information concerning the property;
- To notify the IRS of any disposition or cessation of qualified use of any part of the property;
- To receive, but not to endorse and collect, checks in payment of any refund of Internal Revenue taxes, penalties, or interest;
- To execute waivers (including offers of waivers) of restrictions on assessment or collection of deficiencies in tax and waivers of notice of disallowance of a claim for credit or refund;
- To execute closing agreements under section 7121; and
- Other acts (specify): _______________

*(continued on next page)*

## Part III Agreement to Special Valuation Under Section 2032A *(continued)*

By signing this agreement, the agent agrees to provide the IRS with any requested information concerning this property and to notify the IRS of any disposition or cessation of the qualified use of any part of this property.

| Name of Agent | Signature | Address |
|---|---|---|
| | | |

The property to which this agreement relates is listed in Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, and in Part II, Notice of Election, along with its fair market value according to section 2031 and its special-use value according to section 2032A. The name, address, identifying number, and interest (including the value) of each of the undersigned in this property are as set forth in Part II, Notice of Election.

IN WITNESS WHEREOF, the undersigned have hereunto set their hands at ______________________________ ,

this ______________ day of ______________ .

SIGNATURES OF EACH OF THE QUALIFIED HEIRS AND OTHER INTERESTED PARTIES:

Signature of qualified heir — Signature of qualified heir

Signature of qualified heir — Signature of qualified heir

Signature of qualified heir — Signature of qualified heir

Signature of qualified heir — Signature of qualified heir

Signature of qualified heir — Signature of qualified heir

Signature of qualified heir — Signature of qualified heir

Signature of other interested parties — Signature of other interested parties

Signature of other interested parties — Signature of other interested parties

Signature of other interested parties — Signature of other interested parties

Signature of other interested parties — Signature of other interested parties

Signature of other interested parties — Signature of other interested parties

Signature of other interested parties — Signature of other interested parties

## Part IV Additional Names and Signatures For Part III

Enter the names and signatures of any additional qualifying heirs and/or other interested parties. Attach additional copies of Part IV, if necessary.

| | |
|---|---|
| Name of qualified heir | Signature of qualified heir |
| Name of qualified heir | Signature of qualified heir |
| Name of qualified heir | Signature of qualified heir |
| Name of qualified heir | Signature of qualified heir |
| Name of qualified heir | Signature of qualified heir |
| Name of qualified heir | Signature of qualified heir |
| Name of qualified heir | Signature of qualified heir |
| Name of qualified heir | Signature of qualified heir |
| Name of qualified heir | Signature of qualified heir |
| Name of other interested parties | Signature of other interested parties |
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| Name of other interested parties | Signature of other interested parties |

**SCHEDULE U (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Qualified Conservation Easement Exclusion

**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

| Decedent's name as it appears on Form 706 | **Decedent's social security number** |
|---|---|
| | |

## Part I Election

The executor is deemed to have made the election under section 2031(c)(6) if the executor files Schedule U (Form 706) and excludes any qualifying conservation easements from the gross estate.

## Part II General Qualifications

**1** Describe the land subject to the qualified conservation easement. See instructions.

**2** Did the decedent or a member of the decedent's family own the land described above during the 3-year period ending on the date of the decedent's death? . . . . . . . . . . . . . . . . . . . . . . . . . ☐ **Yes** ☐ **No**

**3** Describe the conservation easement with regard to which the exclusion is being claimed. See instructions.

## Part III Computation of Exclusion

| | | | | | |
|---|---|---|---|---|---|
| **4** | Estate tax value of the land subject to the qualified conservation easement. See instructions . | | | **4** | |
| **5** | Date of death value of any easements granted prior to decedent's death and included on line 10 below. See instructions . . . . . . . . | **5** | | | |
| **6** | Add lines 4 and 5 . . . . . . . . . . . . . . . . . | **6** | | | |
| **7** | Value of retained development rights on the land. See instructions . | **7** | | | |
| **8** | Subtract line 7 from line 6 . . . . . . . . . . . . . . . | **8** | | | |
| **9** | Multiply line 8 by 30% (0.30) . . . . . . . . . . . . . . | **9** | | | |
| **10** | Value of qualified conservation easement for which the exclusion is being claimed. See instructions . . . . . . . . . . . . . . **Note:** If line 10 is less than line 9, continue with line 11. If line 10 is equal to or more than line 9, skip lines 11 through 13, enter "0.40" on line 14, and complete the schedule. | **10** | | | |
| **11** | Divide line 10 by line 8. Figure to 3 decimal places (for example, "0.123") . . . . . . . . . . . . . . . . . . . . . . **Note:** If line 11 is equal to or less than 0.100, stop here. The estate does not qualify for the conservation easement exclusion. | **11** | | | |
| **12** | Subtract line 11 from 0.300. Enter the answer in hundredths by rounding any thousandths up to the next higher hundredth (that is, 0.030 = 0.03, but 0.031 = 0.04) . . . . . . . . . . . . . | **12** | | | |
| **13** | Multiply line 12 by 2.0 . . . . . . . . . . . . . . . . | **13** | | | |
| **14** | Subtract line 13 from 0.40 . . . . . . . . . . . . . . . | **14** | | | |
| **15** | Deduction under section 2055(f) for the conservation easement. See instructions . . . . . . . . . . . . . . . . . . . . . | **15** | | | |
| **16** | Amount of indebtedness on the land. See instructions . . . . . | **16** | | | |
| **17** | Total reductions in value. Add lines 7, 15, and 16 . . . . . . . . . . . . . . . . . | | | **17** | |
| **18** | Net value of land. Subtract line 17 from line 4 . . . . . . . . . . . . . . . . . . . . | | | **18** | |
| **19** | Multiply line 18 by line 14 . . . . . . . . . . . . . . . . . . . . . . . . . . | | | **19** | |
| **20** | Enter the smaller of line 19 or the exclusion limitation. See instructions. Also enter this amount on Form 706, Part V, item 12 . . . . . . . . . . . . . . . . . . . . . . . . . . | | | **20** | |

**SCHEDULE W (Form 706)**
(August 2025)
Department of the Treasury
Internal Revenue Service

# Continuation Schedule for Form 706 Schedules

**Use with Form 706 Schedules A, B, C, D, E, F, G, H, I, J, K, L, M, and O.**
**Attach to Form 706.**
**Go to *www.irs.gov/Form706* for instructions and the latest information.**

OMB No. 1545-0015

Decedent's name as it appears on Form 706 | **Decedent's social security number**

- Use a separate Schedule W (Form 706) for each main schedule you are continuing.
- Do not combine assets or deductions from different schedules on one Schedule W (Form 706).
- Use as many Schedules W (Form 706) as needed to list all the assets or deductions.

Enter the letter of the Form 706 schedule you're continuing: ______________ Enter the line number of the Form 706 schedule you're continuing: ______________

| Item number | Description | CUSIP number or EIN | Character of institution (Sch. O only), or expense amount | Unit value | Percentage includible (Sch. E, Part II only) | Alternate valuation date | Alternate value | Value at date of death or amount deductible |
|---|---|---|---|---|---|---|---|---|
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*(continued on next page)*

| Item number | Description | CUSIP number or EIN | Character of institution (Sch. O only), or expense amount | Unit value | Percentage includible (Sch. E, Part II only) | Alternate valuation date | Alternate value | Value at date of death or amount deductible |
|---|---|---|---|---|---|---|---|---|
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| **Total.** Add all amounts, as applicable. Carry forward to the main schedule . . . . . . . . . . . . . . . . . . . . . . | | | | | | | | |

Form **706-GS(D)**

(Rev. June 2019)

Department of the Treasury
Internal Revenue Service

# Generation-Skipping Transfer Tax Return For Distributions

**▶ Use for distributions made after December 31, 2010.**

**For calendar year** ____________________ .

**▶ Go to *www.irs.gov/Form706GSD* for instructions and the latest information.**

OMB No. 1545-1144

*Attach a copy of all Forms 706-GS(D-1) to this return.*

## Part I General Information

| | |
|---|---|
| **1a** Name of skip person distributee | **1b Social security number of individual distributee** (see instructions) |
| **2a** Name and title of person filing return (if different from 1a, see instructions) | **1c Employer identification number of trust distributee** (see instructions) |

**2b** Address of distributee or person filing return (see instructions) (number and street or P.O. box; city, town, or post office; state; and ZIP code). If you have a foreign address, also complete the spaces below.

| Foreign country name | Foreign province/county | Foreign postal code |
|---|---|---|
| | | |

## Part II Distributions

| **a**<br>Trust EIN (from Form 706-GS(D-1), line 2a) | **b**<br>Item no. (from Form 706-GS(D-1), line 3, column a) | **c**<br>Amount of transfer (from Form 706-GS(D-1), line 3, column f (Tentative transfer)) |
|---|---|---|
| | | |
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| | | | |
|---|---|---|---|
| **3** | Total transfers (add amounts in column c) . . . . . . . . . . . . . . . . . . . . . . | **3** | |

## Part III Tax Computation

| | | | |
|---|---|---|---|
| **4** | Adjusted allowable expenses (see instructions) . . . . . . . . . . . . . . . . | **4** | |
| **5** | Taxable amount (subtract line 4 from line 3) . . . . . . . . . . . . . . . . . . | **5** | |
| **6** | Maximum federal estate tax rate (see instructions) . . . . . . . . . . . . . . | **6** | % |
| **7** | Generation-skipping transfer tax (multiply line 5 by line 6) . . . . . . . . . . . | **7** | |
| **8** | Payment, if any, made with Form 7004 . . . . . . . . . . . . . . . . . . | **8** | |
| **9** | **Tax due** . . . . . . . . . . . . . . . . . . . . . . . . . . . ▶ | **9** | |
| **10** | **Overpayment.** If line 8 is larger than line 7, enter amount to be refunded . . . . . . . . ▶ | **10** | |

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

**Sign Here** ▶ Signature of taxpayer or person filing on behalf of taxpayer | Date

| **Paid Preparer Use Only** | | | | |
|---|---|---|---|---|
| Print/Type preparer's name | Preparer's signature | Date | Check ☐ if self-employed | PTIN |
| Firm's name ▶ | | | Firm's EIN ▶ | |
| Firm's address ▶ | | | Phone no. | |

**For Privacy Act and Paperwork Reduction Act Notice, see instructions.** Cat. No. 10327Q Form **706-GS(D)** (Rev. 6-2019)

Form **706-GS(D-1)**
(Rev. October 2008)
Department of The Treasury
Internal Revenue Service

# Notification of Distribution From a Generation-Skipping Trust

Complete for each skip person distributee. See separate instructions.
For calendar year ........

OMB No. 1545-1143

**Copy A: Send to IRS**

## Part I General Information

| | |
|---|---|
| **1a** Skip person distributee's identifying number (see instructions) | **2a** Trust's employer identification number (see instructions) |
| **1b** Skip person distributee's name, address, and ZIP code | **2b** Trust's name, address, and ZIP code |

## Part II Distributions

**3** Describe each distribution below. (see instructions)

| **a** Item no. | **b** Description of property | **c** Date of distribution | **d** Inclusion ratio | **e** Value (see instructions) | **f** Tentative transfer (multiply col. e by col. d) |
|---|---|---|---|---|---|
| 1 | | | | | |

## Part III Trust Information (see instructions)

**4** If this is not an explicit trust, check here and attach a statement describing the arrangement that makes its effect substantially similar to an explicit trust . . . . . . . . . . . . . . . . . . . . . . . . ▶ ☐

| | | Yes | No |
|---|---|---|---|
| **5** | Has any property been contributed to this trust since the last Form 706-GS(T) or (D-1) was filed? If "Yes," attach a schedule showing how the trust's inclusion ratio has been refigured . . . . . . . . . . . . . . | | |
| **6** | Have any contributions been made to this trust since the last Form 706-GS(T) or (D-1) was filed that were not included in calculating the trust's inclusion ratio? If "Yes," attach a statement explaining why the contributions were not included . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | | |
| **7** | Has any exemption been allocated to this trust by reason of the deemed allocation rules? . . . . . . . | | |

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

**Signature of trustee** ▶ ................................................ **Date** ▶ ................

**Signature of preparer other than trustee** ▶ ................................................ **Date** ▶ ................

**Address** ▶

**For Paperwork Reduction Act Notice, see page 5 of the separate trustee's instructions.** Cat. No. 10328B Form **706-GS(D-1)** (Rev. 10-2008)

Form **706-GS(D-1)**
(Rev. October 2008)
Department of The Treasury
Internal Revenue Service

# Notification of Distribution From a Generation-Skipping Trust

Complete for each skip person distributee. See separate instructions.
For calendar year ........

OMB No. 1545-1143

**Copy B: For Distributee**

## Part I General Information

| | |
|---|---|
| **1a** Skip person distributee's identifying number (see instructions) | **2a** Trust's employer identification number (see instructions) |
| **1b** Skip person distributee's name, address, and ZIP code | **2b** Trust's name, address, and ZIP code |

## Part II Distributions

**3** Describe each distribution below (see instructions).

| **a** Item no. | **b** Description of property | **c** Date of distribution | **d** Inclusion ratio | **e** Value (see instructions) | **f** Tentative transfer (multiply col. e by col. d) |
|---|---|---|---|---|---|
| 1 | | | | | |

**Skip person distributee.** To report this distribution, you must file Form 706-GS(D), Generation-Skipping Transfer Tax Return for Distributions, at the following address: Department of the Treasury, Internal Revenue Service Center, Cincinnati, OH 45999.

**For Paperwork Reduction Act Notice, see page 5 of the separate trustee's instructions.** Form **706-GS(D-1)** (Rev. 10-2008)

# Instructions for Skip Person Distributee

## General Instructions

### Purpose of Form

Form 706-GS(D-1) is used by a trustee to report to the distributee and to the Internal Revenue Service distributions from a trust that are subject to the generation-skipping transfer tax. The skip person distributee uses the information on Form 706-GS(D-1) to complete Form 706-GS(D), Generation-Skipping Transfer Tax Return for Distributions.

Attach a copy of each Form 706-GS(D-1) you received during the year to your Form 706-GS(D). You should also keep a copy for your records.

### Errors

If you believe the trustee has made an error on your Form 706-GS(D-1), notify the trustee and ask for a corrected Form 706-GS(D-1). Do not change any items on your copy. Be sure to ask the trustee to send a copy of the corrected Form 706-GS(D-1) to the IRS.

## Specific Instructions

### Part I

**Line 2a.** Enter the trust's employer identification number from Part I of this form on Form 706-GS(D), Part II, column a.

### Part II

**Column a.** Use the same item number used here for the corresponding entry on Form 706-GS(D), Part II, column b.

**Column c.** The date of distribution is the date the title to the property distributed passed from the trustee to the distributee. This is the date used to determine the value of the distribution.

**Column f.** Enter the tentative transfer amount on Form 706-GS(D), Part II, column c.

Form **706-GS(T)** (Rev. November 2013) Department of the Treasury Internal Revenue Service

# Generation-Skipping Transfer Tax Return For Terminations

▶ Use for terminations made after December 31, 2012.

▶ For calendar year ............ .

▶ Information about Form 706-GS(T) and its separate instructions is at *www.irs.gov/form706gst.*

OMB No. 1545-1145

## Part I General Information

| 1a Name of trust | 1b Trust's employer identification number (see instructions) |
|---|---|
| | |

2a Name of trustee

2b Trustee's address (number and street or P.O. box; apt. or suite no.; city, town or post office; state and ZIP code) If you have a foreign address, also complete the spaces below (see instructions).

| Foreign country name | Foreign province/county | Foreign postal code |
|---|---|---|
| | | |

## Part II Trust Information (see the instructions)

| | | Yes | No | Sch. A number(s) |
|---|---|---|---|---|
| 3 | Has any exemption been allocated to this trust by reason of the deemed allocation rules of section 2632? If "Yes," describe the allocation on the line 7, Schedule A, attachment showing how the inclusion ratio was calculated . . . . . . . . . . . . . . . . . . . . . . . | | | |
| 4 | Has property been contributed to this trust since the last Form 706-GS(T) or 706-GS(D-1) was filed? If "Yes," attach a schedule showing how the inclusion ratio was calculated . . . . . . | | | |
| 5 | Have any terminations occurred that are not reported on this return because of the exceptions in section 2611(b)(1) or (2) relating to medical and educational exclusions and prior payment of Generation-Skipping Transfer (GST) tax? If "Yes," attach a statement describing the termination . | | | |
| 6 | Have any contributions been made to this trust that were not included in calculating the trust's inclusion ratio? If "Yes," attach a statement explaining why the contribution was not included . . | | | |
| 7 | Has the special QTIP election in section 2652(a)(3) been made for this trust? . . . . . . . . | | | |

8 If this is not an explicit trust (see the instructions under *Who Must File*), check here and attach a statement describing the trust arrangement that makes its effect substantially similar to an explicit trust . . . . . . . . . . . . . . . . ▶ ☐

## Part III Tax Computation

9a Summary of attached Schedules A (see instructions for line 9b)

| Schedule A No. | | | GST tax (from Sch. A, line 10) |
|---|---|---|---|
| 1 | . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | 9a1 | |
| 2 | . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | 9a2 | |
| 3 | . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | 9a3 | |
| 4 | . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | 9a4 | |
| 5 | . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | 9a5 | |
| 6 | . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . . | 9a6 | |
| 9b | Total from all additional Schedules A, in excess of six, attached to this form . . . . . . . . ▶ | 9b | |
| 10 | **Total** GST tax (add lines 9a1 through 9b) . . . . . . . . . . . . . . . . . . . . . | 10 | |
| 11 | Payment, if any, made with Form 7004 . . . . . . . . . . . . . . . . . . . . . . . | 11 | |
| 12 | **Tax due.** If line 10 is larger than line 11, enter the amount owed . . . . . . . . . . . . . . | 12 | |
| 13 | **Overpayment.** If line 11 is larger than line 10, enter amount to be refunded . . . . . . . . . | 13 | |

**Sign Here**

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

▶ Signature of fiduciary or officer representing fiduciary | Date

**Paid Preparer Use Only**

| Print/Type preparer's name | Preparer's signature | Date | Check ☐ if self-employed | PTIN |
|---|---|---|---|---|
| Firm's name ▶ | | | Firm's EIN ▶ | |
| Firm's address ▶ | | | Phone no. | |

**For Paperwork Reduction Act Notice, see separate instructions.** Cat. No. 10329M Form **706-GS(T)** (Rev. 11-2013)

| Name of trust | EIN of trust |
|---|---|
| | |

**Schedule A No.**

**Note.** Make copies of this schedule before completing it if you will need more than one Schedule A.

## Schedule A—Taxable Terminations

(See the instructions before completing this schedule.)

| | **a** Name of skip persons | **b** SSN or EIN of skip person | **c** Item no. from line 4 below in which interest held |
|---|---|---|---|
| **1** | | | |
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**2** Describe the terminating power or interest. If you need more space, attach an additional sheet.

**3** If you elect alternate valuation, check here (see the instructions) . . . . . . . . . . . . . . . . . . . . ▶ ☐

**4** Describe each taxable termination below (see the instructions)

| **a** Item no. | **b** Description of property subject to termination | **c** Date of termination | **d** Valuation date | **e** Value |
|---|---|---|---|---|
| **1** | | | | |
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| | **Total** . . . . . . . . . . . . . . . . . . . . . . . . . . . . ▶ | **4** | |
| **5** | Total deductions applicable to this Schedule A (from attached Schedule B, line 5) . . . . . . . . | **5** | |
| **6** | Taxable amount (subtract line 5 from line 4) . . . . . . . . . . . . . . . . . . . . . . . | **6** | |
| **7** | Inclusion ratio (attach separate schedule showing computation) . . . . . . . . . . . . . . . . | **7** | |
| **8** | Maximum federal estate tax rate (see Table in the instructions) . . . . . . . . . . . . . . . | **8** | % |
| **9** | Applicable rate (multiply line 7 by line 8) . . . . . . . . . . . . . . . . . . . . . . . . | **9** | |
| **10** | GST tax (multiply line 6 by line 9) (enter here and on page 1, Part III, line 9) . . . . . . . . . . | **10** | |

**Schedule A** (Form 706-GS(T)) (Rev. 11-2013)

| Name of trust | Schedule A No. ▶ |
|---|---|
| | EIN of trust |

**Note.** Make copies of this schedule before completing it if you will need more than one Schedule B.

## Schedule B(1)—General Trust Debts, Expenses, and Taxes

(Section 2622(b)) (Enter only items related to the entire trust; see the instructions.)

| a<br>Item no. | b<br>Description | c<br>Amount |
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|---|---|---|---|
| 1 | Total of Schedule B(1) . . . . . . . . . . . . . . . . . . . . . . . . . . | 1 | |
| 2 | Percentage allocated to corresponding Schedule A . . . . . . . . . . . . . . . . . . | 2 | % |
| 3 | Net deduction (multiply line 1 by line 2) . . . . . . . . . . . . . . . . . . . . . . . . | 3 | |

## Schedule B(2)—Specific Termination-Related Debts, Expenses, and Taxes

(Section 2622(b)) (Enter only items related solely to terminations appearing on corresponding Schedule A; see the instructions.)

| a<br>Item no. | b<br>Description | c<br>Amount |
|---|---|---|
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|---|---|---|---|
| 4 | Total of Schedule B(2) . . . . . . . . . . . . . . . . . . . . . . . . . . | 4 | |
| 5 | **Total.** Add lines 3 and 4 (enter here and on line 5 of the corresponding Schedule A) . . . . . . . | 5 | |

C
4x

**IN THE CIRCUIT COURT FOR COLLIER COUNTY, FLORIDA** **PROBATE DIVISION**

**IN RE: DECLARATION OF TRUST OF P. JOANE G.M. BANKSON DATED FEBRUARY 16, 1996**

**File No. 14-CP-1434**

FILED 13
COLLIER COUNTY, FLORIDA
2014 JUL -1 AM 10: 12
CLERK OF COURTS
BY________D.C.

**FINAL JUDGMENT REGARDING MODIFICATION OF TRUST**

This action having been brought before this Court for consideration of the Complaint for Declaratory Relief Regarding Trust Modification filed by Christopher Middlebrook, as trustee ("Trustee") of the Declaration of Trust of P. Joane G.M. Bankson dated February 16, 1996 ("Trust"), the Court finds that:

1. This Court has proper jurisdiction over the Trust, pursuant to section 736.0201 of the Florida Statutes;

2. The qualified beneficiaries ("Qualified Beneficiaries") of the Trust are:

    a. Teri Rench (f/k/a Teri Lynne Farmer), the daughter of the Settlor;

        i. William Rench, the son of Teri Rench;

        ii. Beau Rench, the son of Teri Rench;

        iii. Cortni Dixon, the daughter of Teri Rench;

            1. Sabrina Renee Rench, the daughter of Cortni Dixon;

            2. S.M.R., the minor daughter of Cortni Dixon;

            3. S.J.R., the minor son of Cortni Dixon;

        iv. Kimberly Hendrick, the daughter of Teri Rench;

v. Phyllis Lanter (f/k/a Phyllis McLaughlin), the daughter-in-law of the Settlor;

3. The Trustee executed the Modification of Trust on June 23, 2014, ("Modification") which provides for the creation in Teri Rench of a testamentary general power of appointment which is exercisable only in conjunction with the consent of Kelly Dee, a non-adverse party;

4. The adult Qualified Beneficiaries executed and filed a document ("Confirmation") by which they (i) confirmed they wish for the Trustee to modify the Trust in the manner set forth in the Modification and (ii) expressed that they do not object to the entry of an Order, without notice or a hearing, consistent with the Modification;

5. The minor Qualified Beneficiaries are each adequately represented by their parent who is also a Qualified Beneficiary, pursuant to section 736.0303(5) of the Florida Statutes, who executed and filed a Confirmation;

6. The Trustee and the Qualified Beneficiaries, who are all of the parties in interest, have all consented to the Modification;

7. The property of the Trust includes an asset with a significant unrealized capital gain;

8. A portion of the Trust is not exempt from generation-skipping transfer ("GST") tax;

9. The unrealized capital gain and the portion of the Trust which is not exempt from GST tax will, in the future, cause significant amounts of capital gains tax and GST tax which will reduce the amount of the property of the Trust available for distribution to the Qualified Beneficiaries;

10. The Settlor's tax objectives included the deferral and minimization of capital gains tax and GST tax;

11. This Court has the authority, under section 736.0416 of the Florida Statutes, to modify an irrevocable trust in a manner that is not contrary to the settlor's probable intent to achieve the settlor's tax objectives;

12. Modification of the Trust in the manner set forth in the Modification is not contrary to the Settlor's probable intent, and will achieve the Settlor's tax objectives;

13. This Court has the authority, under §736.04115 of the Florida Statutes, to modify an irrevocable trust if compliance with the trust's terms is not in the best interests of the beneficiaries;

14. Compliance with the terms of the Trust, without the Modification, is not in the best interests of the Qualified Beneficiaries because it will result in significant amounts of capital gains tax and GST tax, thereby reducing the amount of property of the Trust which is available for distribution to the Qualified Beneficiaries.

15. Modification of the Trust in the manner provided for in the Modification will reduce the amount of capital gains tax and GST tax, which is in the best interests of the Qualified Beneficiaries;

16. This Court has the authority, under section § 736.04113(1)(b) of the Florida Statutes, to modify an irrevocable trust, if compliance with the trust terms would defeat or substantially impair the accomplishment of a material purpose of the trust as a result of circumstances not anticipated by the settlor;

17. A material purpose of the Trust is to preserve the property of the Trust for the Qualified Beneficiaries;

18. The Settlor did not anticipate that changes in the Internal Revenue Code would provide additional opportunities for reducing capital gains tax and GST tax;

19. Complying with the terms of the Trust, without the Modification, will impair the preservation of the property of the Trust for the Qualified Beneficiaries; and

20. Modification of the Trust in the manner provided for in the Modification will reduce the amount of capital gains tax and GST tax and will accomplish the material purpose of preserving the property of the Trust for the Qualified Beneficiaries.

IT IS ADJUDGED that:

A. The Modification by the Trustee is effective;

B. The Modification by the Trustee is adopted by this Court; and

C. The Trustee shall administer the Trust as modified by the Modification.

ORDERED this 30 day of June, 2014.

Circuit Judge

# The Many Misuses of *Shall*

## Joseph Kimble

> [W]hen such a rule says that something "shall" be done, the Court jolly-well means for it to be done; the direction is a "mandatory" one and must be obeyed. . . . But the rule does not specify or mandate any particular sanction . . . . [W]e do not believe that [dismissal] is a mandatory sanction required to be applied indiscriminately in all cases. The trial court, we think, had some discretion in the matter.
>
> *People's Counsel v. Public Serv. Comm'n*, 451 A.2d 945, 948 (Md. Ct. Spec. App. 1982)

Let me offer a summary up front, where it belongs.

First, *shall* is the most important word in the world of legal drafting — contracts, wills, trusts, and the many forms of public and private legislation (from statutes to court rules to corporate bylaws). *Shall* is the very word that is supposed to create a legal duty.

Second, *shall* is the most misused word in the legal vocabulary.

Third, this perpetual misuse reflects the sickening failure of most law schools to teach legal drafting.

Fourth, a good case can be made for abandoning *shall* entirely. That would at least end the misuses. And it would take us another step closer to plain language.

Finally, though, the best solution may not always be that neat. In some documents, the best solution may be to define *shall* and *must* and *may* — the terms of authority. That way, drafters can make clear the degree of duty they intend and the possible consequences of a breach.

### The Grammar of *Shall*

*Shall* is a modal auxiliary verb. The modal auxiliaries (*shall, will, must, can, may*) are so called because, unlike the other auxiliaries (*be, do, have*), they express modal meanings such as possibility, volition, and obligation.[1] These meanings involve human judgment about what is likely to happen, or some kind of human control over events.

*Shall* originally meant obligation or compulsion, from Old English and Germanic words meaning "to owe."[2] It was a finite verb that gradually, over centuries, developed into an auxiliary.[3] So did the modal *will*, which originally carried the sense of volition.[4] Because obligations and intentions concern future conduct, and because English verbs lack a true future form, *shall* and *will* came naturally to be used with future time.[5] In short, through evolution, they can now work in two ways: to express modal meanings or to mark future time.

To distinguish these two uses, a set of rules developed, or were prescribed, or both. Use *shall* to express plain future in the first person: "I shall die someday." Use *will* to express plain future in the second and third persons: "Time will tell." Do just the reverse to convey modal meanings.

We do not have to worry about these rules for several reasons. For one thing, they are so shot-through with variations, borderline cases, and exceptions as to be practically unmanageable. The great H.W. Fowler, a believer in the rules, needed 21 pages in *The King's English* to explain them — and even then despaired that "those who are not to the manner born can hardly acquire [the idiomatic use]."[6] Wilson Follett, another believer, spent 23 pages in *Modern*

1. RANDOLPH QUIRK ET AL., A COMPREHENSIVE GRAMMAR OF THE ENGLISH LANGUAGE §§ 3.21, 3.31, 4.49 (1985).

2. OTTO JESPERSEN, ESSENTIALS OF ENGLISH GRAMMAR § 25.5(1) (1933; repr. 1939); AMERICAN HERITAGE DICTIONARY OF THE ENGLISH LANGUAGE 1657 (*shall*), 2124 (*skel-*[2]) (3d ed. 1992).

3. WEBSTER'S DICTIONARY OF ENGLISH USAGE 841 (1989).

4. *Id.*

5. JESPERSEN, *supra* note 2, §§ 25.3(1), 25.5(1).

6. H.W. FOWLER & F.G. FOWLER, THE KING'S ENGLISH 142 (3d ed. 1931).

*American Usage*, and he called the section "Confusion and Conflict in Usage."[7] Language will not suffer such difficulty for long.

For another thing, the rules are alien to American idiom, as Fowler himself acknowledged.[8] Every authority on American usage says that *will* is far more common, especially to mark plain future.[9] To American ears, *shall* is "somewhat mannered"[10] or "flossy."[11] Or as James Thurber put it, "Men who use *shall* west of the Appalachians are the kind who twirl canes and eat ladyfingers."[12]

Still another reason to forget the "rules" is that legal drafters primarily use third person. At most, we should only have to get right the modal use of *shall* in the third person to express an obligation, a command, a legal duty: "The landlord shall maintain the common areas."

So here is the current state of usage, as described in the leading contemporary grammar. *Shall* is "infrequent" to indicate plain future; even in British English, the prescription to use *shall* with *I* and *we* "is old-fashioned and is nowadays widely ignored."[13]

As for modal use, *shall* survives, barely, in questions: "Shall we dance?" (Most Americans would not say it like that.) And it survives in one of the many exceptions to the old rules: *shall* with the first person to express intense determination, as in "I shall return" and "We shall overcome." This use is formal.

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7. WILSON FOLLETT, MODERN AMERICAN USAGE 369 (1966).

8. H.W. FOWLER, A DICTIONARY OF MODERN ENGLISH USAGE 713 (Ernest Gowers 2d ed. 1965).

9. *E.g.*, AMERICAN HERITAGE DICTIONARY, *supra* note 2, at 1657; MARGARET M. BRYANT, CURRENT AMERICAN USAGE 182–83 (1962) (citing studies that show that *will* is used more than 90% of the time); ROY H. COPPERUD, AMERICAN USAGE AND STYLE: THE CONSENSUS 345 (1980).

10. AMERICAN HERITAGE DICTIONARY, *supra* note 2, at 1657.

11. COPPERUD, *supra* note 9, at 345.

12. Quoted in WILLIAM MORRIS & MARY MORRIS, HARPER DICTIONARY OF CONTEMPORARY USAGE 541 (2d ed. 1985).

13. QUIRK et al., *supra* note 1, §§ 4.42, 4.58.

What's left? Legal usage — the only place where *shall* thrives. And in legal usage "*shall* is close in meaning to *must.*"[14]

There you have it: a legacy of confusion from the interplay between modal meaning and future time; uses that are, outside the law, "infrequent," "old-fashioned," "flossy," and "formal"; a country uncomfortable with *shall*; and a profession that overuses it, misuses it, and arguably could as well replace it with *must.*

**Lawyers' Misuses**

Every single authority on legal drafting, from George Coode,[15] to Reed Dickerson,[16] to Barbara Child,[17] insists that *shall* must be used for modal meaning only. It must be used to recite an obligation in a contract, or to give a command in a statute. You have used it correctly if you can substitute *has a duty to* for *shall*:

- The landlord shall [= has a duty to] maintain the common areas.
- A driver shall not [= has a duty not to] drive more than 45 miles an hour in a construction zone.

But lawyers wrongly tend to think that, because contracts and statutes apply into the future, they should be written in the future tense. This thinking produces two kinds of false imperatives. First, a drafter may wrongly use *shall* to declare a legal result:

- The law of Michigan *shall govern* [*governs*] this contract.
- It *shall be* [*is*] unlawful to commit murder.

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14. *Id.* § 4.58 n.[c].

15. GEORGE COODE, ON LEGISLATIVE EXPRESSION (2d ed. 1852), *reprinted in* ELMER A. DRIEDGER, THE COMPOSITION OF LEGISLATION app. I at 317, 371–72 (2d ed. 1976); *see also* BRYAN A. GARNER, A DICTIONARY OF MODERN LEGAL USAGE 516–17 (1987) (updating COODE).

16. REED DICKERSON, THE FUNDAMENTALS OF LEGAL DRAFTING §§ 6.7, 9.4 (2d ed. 1986).

17. BARBARA CHILD, DRAFTING LEGAL DOCUMENTS 204–06, 383–84 (2d ed. 1992).

Second, the drafter may misuse *shall* in a conditional clause or relative clause:

- If the tenant *shall* [*does*] not pay the rent on time, the landlord may charge a late fee.
- I give to Chuck Berry all the property that I *shall* [omit *shall*] have at my death.

Ironically for the future-looking drafter, in the first two examples the *shall* seems more modal than temporal. And in the conditional clause, *should* — not *shall* — is correct in formal contexts. The *shall* in the last two examples is a precious old literary usage.[18]

At any rate, drafting convention and modern idiom require the normal present tense in all four examples. A legal document speaks constantly; it applies throughout its operation, and not just to the situations that exist when it's drafted. So once again, we can relax and write simply.

Another misuse produces an ambiguity that may or may not involve a false imperative:

> There *shall be* [*is*?] created a Department of Plain English.

If this is self-executing — if the statute creates the department — then use the present tense. If the statute imposes a duty on someone to create the department, then name that someone, keep *shall*, and use the active voice.

Two other misuses are less common. First, like the second possible meaning of the last example, a sentence with *shall* may leave unclear where the duty falls:

> All dogs shall be kept on a leash.

If I let you walk my dog without a leash, who can be cited? Second, a sentence with *shall* may impose a duty on the wrong person:

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18. JESPERSEN, *supra* note 2, § 25.7(2).

- A child shall undergo vaccination before age six.
- The employee *shall receive* [*shall be paid* or *is entitled to*] $40,000 a year.

In the first example, the parents, not the child, should have the duty — and the drafter should know better. In the second example as corrected, the passive *shall be paid* is tolerable, because it's implicitly clear that the employer has the duty. (In this instance, though, testing with *has a duty to* does not work.) Even better would be the active voice: "The employer shall pay the employee $40,000 a year."

But having said all this, I should alert you that these misuses, rampant as they are, have not caused the main problem in the volumes of litigation over *shall.* No, the courts are befuddled instead by what degree or form of duty *shall* imposes and what the consequences are for a violation. More on that in a moment.

## What About *Must*?

Reed Dickerson, our late patriarch of modern-day drafting, set out the following conventions for using terms of authority:

(1) To create a right, say *is entitled to.*

(2) To create discretionary authority, say *may.*

(3) To create a duty, say *shall.*

(4) To create a mere condition precedent, say *must* (e.g., "To be eligible to occupy the office of mayor, a person must . . .").[19]

Professor Dickerson's counterpart in Canada, Elmer Driedger, agrees: use *must* with a provision that is "directory only."[20] For example:

> The owner must sign the application.

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19. DICKERSON, *supra* note 16, § 9.4.

20. DRIEDGER, *supra* note 15, at 14.

According to Driedger, the owner is not being compelled to sign, even though the application will not be considered unless it is signed.

Reserving *must* for a "mere condition precedent" or similar meaning would indeed promote clarity and economy. Think of the contractual disputes that arise over whether the parties intended a condition or a promise. In one famous case, for instance, a farmer plowed under his rain-damaged tobacco stalks before the insurance corporation inspected them.[21] The corporation refused to pay because the contract said:

> The tobacco stalks . . . with respect to which a loss is claimed shall not be destroyed until the Corporation makes an inspection.[22]

The court had to decide whether this provision was a promise or a condition. If it was the farmer's promise, the insurer could recover damages; if it was a condition, however, the insurer would not have to pay at all. Noting the general legal policy against a forfeiture, the court said the provision was a promise only. But the result would probably have been the same even if the drafter had used *must* instead of *shall*.

Unfortunately, reserving *must* for conditions has not caught on, at least not yet. No matter which term is used, the drafter must add words to make a condition explicit: "As a condition precedent to the corporation's paying for a loss, the insured must not destroy the tobacco stalks until the corporation inspects them." Or the drafter must revise: "If the insured destroys the tobacco stalks before the corporation inspects them, the corporation is not liable for the loss."[23]

One other point. In contracts, an unmet condition has graver consequences than a broken promise. The insurance company

21. Howard v. Federal Crop Ins. Corp., 540 F.2d 695, 696 (4th Cir. 1976).

22. *Id.*

23. For guidance on drafting conditions, see SCOTT J. BURNHAM, THE CONTRACT DRAFTING GUIDEBOOK §§ 11.1–11.10, 18.6.3 (1992).

would have had no duty to pay the tobacco farmer if the provision had been interpreted as a condition. So we should not be misled by Dickerson's idea of a "mere condition precedent." I suspect that Dickerson, steeped as he was in legislative drafting, viewed the failure to qualify for something ("the owner must sign the application") as less serious than "a flat-out command, the breach of which risks legal discipline."[24] In contracts, however, we might more accurately think of a "mere promise" as opposed to a condition.

Commentators have recommended other uses for *must*. Driedger himself recommends *must* when you are stating a command without specifying the actor:[25]

> The brief must include a summary of argument.

The National Conference of Commissioners on Uniform State Laws suggests always using *must* in the passive voice:[26]

> A notice of appeal must be filed within 30 days.

Dickerson disagrees.[27] He allows *shall* with a passive verb as long as it is clear who has the duty. In the last example, he would probably use *must*, but not for grammatical reasons. He would, I think, regard timely filing as a condition to preserving an appeal — a condition to legal effectiveness.

Finally, the National Conference of Commissioners recommends also using *must* with "an inactive [linking] verb":[28]

> The applicant must be an adult.

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24. Reed Dickerson, *Choosing Between* Shall *and* Must *in Legal Drafting*, 1 SCRIBES J. LEGAL WRITING 144, 144 (1990).

25. DRIEDGER, *supra* note 15, at 14.

26. HANDBOOK OF THE NATIONAL CONFERENCE OF COMMISSIONERS ON UNIFORM STATE LAWS AND PROCEEDINGS 761 (1987) [HANDBOOK].

27. Dickerson, *supra* note 24, at 145–46.

28. HANDBOOK, *supra* note 26, at 761.

Again, Dickerson would agree with the *must*, but disagree with the grammatical rationale.

Even if we accept Dickerson's single use of *must*, for conditions only, some examples present tough calls:

> The trial judge shall inform the defendant of the maximum and minimum sentence.

Is this a "flat-out command"? If so, what is the legal penalty? A remand? Or is telling the defendant about the sentence a condition precedent to the legal effectiveness of sentencing? Is the difference even significant here?

In one last twist, Barbara Child agrees with Dickerson's distinction between *shall* (command) and *must* (condition) in legislation, but she recommends *will* instead of *shall* in contracts.[29] She says that statutes give orders, whereas contracts recite what the parties have agreed to. This is nicely consistent with the volitional sense of *will*; you could test it by substituting either *promises to* or *agrees to* for *will* (except in the passive voice). One disadvantage is that sometimes you also need *will* for plain future: "The employee understands that she will learn confidential information during her employment." Or: "If the bank makes an insurance payment, it will be added to the loan balance."

Given all these possibilities, the drafter has to decide what distinctions are needed and how to make them. A drafter who wants to use *shall* (or *will*) for one meaning and *must* for another meaning had better set out those meanings in the document.

## The Case for Abandoning *Shall*

Several influential voices have called for completely giving up on *shall* and using *must* instead.

David Mellinkoff writes that *shall* and *may* are "frequently treated as synonyms"; that "[c]ontext and interpretation . . . easily

29. CHILD, *supra* note 17, at 204–06, 383–84.

overwhelm either word"; and that we should substitute *must* or *required* for *shall* "[u]nless context can be made crystal clear."[30]

*Shall* has indeed become a flimsy word. I doubt, however, that simply replacing it with *must* would make a big difference in the amount of litigation. At the same time, I do understand the argument that, having been so thoroughly watered down over such a long period, *shall* has lost its force.

Two other arguments for *must* are made by leading writers: *shall* is archaic; and lawyers are prone to misuse it, confusing it with future tense.[31] Both arguments are valid. Then again . . .

*Shall* is not as easy to dismiss as most legal jargon and legal mannerisms. It has produced volumes of litigation. It is a critical word. If it can be replaced with *must*, fine. But we do give up a potentially useful distinction, or at least we have to make the distinction in other ways.

As for the lawyers' misuses, they do not normally cause trouble — at least not directly — but they do cause some:

> This mortgage shall become due and payable forthwith at the option of the mortgagee if the mortgagor shall convey away said premises or if the title thereto shall become vested in any other person or persons in any manner whatsoever.[32]

In this case, the mortgagors argued that the second *shall* was modal (*has a duty to*). Although they conveyed the property, they did it voluntarily, so the clause did not apply. A strained interpretation,

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30. DAVID MELLINKOFF, MELLINKOFF'S DICTIONARY OF AMERICAN LEGAL USAGE 402–03 (1992).

31. MICHELE M. ASPREY, PLAIN LANGUAGE FOR LAWYERS 98–102, 149–52 (1991); VEDA R. CHARROW & MYRA K. ERHARDT, CLEAR AND EFFECTIVE LEGAL WRITING 116–17 (1986); JANICE C. REDISH, HOW TO WRITE REGULATIONS AND OTHER LEGAL DOCUMENTS IN CLEAR ENGLISH 38 (1991); Michele M. Asprey & Robert Eagleson, *Must We Continue with* Shall?, 63 AUSTL. L.J. 75–78 (1989).

32. Home Fed. Sav. & Loan Ass'n v. Campney, 357 N.W.2d 613, 616 (Iowa 1984).

and they lost, but if the drafter had tried to replace each *shall* with *must*, the drafter would have realized that none of them works.

That seems to be the best argument for abandoning *shall* — it would make the drafter think and write more clearly to begin with. One drafter scored two misuses in this rule on issuing licenses to junkyards:

> The license provided for in the second section of this ordinance shall be issued by the Supervisors after application shall have been made therefor by the person desiring to be licensed.[33]

In this case, the court agreed with the Supervisors that the first *shall* was not mandatory; they had no duty to issue a license to someone who was operating a junkyard improperly. But given a choice between *must* and *may* instead of the ubiquitous *shall*, the drafter would not have used *must* if he or she meant *may*. Or perhaps the drafter really wanted something in between:

> The Supervisors must issue the license unless they have reasonable grounds to believe that the applicant would not be a responsible operator.

In summary, I'm afraid that *shall* has lost its modal meaning — for drafters and for courts. Drafters use it mindlessly. Courts read it any which way. The commentators are certainly right that we might better try something new.

## What the Cases Show

I have read a hundred cases, sorting and resorting them. There is no order and not a lot of certainty.

You have only to look over the 76 pages of abstracts in *Words and Phrases*[34] and the 67 pages in *Sutherland Statutory Construc-*

33. Earhart v. Board of Supervisors, 296 A.2d 284, 286 (Pa. Commw. Ct. 1972).

34. 39 WORDS AND PHRASES 111–64 (1953); 40–63 (Supp. 1992).

*tion*,[35] which contains a mishmash of extracts, contradictions, and exceptions. Even today, we are still debating about the following *shall*, in the Constitution:

> The judicial Power of the United States, shall be vested in one supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish.[36]

As one article asks, does "shall be vested" mean "must be vested" or "may be vested" or "will be vested" or "is vested"?[37]

At most, *shall* creates a presumption that the provision is mandatory or the duty absolute. Courts have found many ways to overcome the presumption:

(1) Mandatory *shall* would defeat the legislative intent.[38]

(2) The provision merely guides the conduct of officials or specifies the time for performing an official duty.[39]

(3) The official's conduct is not prescribed in order to safeguard someone's rights.[40]

(4) The provision does not go to the essence of the statutory purpose.[41]

(5) The provision does not set out consequences for a violation.[42]

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35. 3 NORMAN J. SINGER, SUTHERLAND STATUTORY CONSTRUCTION §§ 57.01–.26 (5th ed. 1992).

36. U.S. CONST. art. III, § 1, cl. 1.

37. Steven G. Calabresi & Kevin H. Rhodes, *The Structural Constitution: Unitary Executive, Plural Judiciary*, 105 HARV. L. REV. 1155, 1162, 1178–79 & n.125, 1187, 1209–10 (1992).

38. Andrews v. Foxworthy, 373 N.E.2d 1332, 1335 (Ill. 1978).

39. *Id.*

40. *Id.*

41. Hancock County Rural Elec. Membership Corp. v. City of Greenfield, 494 N.E.2d 1294, 1296 (Ind. Ct. App. 1986).

42. *Id.*

(6) Mandatory *shall* would infringe on the separation of powers.[43]

We could easily expand the list. In every jurisdiction, we find exceptions and qualifications.

Now, as I said earlier, lawyers' misuses, including the confusion of modal and future *shall*, are not the main problem — although the misuses might have indirectly weakened the force of *shall*. Rather, the litigation is about how strong the *shall* is.

In one group of cases, the question is whether the duty is absolute so that you can compel someone to perform it. In other words, is the provision mandatory or permissive?

- Whenever . . . the Administrator finds that any person is in violation of [the Water Pollution Control Act], he shall issue an order requiring such person to comply with [the Act] or he shall bring a civil action in accordance with subsection (b) of this section.[44] (If the Administrator does not bring a civil action, can he be compelled to issue an order?)
- When a divorce is granted, the wife shall be restored to her maiden name or former name if she so desires.[45] (Can a judge refuse the wife's request?)
- [T]he parties agree that in any dispute jurisdiction and venue shall be in California.[46] (Can a party have the case transferred from North Carolina to California?)

In another large group of cases, the question is whether the duty is absolute so that, if it is violated, the proceedings are invalid. In other words, is the provision mandatory or directory?

- [U]pon request of either the State or defendant the judge shall include in said charge the maximum and minimum

43. People v. Davis, 442 N.E.2d 855, 858 (Ill. 1982).

44. Sierra Club v. Train, 557 F.2d 485, 488 (5th Cir. 1977).

45. Sneed v. Sneed, 585 P.2d 1363, 1364 (Okla. 1978).

46. Sterling Forest Assocs. Ltd. v. Barnett-Range Corp., 840 F.2d 249, 250 (4th Cir. 1988).

sentences which may be imposed . . . .[47] (Is this mandatory, and if so, is the error reversible?)

- Upon the written request of a person whose privilege to drive has been revoked or denied, the director shall grant the person an opportunity to be heard within 20 days after the receipt of the request . . . .[48] (If the 20-day period is not met, must the revocation proceedings be dismissed?)

- [A]ny person . . . having [a malpractice claim] . . . shall, within 15 days after the date of filing an action in court, file a request for mediation.[49] (If the person does not file within 15 days, does the court lose jurisdiction?)

- [W]ritten notice stating that the purpose . . . of such meeting is to consider the sale [of corporate assets] shall be given to each shareholder of record . . . .[50] (If a minority shareholder is not given notice, is the sale of assets void?)

The cases, incidentally, are misleading in that they tend not to explain or distinguish between what is directory and what is permissive. A directory provision conveys the meaning of *should* (or a little stronger), while a permissive provision conveys the meaning of *may*. The cases are also not very specific about the consequences of violating a provision that is directory but not mandatory. One case concluded that a violation does not invalidate the proceedings unless prejudice is shown.[51]

We are still left without a word to express a mandatory, or absolute, duty, but I doubt that switching to *must* would do the job, because courts generally equate it with *shall* and seem equally willing to give it a soft interpretation. In a number of cases, *must*

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47. Williams v. State, 378 So. 2d 902, 903 (Fla. Dist. Ct. App. 1980).

48. Taylor v. Department of Transp., 260 N.W.2d 521, 522 (Iowa 1977).

49. Eby v. Kozarek, 450 N.W.2d 249, 251 n.1 (Wis. 1990).

50. Fishkin v. Hi-Acres, Inc., 341 A.2d 95, 97 (Pa. 1975).

51. *Taylor*, 260 N.W.2d at 523.

has been read as not being mandatory.[52] Any number of other cases contain dicta that *must* is not always mandatory or can be read as *may* (and vice versa).[53] One commentator acknowledges such cases, yet takes it on faith that replacing *shall* with *must* "would go a long way toward clarifying legislative intent."[54] I wonder.

The most we can say is that *must* has produced fewer cases than *shall* — probably because *must* is less common — and so it does not have as strong a history of corruption.

## What to Do?

To review: *shall* can mean "absolutely must" or "should" or "may." *Must*, though, can be slippery too.

Our problem has no easy solution, and any proposal will be open to criticism. To some extent, drafters must be guided by their own judgment and their own philosophy of drafting. You may believe that most legal documents are overdrafted and suffer from a self-defeating elaboration of detail. Absolute precision, after all, is a dream; flexible language is not only useful but necessary.[55] If we can live with flexible terms like "good cause" and "a reasonable time," then we can live with *must* — which at least has a presumption in its favor. So forget the archaic *shall*, use *must*

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52. *See, e.g.*, Bartholomew v. United States, 740 F.2d 526, 530–31 (7th Cir. 1984); Argonaut Ins. Co. v. Industrial Accident Comm'n, 23 Cal. Rptr. 1, 4 (Cal. Dist. Ct. App. 1962); Klecan v. Schmal, 241 N.W.2d 529, 532–33 (Neb. 1976); People v. Schonfeld, 535 N.Y.S.2d 479, 480 (N.Y. App. Div. 1988); Morris v. State Transp. Comm'n, 590 P.2d 260, 262–63 (Or. Ct. App. 1979).

53. *See, e.g.*, State Highway Comm'n v. Mabry, 315 S.W.2d 900, 905 (Ark. 1958) (*must* can be directory); Bochantin v. Petroff, 555 N.E.2d 1066, 1069 (Ill. App. Ct. 1990) (*may* can mean *must*); Clark v. Riehl, 230 S.W.2d 626, 627 (Ky. Ct. App. 1950) (*must* can mean *may*); *In re* D.S., 263 N.W.2d 114, 119 (N.D. 1978) (*must* can be directory).

54. Timothy P. O'Neill, *Shall the Illinois Legislature Stop Using* Shall?, CHI. DAILY L. BULL., 5 July 1988, at 2, 20.

55. *See* CHILD, *supra* note 17, at 303–07.

instead (or *will* in contracts), and know that the parties will almost always carry out their duties anyway.

Besides, the drafter can still make distinctions and provide for consequences. Important conditions can be made explicit: "Before keeping a pet in the apartment, the tenant must get the landlord's approval."[56] Consequences can be dealt with in a general way: "A failure to meet a requirement of these rules makes the proceedings or action invalid, unless the requirement is primarily a matter of form or the court finds a good excuse for the failure." And consequences or remedies can be covered in separate sections of the act or the contract.

If this is your philosophy of drafting and you can live with controlled uncertainty, then you have a choice of which term to use to impose a duty. *Must* does have the advantage: it is plainer, less prone to misuse, and somewhat less corrupted.

On the other hand, the careful drafter may wish to define the terms of authority in some documents, especially those involving many procedural or administrative matters. For example, in legislation:

- *Must* means "is required to," or else the proceedings or action is invalid.
- *Shall* [or *should*] means "has a duty to"; a violation will normally result in sanctions but will not invalidate the proceedings or action.
- *May* means "is authorized to."

In contracts:

- *Must* means "is required to"; the requirement is a condition either of the party's right to act or of the other party's duty to perform.
- *Shall* [or *will*] means "promises to."
- *May* means "is authorized to."

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56. *See supra* note 23 and accompanying text.

Definitions are the neatest way to make these distinctions, if the drafter feels the need. Naturally, the definitions may vary from context to context.[57] In some legislative contexts, the drafter might even want to distinguish between the degree of duty imposed by *shall* and *should* and to specify the possible consequences of noncompliance. Whatever the definitions, the drafter must of course follow them religiously. The important thing — with the terms of authority or any terms — is to be consistent within the document.

In the end, there is no one and only way to work out *shall*. We are up against conflicting recommendations, the limitations of language, the variety of legal documents, and the vagaries of interpretation. Most of all, we are up against the failure of our profession to learn the discipline of legal drafting.

57. *See, e.g.*, WASH. R. APP. P. 1.2(b) (distinguishing between *must* and *should*, using *will* and *may* for acts of the court, and using *shall* for acts to be done by persons other than the court or a party).