



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

4.25.11

MAY 26, 2023

## EFFECTIVE DATE

(05-26-2023)

## PURPOSE

- (1) This transmits revised IRM 4.25.11, Estate and Gift Tax, Special Examination Procedures.

## MATERIAL CHANGES

- (1) IRM 4.25.11.1.4 was revised. The term certified mail and a definition were added to the definition table. The definition of the term classification was revised to remove specific titles and use more general language.
- (2) IRM 4.25.11.2 paragraph (2). The citation to IRM 4.25.14.11.4 was changed to Document 6209.
- (3) The table in IRM 4.25.11.2 paragraph (3) was revised to reflect Form 6111, IRC 2032A Referral to Advisory. This change incorporates Interim Guidance Memorandum number SBSE-04-0522-0028.
- (4) IRM 4.25.11.3.2.1 paragraph (1) was revised to reflect current roles and responsibilities. Additionally, a citation was provided to the Workload Selection and Delivery IRM 4.25.3, for survey procedures.
- (5) IRM 4.25.11.4 was revised to update the references to family limited liability entities and to correct the recipient of potential income tax referral information.
- (6) IRM 4.25.11.7.2 paragraph (6) was revised with an updated link to the local Technical Services offices.
- (7) IRM 4.25.11.7.2 paragraph (7) was removed. This form was obsoleted and is no longer available in IMS-Notebook.
- (8) IRM 4.25.11.8 paragraph (5) was removed. This information is historic in nature and no longer necessary for day-to-day examination activities.
- (9) IRM 4.25.11.9.1 paragraph (4) was revised to remove an obsoleted IRM citation.
- (10) IRM 4.25.11.10 paragraph (2) was revised to remove a broken link and replaced with a citation to Publication 5251.
- (11) All IRM citations in 4.25.11.12 were updated and the titles of each cited IRM subsection were added.
- (12) The first sentence in IRM 4.25.11.12 paragraph (6) was revised to be consistent with language in IRM 4.26.17.3.1.1.
- (13) IRM 4.25.11.12 paragraph (7) was revised to remove duplicative statute protection procedures. A citation to IRM 4.26.17.3.1.1 was provided. This citation provides current FBAR statute protection procedures.
- (14) IRM 4.25.11.12 paragraph (8) was deleted. This content was duplicative of content contained in IRM 4.26.17.
- (15) IRM 4.25.11.12 paragraph (10) was added with a citation to IRM 4.26.17.3.1.3.
- (16) The alpha list in IRM 4.25.11.12 paragraph (11) was deleted and replaced with a citation to IRM 4.26.17.

- (17) IRM 4.25.11.13 paragraph (2) was revised to remove a broken link.
- (18) IRM 4.25.11.13 paragraph (3) was revised to clarify Campus Estate and Gift's handling of Form 8971.
- (19) IRM 4.25.11.13.1 paragraph (4) was revised to update the contact information for Campus Estate and Gift.
- (20) Editorial changes have been made throughout this IRM. Website addresses, legal references, and IRM references were reviewed and updated as necessary.

#### **EFFECT ON OTHER DOCUMENTS**

This IRM supersedes the July 28, 2020 version of IRM 4.25.11.

#### **AUDIENCE**

This section contains instructions and guidelines for Small Business/Self-Employed Estate and Gift Tax Specialty Programs employees.

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Small Business/Self-Employed

4.25.11

Special Examination Procedures

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4.25.11.1  
(07-16-2018)  
**Program Scope and Objectives**

- (1) **General Overview** - This IRM provides information about special estate and gift examination procedures that may be required in estate and gift tax examinations. This subsection provides detailed information related to elections, unique case handling issues, and specialized forms used in the examination of estate, gift and generation-skipping transfer tax returns and claims.
- (2) **Purpose** - This IRM explains Estate and Gift examiner responsibilities so that managers, senior-level officials and estate, gift and generation-skipping transfer tax return examiners will be better equipped to prepare and submit accurate reports.
- (3) **Audience** - This IRM is for Estate and Gift Specialty Tax managers, examiners and personnel at the campus who process estate, gift and generation-skipping transfer tax returns, refunds and claims.
- (4) **Policy Owner** - Director, Specialty Examination Policy is responsible for the administration, procedures and updates related to the technical guidance and information processing steps and methods specific to Estate and Gift Tax examiner responsibilities, IRM subsections, and forms created for the examination of returns and claims.
- (5) **Program Owner** - Director, Examination - Specialty Tax owns Estate and Gift Tax Examination.
- (6) **Primary Stakeholders** - Appeals, Collection Advisory, Counsel, Estate and Gift Tax Workload Selection and Delivery, Specialty Examination, and SB/SE Examination Quality & Technical Support are the primary stakeholders for this IRM.

4.25.11.1.1  
(07-16-2018)  
**Background**

- (1) This IRM subsection provides technical guidance for understanding specialized estate, gift and generation-skipping transfer tax return issues. This IRM contains audit steps and processing procedures for unique examination issues and related returns.

4.25.11.1.2  
(07-28-2020)  
**Authority**

- (1) Estate and gift tax examiners and managers assigned to examine and oversee the examination of estate and gift tax returns and issues are responsible for complying with servicewide policies and authorities set forth in IRM 1.2.1.5, Servicewide Policies and Authorities, Policy Statements for the Examining Process.
- (2) Examination of estate and gift tax returns should be conducted in a manner that will promote public confidence as stated in the Mission of the Service. See IRM 1.2.1.2.1, and Policy Statement 1-1.
- (3) Section 3504 of P.L. 106-206 requires the Service to include an explanation of the examination and collection process, as well as information about assistance from the Taxpayer Advocate with any first report/notice of proposed deficiency. Pub 3498, The Examination Process, will be used for this purpose.
- (4) Per Statement of Procedural Rules 26 CFR 601.506, examiners should forward any correspondence (or copy), discussions, reports and/or other material to the taxpayer at the same time it is sent to the representative. For more detailed information on how to mail correspondence when a POA is involved, see IRM 4.11.55.2.9, Notices and Communications.

- (5) 26 U.S. Code Subtitle B - Estate and Gift Taxes, Chapters 11 through 15 provide the legal authority for the computation of estate, gift and generation-skipping transfer taxes.

4.25.11.1.3  
(07-30-2019)

**Program Objectives and Review**

- (1) The National Quality Review System (NQRS) is a web-based review system used by Estate and Gift Tax Policy, Estate and Gift Tax Examination Management and Estate and Gift Tax Quality Measures and Analysis (QMA) to generate and review reports analyzing national quality performance based upon standardized quality attributes set forth in Document 12499, Estate and Gift Tax Examination Embedded Quality Job Aid. NQRS report data is compiled by QMA on a quarterly basis, but **ad hoc** reports may be obtained monthly. The use of NQRS is explained in additional detail in IRM 4.25.1.11, Manager Embedded Quality Review and Specialty Exam National Embedded Quality Review Programs.
- (2) Operational Reviews and related NQRS reports are conducted by Territory Managers and the Chief of Estate and Gift to measure national adherence to quality standards and managerial performance and/or oversight.
- (3) Customer (i.e., taxpayer) satisfaction reports are generated by SB/SE Operation Support Research on a quarterly basis. These reports provide masked taxpayer narratives that are responsive to a pre-defined set of survey questions. The quarterly survey reports are to be used to identify areas for examination quality improvement.
- (4) Front-line manager reviews are conducted under the Examination Quality Review System (EQRS), with the frequency based on annual personnel requirements.

4.25.11.1.4  
(05-26-2023)

**Terms/Definitions/  
Acronyms**

- (1) The following table sets forth Estate and Gift Tax program specific terms and definitions:

Term	Definition
Certified Mail	Certified mail is a designated United States Postal Service product. For guidance on the use of certified mail see Interim Guidance Memorandum WI-01-1022-0004.
Classification	The process whereby Campus and Examination employees review all schedules on estate and gift tax returns that meet the initial screening criteria to identify any issues for examination. See IRM 4.25.3, Estate and Gift Tax, Planning, Classification and Selection, for additional information.
1041 WorkcenterMY	An excel spreadsheet used by SB/SE examiners to prepare Form 1041 adjustments.

Term	Definition
Notebook Job Aid (Estate and Gift Tax)	This is a proprietary software program used by Estate and Gift Tax to generate reports and examination process and documentation (EPD). It is similar to RGS.
Perfection of return	The process of contacting the taxpayer, representative or preparer (when appropriate) for the sole purpose of obtaining information and documentation that is required as part of the return filing. The specific return instructions set forth the filing requirements.

(2) The following table sets forth common Estate and Gift Tax program acronyms:

Term	Acronym
Deceased Spousal Unused Exclusion	DSUE
Estate and Gift Tax Embedded Quality Review System	EQRS or EQ
Estate and Gift Tax Exam Process and Documentation	EPD
Estate and Gift Tax Workload Selection and Delivery	WSD
Family Limited Partnership	FLP
Generation-Skipping Transfer Tax	GSTT
Issue Management System	IMS
National Quality Review System	NQRS or NQ
Notebook Job Aid (Estate and Gift Tax)	Notebook
Plan to Close Meeting	PTC
Substitute for a Return	SFR
Whistleblower Office	WBO

4.25.11.1.5  
(07-28-2020)

#### Related Resources

(1) The Estate and Gift Tax program is required to follow all servicewide examination procedures and those set forth in the SB/SE examining process IRM. The following IRM subsections provide additional information relating to the processing, classification and examination of Estate and Gift Tax program returns and claims:

- IRM 4.25.1, Estate and Gift Tax, Estate and Gift Tax Examinations
- IRM 4.25.2, Campus Estate and Gift
- IRM 4.25.3, Planning, Classification and Selection

- IRM 4.25.4, International Estate and Gift Tax Examinations
- IRM 4.25.5, Technical Guidelines for Estate and Gift Tax Issues
- IRM 4.25.6, Report Writing Guide for Estate and Gift Tax Examinations
- IRM 4.25.7, Estate and Gift Tax Penalty and Fraud Procedures
- IRM 4.25.8, Delinquent Returns and SFR Procedures
- IRM 4.25.9, Requests for Abatement, Claims for Refund and Doubt as to Liability Offer in Compromise in Estate and Gift Tax Cases
- IRM 4.25.10, Case Closing Procedures
- IRM 4.25.12, Valuation Assistance
- IRM 4.25.13, Appeals, Mediation and Settlement Procedures
- IRM 4.25.14, Miscellaneous Procedures
- IRM 4.2.8, Guidelines for SB/SE National Quality Review
- IRM 25.6.1, Statute of Limitations Processes and Procedures
- IRM 25.6.22, Extension of Assessment Statute of Limitations By Consent
- IRM 25.6.23, Examination Process-Assessment Statute of Limitations Controls
- IRM 5.5.8, Advisory Responsibilities for Processing Estate Tax Liens
- IRM 4.15.1, Jeopardy/Termination Assessments, Jeopardy and Terminations
- IRM 25.2.1, General Operating Division Guidance for Working Whistleblower Claims
- IRM 25.2.2, Information and Whistleblower Awards, Whistleblower Awards

4.25.11.2  
(05-26-2023)

#### **IRC 2032A Special Use Valuation Election**

- (1) This section pertains to special procedures required to process a valid IRC 2032A special valuation election for certain farms and closely held family business real property if the qualified heirs decide to continue operating the farm or business for at least 10 years. Because the property is valued at less than its fair market value, less estate tax is due. The examiner should first examine the estate's IRC 2032A election for eligibility, timeliness, accuracy and completeness. For issue examination guidance, see IRM 4.25.5.2.3, Schedule A-1, Section 2032A Valuation Lead Sheet.

**Note:** See IRM 4.25.3.4.4.3, IRC section 2032A Elections Accepted as Filed, for procedures involving IRC 2032A cases that were accepted as filed during classification.

- (2) Upon receipt of an IRC 2032A case, the estate tax group must confirm that the appropriate ERCS project code was applied to the return. See Document 6209.
- (3) If the examiner determines that the estate is eligible for special use valuation under IRC 2032A, the examiner will prepare and send an encrypted e-mail containing the special use valuation election referral package to Technical Services and the Advisory Estate Tax Lien Group. See IRM 5.5.8.4.1, Processing Lien Form 668-H. Contact information for the Advisory Estate Tax Lien Group is available on the Estate and Gift SharePoint in the 2032A procedures folder. A checklist of the required referral package documents is also available on the Estate and Gift SharePoint. The special use valuation election referral package must contain the following information and forms:



IRC 2032A Election Referral Package Document	Instructions
Schedule A-1 to include the following	<p>Completed and signed Schedule A-1, Section 2032A Valuation, from Form 706</p> <ul style="list-style-type: none"> <li>Identify IRC 2032A qualifying real property: Schedule and item number where the IRC 2032A qualifying real property is listed on the Form 706</li> <li>Qualified Heirs' information: Names of all qualified heirs, their addresses, social security numbers, relationship to decedent, and value of the IRC 2032A qualifying assets each qualified heir received</li> <li>Designated Agent information: Name, signature, and address of the Designated Agent</li> <li>Signatures of the Qualified Heirs: Signatures of all heirs that received the IRC 2032A qualifying property</li> <li>Signatures of Other Interested Parties: Signatures of all other parties with an interest in the qualifying property. If the interest is held by a corporation, partnership, LLC, or trust, the agreement must be signed by individuals with authority to encumber the property on behalf of the entity.</li> </ul>
Form 6111	Items #1 through 9: Identification of the estate, date of death, etc.
Form 706	Copy of the first three pages of Form 706, schedules where the IRC 2032A qualifying property is reported and Schedule K, for any date of death encumbrances on the qualifying property.
Legal Descriptions	Complete legal descriptions of property to be shown on the lien.
Corporation, Partnership, LLC & Trust Documents	If the property is held by a corporation, partnership, LLC or trust, provide a copy of the document to confirm signature authority on behalf of the entity (e.g., Articles of Incorporation, partnership or LLC agreement and/or trust document).
Examination Report	Copy of Form 1273, Report of Examination Changes, and signed Form 890, with the recapture tax calculation and any adjustments to the tax.
POA Information	Copy of Form 2848, Power of Attorney and Declaration of Representative, if applicable
Latest Deed(s) to Property	Latest deed(s) to the property to determine how the property is titled and ensure all interested parties signed Schedule A-1.
Form 3210	Form 3210 addressed to Advisory

**Note:** Where the estate made an election for special use valuation under IRC 2032A and an election for installment election treatment under IRC 6166, the examiner must send the 2032A and 6166 lien information packages together via encrypted e-mail so that the Advisory Estate Tax Lien Group has all of the required information necessary to establish the lien and monitor the installment election.

- (4) If the election, as filed, does not contain all required information, the executor will be given reasonable time (not to exceed 90 days after notification) to provide the necessary information, or the election will be denied.
- (5) The Advisory Estate Tax Lien Group is responsible for recording the special lien based upon the material provided by the Estate and Gift examination

group. Any discrepancies concerning supporting documentation should be resolved by contacting the appropriate Estate and Gift examiner or group manager.

- (6) Lien files are maintained by the Advisory Estate Tax Lien Group and monitored to facilitate timely release. Lien releases or discharges are handled by the Advisory Estate Tax Lien Group.
- (7) Notify the Advisory Estate Tax Lien Group when there is a disposition or cessation of qualified use of the property under IRC 2032A. Recapture tax returns are processed by Advisory to facilitate timely release of liens. Advisory may request assistance from Estate and Gift to verify recapture tax returns are prepared correctly in order to collect the correct amount of tax prior to releasing the Government's interest by making a referral through the SRS system.

4.25.11.3  
(07-28-2020)  
**IRC 6166 Installment  
Payment Elections**

- (1) This section pertains to special procedures required to process IRC 6166 Installment Payment elections. For technical guidance on election qualifications, see IRM 4.25.5.2.31, Technical Guidelines for Estate and Gift Tax Issues, Installment Payment Election (IRC 6166) Lead Sheet.
- (2) IRC 6166 elections should be established and managed as manual cases in the Information Management System (IMS).

4.25.11.3.1  
(07-30-2019)  
**IRC 6166 Installment  
Procedures - Returns  
Accepted as Filed  
During Classification**

- (1) See IRM 4.25.3.4.4.1, IRC 6166 Election Accepted as Filed, for procedures involving IRC 6166 cases accepted as filed during classification.

4.25.11.3.2  
(07-28-2020)  
**IRC 6166 Installment  
Procedures - Surveyed,  
No Change and Agreed  
Returns**

- (1) If a return with an IRC 6166 election is sent to an Estate and Gift examination group, a determination must be made regarding whether the estate met the initial eligibility requirements. The examiner should document their analysis using the Installment Payment Election IRC 6166 Lead Sheet. See IRM 4.25.5.2.31, Issue Specific Lead Sheets and Technical Guidance, Installment Payment Election (IRC 6166) Lead Sheet. The estate is eligible under IRC 6166(a) to make the election if the decedent was a U.S. citizen or resident of the United States, the decedent's interest in the closely held business exceeds 35 percent of the adjusted gross estate (not including passive assets), and the notice of election under IRC 6166 was attached to a timely filed estate tax return. The business must also qualify as a closely held business, as defined in IRC 6166(b). In certain cases there may be additional eligibility requirements. See IRC 6166(b)-(h).
- (2) After determining the estate's eligibility for the IRC 6166 installment payment election, the examiner should prepare two copies of the lien information package. See Exhibit 4.25.11-1, IRC 6166 Lien Referral Package for Advisory and Estate and Gift Campus.
  - a. The examiner should send one copy of the package to the Campus Estate and Gift operation (Campus), and a copy to the Advisory Estate Tax Lien Group.

- b. The Campus e-mail address and a checklist are located on the Estate and Gift Tax SharePoint, under Estate and Gift Campus Information.

- (3) The Advisory Estate Tax Lien Group will determine on a case-by-case basis whether the estate must provide a bond or lien. In order to make a case-by-case determination, the lien package should be sent by encrypted e-mail to the Advisory Estate Tax Lien Group manager along with a Form 3210 annotating each item enclosed. See the Estate and Gift SharePoint for Advisory Estate Tax Lien Group contact information.

#### 4.25.11.3.2.1

(05-26-2023)

#### **IRC 6166 Installment Procedure for Surveyed Cases**

- (1) If the return is surveyed by an Estate and Gift examination group, the examiner and group manager assigned to the case will determine whether the estate has met the initial eligibility requirements to make the IRC 6166 election. A return selected for examination but not assigned to an Estate and Gift examination group can be surveyed by WSD. See IRM 4.25.3 for Workload Selection and Delivery related guidance.
- (2) If the estate tax return is surveyed by the examination group and the IRC 6166 is also agreed, prior to closing the surveyed estate tax case, the lien referral package is to be sent by encrypted e-mail with a Form 3210 to the Advisory Estate Tax Lien Group and to the appropriate Technical Group at the Campus. See Exhibit 4.25.11-1, IRC 6166 Lien Referral Package for Advisory and Estate and Gift Tax Campus.

#### 4.25.11.3.2.2

(07-28-2020)

#### **IRC 6166 Installment**

- (1) If an examined case is resolved agreed on all issues, examiners must notify the estate in writing that the case is being closed with respect to all issues other than the IRC 6166 lien issue and that the personal representative will be contacted by the Advisory Estate Tax Lien Group regarding a determination of the necessity of security for the deferred tax. The examiner should also inform the estate in writing that the closing letter (if requested) does not impact the decision regarding whether a surety bond or lien will be required in that particular case.
- (2) If Estate and Gift examination determines that 50 percent or more of the closely held business has been distributed, sold, exchanged, or otherwise disposed of, or if money and other property equal to 50 percent or more of the business value has been withdrawn, Estate and Gift examination will immediately notify the Campus of an acceleration under IRC 6166(g)(1). The examiner will prepare Letter 950-H, 30 Day Letter - Intent to Terminate IRC 6166 Election, for mailing by the Campus.

#### 4.25.11.3.3

(07-28-2020)

#### **Examined Returns - Qualifying IRC 6166 Election with an Unagreed Deferral Term Issue and Agreed Tax Issues/No Change Tax Issues**

- (1) If the return is examined by Estate and Gift examination, the examiner assigned to the case will determine whether the taxpayer has met the initial eligibility requirements to make the IRC 6166 election and will complete the Installment Payment Election IRC 6166 Lead Sheet. This should be done as early during the examination as possible. The estate is eligible under IRC 6166(a) to make the election if the decedent was a U.S. citizen or resident of the United States, the decedent's interest in the closely held business exceeds 35 percent of the adjusted gross estate (not including passive assets), and the notice of election under IRC 6166 was attached to a timely filed estate tax return. The business must also qualify as a closely held business, as defined in IRC 6166(b). In certain cases there may be additional eligibility requirements. See IRC 6166(b) - (h).

- (2) If the estate elects a 14-year deferral period but IRC 6166(b)(7), IRC 6166(b)(8), or IRC 6166(b)(10) applies to the closely held business, then the deferral period on the account must be adjusted accordingly. Estate and Gift examination will prepare and send, by certified mail, Letter 950-K, Preliminary Internal Revenue Code Section 6166 Determination Letter, selecting the appropriate paragraphs regarding the preliminary determination adjusting the account; informing the estate which subsection of IRC 6166 applies (i.e., IRC 6166(b)(7), 6166 (b)(8), or 6166 (b)(10)); and informing the estate of its appeal rights. Estate and Gift examination will send a prepared copy of Letter 950-K to the Campus for informational purposes.
- (3) The estate has 30 days from the date of the Letter 950-K to appeal the IRC 6166 determination. The Estate and Gift examination group manager may grant an extension of up to 30 days. If circumstances warrant, the Estate and Gift examination group manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the Form 9984, Examining Officer's Activity Record.
- (4) If the estate does not appeal the preliminary determination within the 30-day period allowed in Letter 950-K or as extended, or if the estate sends a protest that is untimely, the examiner will notify the Campus of the change in the deferral period and instruct the Campus to send Letter 6335 for any balance due resulting from the change in the deferral period. Estate and Gift examination will close the agreed or no change examination tax case following normal agreed case closing procedures.
- (5) If the estate tax issues are agreed and the IRC 6166 issues are not protested then, prior to closing the agreed estate tax case, the following information is to be sent by encrypted e-mail with a Form 3210, indicating that the estate has not protested the Letter 950-K, to the appropriate Technical Group at the Campus, and to the Advisory Estate Tax Lien Group. See Exhibit 4.25.11-1, IRC 6166 Lien Referral Package for Advisory and Estate and Gift Tax Campus.
- (6) If the estate submits a protest to request Appeals consideration, the examiner will:
  1. Date stamp the protest
  2. Verify the protest was filed timely and document the Form 9984 of its receipt and review
  3. If the estate submits a timely-filed protest containing new IRC 6166 issues, new arguments or new information with its request for Appeals consideration, the examiner will consider the information and determine whether to revise the examiner's position (i.e., the terms of estate's deferral period to be allowed).
  4. The examiner will prepare a rebuttal to the protest that includes the determination reached.
  5. The examiner will send the rebuttal to the protest to the estate and include a copy in the examination case file.
- (7) If, after considering the protest, the examiner agrees that the estate is entitled to the IRC 6166 election, the examiner will prepare a Form 3210 to notify Campus to continue the 6166 election, with any adjustments that are agreed. The examiner should follow standard agreed case closure procedures. See IRM 4.25.10.

- (8) If no new issues are raised by the estate in its request for Appeals consideration, the examiner will not prepare a rebuttal to the protest.
- (9) If after considering the protest, the examiner still does not agree with the estate's position, the examiner will prepare a separate auxiliary IRC 6166 case file containing all the documents needed by Appeals. The examiner will not establish AIMS controls on this IRC 6166 auxiliary case file. Campus will continue to control and monitor the IRC 6166 account. The examiner should notify Campus by secure e-mail that a protest has been forwarded to Appeals so that Letter 6335-F is not sent prematurely.
- (10) The auxiliary IRC 6166 case file will contain all of the documents specified in Exhibit 4.25.11-1, IRC 6166 Lien Referral Package for Advisory and Estate and Gift Campus, and copies (or originals where appropriate) of the following:
  - a. Copies of any supplemental Form 706 returns that were filed
  - b. Copies of any state estate or inheritance tax returns that were filed, if payment of state death taxes was deferred or interest on state death taxes is being allowed or claimed as a deduction, together with state payment information
  - c. Copy of the examiner's Form 9984, Activity Record
  - d. Original and copy of the Letter 950-K
  - e. Copy of the taxpayer's date-stamped protest
  - f. Copy of the examiner's rebuttal to the protest
- (11) The IRC 6166 auxiliary file will be forwarded to Appeals using a Form 3210 transmittal that is notated with the type of case as "IRC 6166 - Qualification (Deferral Period)" or "IRC 6166 - Qualification (Deferred Tax)" with no AIMS controls. The examiner will close the regular agreed examination case file separately following the normal agreed case closing procedures. See IRM 4.25.10.
- (12) The examiner will forward the protested IRC 6166 auxiliary file within 30 days from the postmark date of the protested letter to the Office of Appeals nearest the state of the decedent's last domicile using the *Appeals Case Routing Tool*, with the understanding that the case may be transferred to another Appeals office based on Appeals inventory needs.

4.25.11.3.4  
(07-28-2020)

**Examined  
Returns-Qualifying IRC  
6166 Election with an  
Unagreed Deferral Term  
Issue and Unagreed Tax  
Issues**

- (1) If the return is examined by Estate and Gift examination, then the examiner assigned to the case will determine whether the taxpayer has met the eligibility requirements to make the IRC 6166 election and will complete the Installment Payment Election IRC 6166 Lead Sheet. This should be done as early during the examination as possible. The estate is eligible under IRC 6166(a) to make the election if the decedent was a United States citizen or resident, the decedent's interest in the closely held business exceeds 35 percent of the adjusted gross estate (not including passive assets), and the notice of election under IRC 6166 was attached to a timely filed estate tax return. The business must also qualify as a closely held business, as defined in IRC 6166(b). In certain cases there may be additional eligibility requirements. See IRC 6166(b) - IRC 6166(h).
- (2) If the estate elects a 14-year deferral period but IRC 6166(b)(7), (b)(8), or (b)(10) applies to the closely held business, then the deferral period on the account must be adjusted accordingly. The examiner will prepare and issue by certified mail Letter 950-K, Preliminary Internal Revenue Code Section 6166



Determination Letter, selecting the appropriate paragraphs regarding the preliminary determination adjusting the account; informing the estate which subsection of IRC 6166 applies (i.e., IRC 6166(b)(7), 6166 (b)(8), or 6166 (b)(10)); and informing the estate of its appeal rights. Estate and Gift examination will send a prepared copy of Letter 950-K to Estate and Gift Campus for informational purposes.

- (3) The estate has 30 days from the date of the Letter 950-K to appeal the IRC 6166 determination. The group manager may grant an extension for up to 30 days. If circumstances warrant, the group manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the Form 9984, Examining Officer's Activity Record.
- (4) If the estate does not appeal the preliminary determination within the 30-day period allowed in Letter 950-K or as extended, or if the estate sends a protest that is untimely, the examiner will notify Campus by encrypted e-mail of the new terms applicable to the existing IRC 6166 election and instruct Campus to send Letter 6335 for any balance due resulting from the change in the deferral period. Estate and Gift examination will forward the unagreed examination case file to Appeals through normal unagreed case closing procedures.
- (5) If the estate submits a protest to request Appeals consideration, Estate and Gift examination will date stamp the protest, verify the protest was timely filed and document the Form 9984. If the estate submits a timely-filed protest containing new IRC 6166 issues, new arguments or new information with its request for Appeals consideration, the examiner will consider the information and determine whether to revise the examiner's position (i.e., estate's deferral period allowed). The examiner will prepare a response to the protest that includes the determination reached. The examiner will send the response to the protest to the estate and include a copy in the case file.
- (6) If, after considering the protest, the examiner agrees that the estate is entitled to the IRC 6166 election, the examiner will notify Estate and Gift Campus to continue the IRC 6166 election. Estate and Gift examination will forward the unagreed examination case file to Appeals through normal unagreed case closing procedures.
- (7) If no new issues are raised by the estate in its request for Appeals consideration, the examiner will not prepare a response to the protest.
- (8) If, after considering the protest, the examiner still does not agree with the estate's position, the examiner will prepare a separate IRC 6166 auxiliary file containing all the documents needed by Appeals, see subsection 9 below, to consider the estate's 6166 appeal. The examiner will not establish AIMS controls on this auxiliary IRC 6166 case file. Estate and Gift Campus will continue to monitor and control the IRC 6166 account. The examiner should notify Estate and Gift Campus by secure e-mail that a protest has been forwarded to Appeals so that the Letter 6335-F, Notice of IRC 6166 Denial or Termination, is not sent prematurely.
- (9) Unagreed IRC 6166 cases going to Appeals from Estate and Gift examination often include other unagreed issues generating an estate tax deficiency. Since the deficiency portion of the case can proceed to Tax Court under IRC 6312 while the 6166 portion can proceed to Tax Court under IRC 7479, these cases must have bifurcated files and work units in Appeals. For this reason, Estate

and Gift examiners will bifurcate the estate tax examination portion of a case from the 6166 portion before forwarding either one to Appeals. If the case files are not bifurcated, Appeals will return the case to Estate and Gift examination as a premature referral.

**Note:** It is not necessary to bifurcate the case file if the 6166 portion of the case is undisputed.

- (10) The auxiliary IRC 6166 case file will contain copies (originals where appropriate) of all the documents specified in the 6166 lien referral package (See Exhibit 4.25.11-1, IRC 6166 Lien Referral Package for Advisory and Estate and Gift Campus) and the following additional documents:
  - a. The examiner's notes and report on the IRC 6166 qualification issue, plus any other documents that affect the IRC 6166 qualification
  - b. The unagreed examination report and computations
  - c. Any supplemental Form 706 returns that were filed
  - d. Any state estate or inheritance tax returns that were filed, if payment of state death taxes was deferred or interest on state death taxes is being allowed or claimed as a deduction, together with state payment information
  - e. The examiner's Form 9984, Examining Officer's Activity Record
  - f. A prepared Letter 950-K
  - g. The taxpayer's date-stamped protest
  - h. The examiner's response to the protest
- (11) Estate and Gift examination will forward the IRC 6166 auxiliary file to Appeals independent of the regular unagreed protested examination case. The Form 3210 will cross-reference the related return. The Form 3210 transmittal for the IRC 6166 auxiliary file will notate the type of case as "IRC 6166 - Qualification-Deferred Period" or "IRC 6166 - Qualification-Deferred Tax" with no AIMS control. The examiner will state that there is an unagreed estate tax examination case being sent to Appeals separately. The examiner will forward the regular protested examination case following normal unagreed case closing procedures.
- (12) Estate and Gift examination will forward the protested IRC 6166 auxiliary file within 30 days from the postmark date of the protest letter to the Office of Appeals for the state of the decedent's last domicile using the *Case Routing Tool*, with the understanding that the case may be transferred to another Appeals office based on Appeals inventory needs.
- (13) The examiner will follow the normal case closing procedures for unagreed cases for the non-IRC 6166 issues. If the examiner is issuing a 90-day letter, all issues except the IRC 6166 qualification or termination issues will be included in the unagreed report. The 90-day letter will be closed in accordance with 90-day closing procedures.

4.25.11.3.5  
(07-28-2020)

**Examined Return -  
Unagreed IRC 6166  
Qualification and Agreed  
Tax Issues or No  
Change**

- (1) If the return is examined by Estate and Gift examination and the examiner assigned to the case determines the estate is not eligible to make the IRC 6166 election or has terminated its election, but there is no dispute about the amount of tax owed, the examiner will prepare the Letter 950-J, Preliminary Section 6166 Determination, denying or terminating the IRC 6166 election. The Estate and Gift examination group manager will issue the Letter 950-J by certified mail denying or terminating the IRC 6166 election.

- (2) The estate has 30 days from the date of the Letter 950-J to appeal the IRC 6166 determination. The group manager may grant an extension for up to 30 days. If circumstances warrant, the Estate and Gift examination group manager may grant an additional extension of time. Such approval and the reason for granting it must be documented in the Form 9984, Examining Officer's Activity Record.
- (3) If no appeal is filed or if the estate sends a protest that is untimely, the examiner will deny or terminate the election 15 days after the expiration of the 30-day period or the extended period. The examiner must send a narrative to the Campus for denial or termination of the IRC 6166 election along with a copy of the Letter 950-J. The examiner will instruct the Campus to send Letter 6335-F by certified mail, return receipt requested. The Letter 6335-F should be based on the existing IRC 6166 figures. Since the reason for the termination is determinative of the termination date, the narrative will set forth the reason for the termination.
  - a. For example, if the termination is the result of a sale or other disposition that equals or exceeds fifty percent of the closely held business, the date of the sale or other disposition will be included in the narrative.
- (4) If the estate submits a protest to request Appeals consideration, Estate and Gift examination will date stamp the protest, verify the protest was filed timely and document the Form 9984. If the estate submits a timely-filed protest containing new IRC 6166 issues, new arguments or new information with the request for Appeals consideration, the examiner will consider the information and determine whether to revise the examiner's position (i.e., qualification allowed). The examiner will prepare a response to the protest that includes the determination reached. The examiner will send the response to the estate and include a copy in the case file.
- (5) If, after considering the protest, the examiner agrees that the estate is entitled to the IRC 6166 election, the examiner will follow the agreed examination case closing procedures and notify the Campus to continue the IRC 6166 election, with any adjustments that are agreed.
- (6) If after considering the protest, the examiner still does not agree with the estate's position, the examiner will prepare a separate IRC 6166 auxiliary file containing all the documents needed by Appeals, see subsection 11 below, to consider the estate's IRC 6166 appeal. The examiner will not establish AIMS controls on this IRC 6166 auxiliary file. The Campus will continue to monitor and control the account. The examiner should notify the Campus by secure e-mail that a protest has been forwarded to Appeals so that the Letter 6335-F is not sent prematurely.
- (7) The examiner should document on the Form 3198 that the case being closed includes an unagreed IRC 6166 issue on Form 3198 and request expedited processing due to a possible appeal. Estate and Gift examination will follow the normal case processing procedures for agreed or no change cases for the non-IRC 6166 issues. The Campus will adjust its IRC 6166 billing when the TC 300 posts for Agreed Tax Change cases, or will continue current IRC 6166 billing for No Change Tax cases. Final billing adjustments will occur when the agreed IRC 6166 qualification issue is resolved. Before closing the case, Estate and Gift examination will create the auxiliary file described in Exhibit 4.25.11-1.



- (8) If less than 6 months remain on the statute, Estate and Gift examination may close out a No Change Examination after alerting Estate and Gift Campus to the unagreed IRC 6166 issue. Meanwhile, the examiner must set up an auxiliary file described in subsection 11 for the unagreed IRC 6166 issue to await a response to the Letter 950-J. The examiner must notify the Campus 45 days after Letter 950-J was mailed if a protest is received or if the 30 day period has expired without a protest. After the procedures described in items (1) through (7), have been completed, the auxiliary file will be forwarded to Appeals within 30 days from the postmark date of the protest letter. If a protest was not received, the Campus will follow normal case disposition procedures.
- (9) The examiner will call or send an encrypted e-mail to the Campus employee who has the IRC 6166 billing file. The examiner will explain that a short statute No Change case is being closed out of the group with an unagreed IRC 6166 qualification issue.
- (10) The statute expiration date has no effect on the unagreed IRC 6166 qualification issue.
- (11) The auxiliary IRC 6166 case file will contain copies (or originals where appropriate) of all documents described in IRM 4.25.11-1 and:
  - a. Any supplemental Form 706 returns that were filed
  - b. Any state estate or inheritance tax returns that were filed, if payment of state death taxes was deferred or interest on state death taxes is being allowed or claimed as a deduction, together with state payment information
  - c. Form 9984
  - d. Letter 950-J
  - e. Protest from the taxpayer
  - f. Examiner's response to the protest
- (12) The IRC 6166 auxiliary file will be forwarded to Appeals using a Form 3210 transmittal that is notated with the type of case as "IRC 6166 - Qualification Case" or "IRC 6166 - Termination Case" with no AIMS controls. The examiner will close the agreed (or No Change) examination case file separately following normal procedures.
- (13) Estate and Gift examination will forward the protested IRC 6166 auxiliary file within 30 days from the postmark date of the protested letter to the Office of Appeals for the state of the decedent's last domicile using the *Case Routing Tool*, with the understanding that the case may be transferred to another Appeals office based on Appeals inventory needs.

4.25.11.3.6  
(07-30-2019)  
**Examined Return -  
Unagreed IRC 6166  
Qualification and  
Unagreed Tax Issues**

- (1) If the return is examined by Estate and Gift examination and the examiner assigned to the case determines the estate is not eligible to make the IRC 6166 election or has terminated the election, the examiner will prepare Letter 950-J, Preliminary Internal Revenue Code Section 6166 Determination Letter, denying or terminating the IRC 6166 election. The Estate and Gift examination group manager will issue Letter 950-J denying or terminating the election by certified mail. The Letter 950-J must be issued separately from any other 30-day letter or 90-day letter that may be issued with respect to the regular examination unagreed issues. Estate and Gift examination will send a copy of the Letter 950-J to the Campus.

- (2) The estate has 30 days from the date of the Letter 950-J to appeal the IRC 6166 determination. The Estate and Gift examination group manager may grant an extension for up to 30 days. In unusual cases if circumstances warrant, the Estate and Gift examination group manager may grant an additional extension of time. Such approval and the reason for granting the additional extension must be documented in the Form 9984, Examining Officer's Activity Record.
- (3) If no Appeal is filed or if the estate sends a protest that is untimely, the examiner will deny or terminate the election 15 days after the expiration of the 30-day period or the extended period. The examiner must send a narrative to the Campus for denial or termination of the election along with a copy of the Letter 950-J. The examiner will instruct the Campus to send Letter 6335-F by certified mail, return receipt requested. The Letter 6335-F should be based on the existing IRC 6166 figures. Since the reason for the termination is determinative of the termination date, the narrative will set forth the reason for the termination. For example, if the termination is the result of a sale or other disposition that equals or exceeds fifty percent of the closely held business, the date of the sale or other disposition will be included in the narrative. When the regular examination unagreed issues are resolved, a final bill will be sent.
- (4) If the estate submits a protest to request Appeals consideration, Estate and Gift examination will date stamp the protest, verify the protest was timely filed and document the Form 9984. If the estate submits a timely-filed protest containing new IRC 6166 issues, new arguments or new information with the request for Appeals consideration, the examiner will consider the information and determine whether to revise the examiner's position (i.e., qualification allowed). The examiner will prepare a response to the protest that includes the determination reached. The examiner will send the response to the protest to the estate and include a copy in the case file.
- (5) If, after considering the protest, the examiner agrees that the estate is entitled to the IRC 6166 election, the examiner will follow the regular examination unagreed case closing procedures and will notify the Campus by sending an encrypted e-mail to continue the IRC 6166 election, with any adjustments that are agreed.
- (6) If, after considering the protest, the examiner still does not agree that the estate is entitled to the IRC 6166 election, the examiner will prepare a separate auxiliary file described at Exhibit 4.25.11-1 containing all documents needed by Appeals. The examiner will not establish AIMS controls on the IRC 6166 auxiliary case file. The Campus will continue to control and monitor the IRC 6166 account. The examiner will notify the Campus by secure e-mail that a protest has been forwarded to Appeals so that the Letter 6335-F is not sent prematurely.
- (7) The auxiliary IRC 6166 case file will contain copies of the documents identified in Exhibit 4.25.11-1 (originals where appropriate) and:
  - a. The unagreed examination case report and computations
  - b. Any supplemental Form 706 returns that were filed
  - c. Any state estate or inheritance tax returns that were filed if payment of state death taxes was deferred or interest on state death taxes is being allowed or claimed as a deduction, together with state payment information
  - d. Form 9984, Activity Record

- e. Letter 950-J
- f. Protest from the taxpayer
- g. Examiner's response to the protest

- (8) The examiner will forward the IRC 6166 auxiliary file to Appeals independent of the unagreed protested regular examination case. In this situation, the Form 3210 transmittal will notate the type of case as "IRC 6166 - Qualification Case" or "IRC Section 6166 - Termination Case" with no AIMS controls. The examiner will state that there is an unagreed estate tax examination case being sent to Appeals separately. The examiner will close the protested regular examination case separately following normal unagreed case closing procedures.
- (9) Estate and Gift examination will forward the protested IRC 6166 auxiliary file within 30 days from the postmark date of the protested letter to the Office of Appeals nearest the state of the decedent's last domicile using the *Case Routing Tool*, with the understanding that the case may be transferred to another Appeals office based on Appeals inventory needs.

4.25.11.4  
(05-26-2023)  
**Family Limited Liability  
Entities**

- (1) This section provides special examination procedures for cases with family limited partnership/family limited liability entity issues. For technical examination guidance see IRM 4.25.5.2.12, Family Limited Liability Entities.
- (2) Family limited partnership (FLP) and family limited liability entity (FLLE) cases are tracked using AIMS Project Codes. AIMS Project Code 0227 should be used to identify a family limited liability entity that is included on an estate or gift tax return and is an issue that contributes to the decision to select the return during the classification process or to examine the return in the examination group. Project Code 0227 should also be used when the issue is not readily apparent on the return but is discovered during the course of the examination. Examiners should verify the correct project code associated with these cases, particularly when other tracked issues are identified. See Document 6209 for project codes.
- (3) Classifiers will determine whether the project code should be input during the classification process on selected returns. WSD will input the code prior to sending the case to the examination group.
- (4) Examination group managers and examiners should review cases on a regular basis to determine if the project code is reflected on ERCS when appropriate. If there is an error, it should be corrected as soon as possible through the ERCS system with the assistance of shared administrative support staff.
- (5) The use of this project code on ERCS (and AIMS) is critical before time is charged to the case to ensure that the time applied is captured accurately. When the project code is entered just prior to case closure, the examination results will have the project code designation, but the time applied on the Form 9984, Activity Record, throughout the examination process, will not have been captured accurately.
- (6) Family limited partnerships are no longer designated as an Appeals Coordinated Issue (ACI).
- (7) The Appeals Settlement Guidelines (ASG) for family limited partnerships have been de-published. These guidelines are no longer available for examiners or for the public and may not be cited as authority in any case. The authority pre-

viously granted to compliance under Delegation Order 4-25 (Rev. 2) is no longer applicable to the resolution of FLP cases at the examination examination level using the former ASGs.

- (8) During an examination of an estate or gift tax return, if the examiner identifies family limited partnership/family limited liability entity issues that may impact a Form 1040, Form 1041, or a Form 1065 for a related entity or taxpayer, a referral should be made to the WSD referral coordinator. The referral package should include the documentation described below:
- The partnership agreement
  - A copy of any and all Forms 1065 in the file
  - A copy of the report, if applicable, showing a change in the value of the entity
  - A Form 6229, Collateral Examination: Include project code 0041 and tracking code 7188 on this form
  - A copy of the returned value of the entity if there is a no change or a survey after assignment of the return
  - If a gift, the name and social security number of the donor
  - If an estate, the name and social security number of the decedent
  - The EIN of the FLP/FLLE if at all possible (in the event the examiner does not have a copy of the Form 1065)
  - A brief narrative explaining the issue and the facts that led to the conclusion

**Note:** The referral package should be submitted to the designated WSD coordinator accompanied by a Form 3210, Document Transmittal. A second copy of the Form 6229 and the accompanying documentation should be provided to the Technical Advisor to the Chief, Estate & Gift/Excise Tax Examination.

4.25.11.5  
(07-28-2020)

#### Jeopardy Assessments

- (1) This section provides an overview of jeopardy assessments as applicable in the estate and gift tax area.
- (2) More detailed IRM guidance for SB/SE examiners is found at IRM 4.15.1, Jeopardy/Termination Assessments, Jeopardy and Terminations.
- (3) Under IRC 6861 if it is properly determined that the assessment or collection of a deficiency will be placed in jeopardy by delay, then notwithstanding the provisions of IRC 6213(a), such deficiency (together with all interest, additional amounts, and additions to the tax provided for by law) shall be immediately assessed, and notice and demand shall be made for the payment thereof.
- (4) In the Estate and Gift Tax Program, jeopardy assessments require the personal approval of the Chief, Estate and Gift. See Delegation Order 4.21 (Rev. 1).
- (5) All jeopardy assessments must be in full compliance with Policy Statement 4-88, found at IRM 1.2.1.5.27, which provides in pertinent part: "Jeopardy assessments should be used sparingly and care should be taken to avoid excessive and unreasonable assessments." At least one of the following conditions must exist:
  - a. The taxpayer is, or appears to be, designing quickly to depart from the United States or to conceal himself/herself.

- b. The taxpayer is, or appears to be, designing quickly to place his/her or its property beyond the reach of the Government either by removing it from the United States, by concealing it, by dissipating it, or transferring it to other persons.
  - c. The taxpayer's financial solvency is, or appears to be, imperiled. (This does not include investigations where the taxpayer becomes insolvent by virtue of the accrual of the proposed assessment of tax, penalty and interest).
  - d. An individual is in physical possession of cash. An individual who is in physical possession of cash, or its equivalent, in excess of \$10,000 who does not claim such cash as theirs, or belonging to another person whose identity can be readily ascertained and who acknowledges ownership of such cash, so that the collection of tax on such cash is presumed to be in jeopardy within the meaning of IRC 6867. See Policy Statement 4-88.
- (6) If an examiner determines that collection will be endangered by following regular assessment and collection procedures, use the procedures relating to recommendations for jeopardy assessment under IRC 6861, IRC 6862, and IRC 6867. See IRM 4.15.1, Jeopardy and Terminations.
- (7) See IRM 4.4.17, AIMS Procedures and Processing Instructions, Jeopardy Assessments/Termination Assessments/ Transferor-Transferee Assessments for additional processing instructions.

4.25.11.6  
(07-28-2020)  
**Transferee Liability  
Cases**

- (1) This section provides an overview of transferee liability as applicable in the estate and gift tax examination area. The following is meant to provide an issue awareness to enable examiners to recognize actual or potential transferee assessment situations. These matters can be very complex in nature and this discussion cannot and should not replace independent research predicated upon the facts of each specific case.
- (2) "Transferee Liability" is a tool used by the IRS to collect a transferor taxpayer's tax liability when the transfer tax requirements were not completed by the transferor. IRC 6901 governs transferee assessments. Examiners most commonly invoke transferee liability provisions in estate and gift tax cases in situations when:
- a. The statute of limitations has run on transfers made by a decedent or donor, but is still open with respect to the donee-transferee or fiduciary (i.e., between three and four years after the due date of the return or filing date, whichever is later in the case of a transferee or within one year after the liability arises or the expiration of the period for collection, whichever is later in the case of a fiduciary).
  - b. A deceased donor failed to file a gift tax return and the property was distributed.
  - c. A transfer will jeopardize the collection of tax.
  - d. There has been no administration of a decedent's estate, but the property was distributed.
- (3) Special attention must be paid to the assessment Statute of Limitations (SOL). Examiners must properly determine and control the transferee SOL, since there is no record of the transferee SOL on the master file. A transferee assessment SOL is based upon the transferor's SOL and therefore an IDRS

account transcript (BMFOL or MFTRA) for the transferor should be obtained immediately. The SOL for the transferee is determined as follows:

- a. The initial transferee - one year after the expiration of the period of limitation for assessment against the transferor.
  - b. A transferee of a transferee - one year after the expiration of the period of limitation for assessment against the preceding transferee or three years after the expiration of the period of limitation for assessment against the transferor, whichever expires first; except that if, before the expiration of the period of limitation for the assessment of the liability of the transferee, a court proceeding for the collection of the tax liability in respect thereof has been begun against the initial transferor or the last preceding transferee, respectively, then the period of limitation for assessment of the liability of the transferee of the transferee shall expire one year after the return of execution in the court proceeding.
  - c. A fiduciary - not later than one year after the liability arises or not later than the expiration of the period for collection of such tax, whichever is later.
- (4) In the case of a fraudulent tax return, tax may be assessed at any time. Thus, if fraud is established on the part of the transferor, an assessment may be made against the transferor at any time.
  - (5) If the transferor's tax may be assessed at any time because of fraud, the period of limitations against a transferee remains open indefinitely.
  - (6) However, examiners should NOT allow the normal transferee four-year period of limitations to expire if at all possible. Instead, they should obtain a consent agreement from the transferee (as discussed below). In the event the fraud issue is not sustained, the transferee statute will still be open because a transferee's consent was obtained and the IRS can still pursue the tax and alternative (to fraud) penalty liabilities against the transferee.
  - (7) A Form 977, Consent to Extend the Time to Assess Liability at Law or in Equity for Income, Gift, and Estate Tax Against a Transferee or Fiduciary, is used to extend the transferee assessment period for income, gift and estate tax.
- Note:** Cases should be completed within the normal transferee SOL to the extent possible. Consents to extend the transferee SOL should be secured only in limited circumstances. Approval of the consent agreement should be obtained from area counsel before the consent agreement is executed by the delegated official.
- (8) Consult ERCS/AIMS procedures for guidance in establishing proper controls for transferee cases as special rules are applicable. Each transferee entity must have separate controls. These cases generally require establishment of non-master file accounts and the use of dummy accounts to avoid entity duplication. For specific guidance, see IRM 4.4.17.7, Transferor/Transferee Cases - Overview, IRM 4.4.17.7.1, General Instructions, and IRM 4.11.52.5 paragraph (3), Administration Procedures. When concluding a transferee case, ideally it should be closed with the case for the transferor. However, due to statute considerations and other circumstances, this is not always possible. The case will be closed through Technical Services once the amount of tax of the transferor and the appropriate tax liability of the transferee has been determined.



**Note:** The amount of the transferee liability may not be the full amount of the tax due.

- (9) Examiners should ensure that Form 3198 is prepared for the transferor and transferee files and labeled “TRANSFEROR” or “TRANSFEE” across the top as appropriate. Clearly note on the Form 3198 that both the transferor and transferee files are included. [Check the **Other** box under the “Forward to Technical Services - Update to Status 21” section of Form 3198, and enter **Transferee/Transferor** in the provided space.]
- (10) Transferee cases can result in one of three closure types from Technical Services:
  - Agreed
  - Petitioned to Appeals/Docketed for Tax Court
  - Defaulted
- (11) For agreed closures, use Form 890-T, Waiver of Restrictions on Assessment and Collection of Transferee or Fiduciary Liability for Estate, Gift and Generation-Skipping Transfer Tax for agreed transferee liability cases.
- (12) Guidance for Technical Services in closing these cases may be found at IRM 4.4.17.7.2, Closing Agreed Cases.
- (13) For unagreed closures requiring issuance of Statutory Notice of Deficiency, consult IRM 4.8.9, Statutory Notices of Deficiency, regarding the procedures for transferee liability cases.
- (14) For closing unagreed cases protested to Appeals or petitioned to Tax Court, see IRM 4.8.8, Technical Services, Miscellaneous Responsibilities and IRM 4.8.9, Technical Services, Statutory Notices of Deficiency for guidance. Specifically, see IRM 4.8.8.5.7.2, IRM 4.8.8.7.1.1, IRM 4.8.8.13.4, IRM 4.8.9.14.4 and IRM 4.8.9.17.3 .
- (15) For closure of cases defaulted from 90-day, see IRM 4.4.17.7.3 for procedural guidance.
- (16) For additional resources in this area, examiners are advised to consult the Examining Officers Guide section dealing with Transferee Liability Cases, specifically IRM 4.11.52.1 et seq. and the further resources cited therein:
  - IRM 4.4.17.4, Transferor/Transferee Assessments
  - IRM 25.6.22.6.17.1, Statute of Limitations Transferee Liability
  - IRM 5.17.14.3, Transferee Accountability in General
  - IRM 4.8.8.13, Quality Measurement, Transferee Liability Cases
  - Rules of Practice and Procedure of the United States Tax Court - Rule 142 as to the burden of proof in transferee cases
  - IRC 6901, Transferred Assets
  - IRC 6902, Provisions of Special Application to Transferees

4.25.11.7  
(07-28-2020)  
**Form 706-GS (D)**  
**Examinations**

- (1) Form 706-GS (D-1), Notification of Distribution from a Generation-Skipping Trust, is an information return filed by a trustee to report certain distributions from a trust that are subject to the generation-skipping transfer (GST) tax and to provide the skip person distributee with information needed to calculate the tax due on the distribution.

- (2) The Form 706-GS (D), Generation-Skipping Transfer Tax Return for Distributions, is used by a skip person distributee to calculate and report the tax due on distributions from a trust that are subject to the generation-skipping transfer (GST) tax. Skip person distributees who receive a distribution during a period where the distribution ratio was zero are not required to file a Form 706-GS(D).
- (3) The Form 706-GS(D) is generally due by April 15. However, the due date for the form may vary if it falls on a Sunday or Holiday. See IRC 7503. The skip person distributee may request a six-month extension of time to file by filing Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information or Other Returns.
- (4) The value of the distribution is its fair market value on the date of distribution. The value of the property should be reduced by the amount of any consideration provided by the distributee, or liens placed against the property, if applicable.
- (5) The distributee may deduct adjusted allowable expenses incurred in connection with the preparation of the Form 706-GS(D), or any expenses incurred in connection with the determination, collection or refund of the GST tax reported or which should have been reported. Adjusted allowable expenses are equal to the allowable expenses multiplied by the inclusion ratio. If there is more than one inclusion ratio being reported, the expenses should be prorated among the inclusion ratios.
- (6) IRC 6651 provides for failure to file and failure to pay penalties unless there is a reasonable cause for the delay in filing and/or payment.
- (7) IRC 6662 provides for a penalty for the underpayment of GST taxes which exceeds \$5,000, if the underpayment is due to a valuation understatement. A substantial valuation understatement occurs when the reported value of the property listed on Form 706-GS(D) is 65 percent or less of the actual fair market value of the property. A gross valuation understatement occurs when the reported value of the property listed on Form 706-GS(D) is 40 percent or less of the actual fair market value of the property.
- (8) A Form 706-GS(D) case examination may be a result of a filed return that was selected for examination at classification or it may be assigned as a non-filed case referred as a result of information received from the Form 706-GS(D-1). If the Form 706-GS-(D) was selected at classification the case should be examined using standard examination techniques. See IRM 4.25.3.8.3, Form 706-GS(D), for information regarding the classification Form 706-GS(D) returns.

4.25.11.7.1  
(07-28-2020)  
**Form 706-GS(D)**  
**Non-Filer Instructions**

- (1) If the case is a non-filer case, the examiner will receive a copy of Form 706-GS(D-1) and a Form 706-GS(D) cover memo at the time of assignment.
- (2) The Estate and Gift Tax Notebook Job Aid (Notebook) should be used to obtain specific forms for this project. The Date of Death is needed for an Estate Return in Notebook. Please enter the last date of the year when the return should have been filed (e.g., 12/31/2021). Do not add information with the "Estate Report" button on the Case Details screen in Notebook.
- (3) A TC 150 SFR has been established by WSD. The case has been established with Activity Code 421 and Tracking Code 6458.



- (4) An opening letter, Request for Delinquent 706-GS(D) Return was developed for this project and can be found in Notebook (Lead Sheets + Workpapers > Estate > Project and Delinquent Return Workpapers > 706GS(D) Workpapers (6458)). This is the only approved opening letter to be issued to taxpayers for this project. Send the opening letter to the taxpayer using certified mail, return receipt. When preparing the opening letter examiners should:
  - a. Use three weeks from the date of the opening letter as the initial request response date.
  - b. As stated in the opening letter, if a return has been filed, the taxpayer needs to provide a copy of the filed return and proof of IRS receipt. If a return has not been filed, the taxpayer needs to file Form 706-GS(D) with the examiner.
  - c. If a return has not been filed and the taxpayer does not believe they are required to file a return, the reason(s) need to be provided on page three (Response to Request for Tax Return(s)) of the opening letter.
- (5) If a delinquent Form 706-GS(D) is secured, process the return according to the Estate and Gift Delinquent Return Guidelines, which can be found on the Estate and Gift SharePoint, Delinquent, SFR and Fed/State Gift Non-Filer Procedures folder. See IRM 4.25.8.3, Non-filer Project Cases and IRM 4.25.8.4, Delinquent Returns.
- (6) If the examination is expanded to include a multiple year examination and/or a related entity examination, complete the Establish Case Request Form, (which was deployed in Notebook with the opening letter or can be found on the Estate and Gift SharePoint (Case Establishment Form Request)) and send to Estate and Gift WSD to have the case established as part of the project.
- (7) If the examiner does not receive a response by the requested response date, send a second request and use three weeks from the date of the second request letter as the request response date. If the examiner does not receive a response after the second attempt to contact the taxpayer, follow the additional steps in IRM 4.10.2.8.3 and IRM 4.10.2.8.6 for locating the taxpayer, including possible phone calls, USPS tracer and third party contact, and document the actions taken on Form 1900-B.
- (8) If a response is not received by the requested response date, the examiner should process the case as a Substitute for Return (SFR) according to the Estate and Gift SFR Guidelines. See IRM 4.25.8.5, Introduction to Substitute for Return, and IRM 4.25.8.5.3, Case Closing Procedures for SFRs.
- (9) If closing the case agreed, close case to CCP. If closing the case unagreed, close case to Technical Services. Unless issuing a statutory notice of deficiency, the examiner should use the standard case closure procedures outlined in IRM 4.25.10.
- (10) The examiner should complete the Project and Referral Feedback Form, which can be found in IMS, and send by encrypted e-mail to the Project and Referral Feedback Form to the WSD Project Coordinator.

4.25.11.7.2  
(05-26-2023)

**Form 706-GS(D)  
Statutory Notice of  
Deficiency (SNOD)**

- (1) The examiner should review the statute of limitations (if a return was filed) and send a 30-day letter if there are sufficient days remaining on the assessment statute of limitations. Appeals requires at least 365 days remaining on the assessment statute of limitations before accepting the case. Examiners can solicit a consent to extend the statute of limitations on Form 706-GS(D) cases. See IRM 4.25.10 for 30-day letter instructions.
- (2) If the examiner does not receive a response from the 30-day letter or there are fewer than 365 days left on the statute of limitations, issue a statutory notice of deficiency. See IRM 4.25.10.7.4, Statutory Notice of Deficiency Procedures.
- (3) The Form 706-GS(D) SNOD should include the following documents:
  - Letter 902, Notice of Deficiency
  - Form 706-GS(D) with “Computation of Tax Due” written across the top (preferably in red)
  - Form 886-A - Explanation of Changes
  - Form 4089, Notice of Deficiency - Waiver
  - Notice 1214, Helpful Contacts for Your Notice of Deficiency
- (4) In completing Letter 902:
  - The first paragraph is modified for the deficiency, penalties and type of tax.
  - The first paragraph should include the following statement: “We have determined an assessment against you in the amount of (amount of liability), plus interest as provided by law, which constitutes your personal liability for generation-skipping transfer tax as a result of the distribution from (trust name), as shown in the attached statement, plus interest to be computed at the legal rate on the amount due.”
- (5) The 706-GS(D) Computation Workbook, which is deployed from Notebook, is an excel based calculator that examiners can use to create the statement of adjustments/report.
- (6) After preparing and issuing the Notice of Deficiency package to the taxpayer, the examiner should forward the case to the local Technical Services office. The shared administrative support staff will input the appropriate disposal code for Statutory Notice. The disposal code 07 is used for Protest to Appeals only. Cases will be forwarded with Form 3210, Document Transmittal, to Technical Services. Technical Services RA reviewers are responsible for performing a limited review of the notices to ensure that they are legally sufficient and ready for signature and mailing. The address for the examiner’s local Technical Services office can be found at: *Knowledge Management Listing of Technical Services Codes and Addresses*.

4.25.11.8  
(05-26-2023)

**Form 706-GS(T)  
Examinations**

- (1) Form 706-GS(T), Generation-Skipping Transfer Tax Return for Terminations, is used by the trustee to calculate and report the tax due from certain trust terminations that are subject to the generation-skipping transfer (GST) tax.
  - a. A termination may occur by reason of death, lapse of time, release of a power, or any other means.
  - b. A taxable termination is the conclusion of an interest in property held in trust unless immediately after the termination, a non-skip person has an interest in the property, or at no time after the termination may a distribution be made from the trust to a skip person.

- (2) The processed Form 706-GS(T) will be assigned an MFT 77, document code 29 and be processed under tax class 5. The Form 706-GS(T) is filed under the EIN assigned to the trust.
- (3) The return is due April 15 of the year following the year in which the termination occurred. However, the original due date may vary if it falls on a Sunday or holiday. See IRC 7503. The trustee may request a six-month extension of time to file by filing Form 7004, Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns.
- (4) IRC 6651 provides penalties for both late filing and for late payment unless there is reasonable cause for the delay. The law also provides penalties for willful attempts to evade payment of tax. The late filing penalty will not be imposed if the taxpayer can show that the failure to file a timely return was due to reasonable cause. See IRM 20.1.2.
- (5) The examiner should consider verifying the inclusion ratio, value of assets transferred, and claimed deductions.
- (6) The trustee may elect to value the property transferred as a result of the termination on the date of the termination, or the trustee may also elect alternate valuation date (under IRC 2032) for all terminations in the same trust that occurred at the same time, and as a result of the death of an individual.
- (7) When examining the inclusion ratio, the examiner should refigure the inclusion ratio:
  - a. Whenever property is transferred into a pre-existing trust, the inclusion ratio must be refigured. The inclusion ratio is the excess of one over the applicable fraction determined for the trust in which the termination occurred.
  - b. If a qualified terminable interest property deduction was taken by the settlor as donor spouse or by the executor of a deceased spouse's estate for the transfer of any property into the trust, the donor spouse or the executor, as the case may be, may have made an election at that time to treat such transfer for the purpose of the GST tax as if it was not qualified terminable interest property. In this case, the examiner should refer to the gift tax return of the donor spouse or the deceased settlor's estate tax return for the information needed to verify the inclusion ratio.
  - c. If a transferor made an *inter vivos* transfer, and the property transferred would have been includible in the transferor's estate if he or she had died immediately after the transfer (within three years of making the transfer) for purposes of determining the inclusion ratio, an allocation of GST exemption will only become effective at the close of the Estate Tax Inclusion Period (ETIP).

4.25.11.9  
(07-30-2019)  
**Form 1041 Examination**

- (1) When adjustments are made to a Form 706 or Form 709 which affect the Form 1041, U.S. Income Tax Return for Estates and Trusts, it may be necessary to pick up the related Form 1041. This section provides guidance for examining the Form 1041 and issuing a Form 1041 report of recommended changes.

4.25.11.9.1  
(05-26-2023)

**Examining Form 1041,  
Fiduciary Income Tax**

- (1) In order to establish the Form 1041 on ERCS the examiner must complete Form 5345-D, Examination Request - ERCS (Examination Returns Control System Users) and seek group manager approval. It may take up to one week to fully establish control of the return through Automated Information Management System (AIMS). The Form 5345-D must include the following information:
  - Source Code: 50
  - MFT: 05
  - Activity Code: 496-498, depending on whether the examination is of a taxable or a non-taxable return
- (2) While examination of the Form 1041 may be attendant to the estate tax examination, it is considered a separate examination.
  - a. Taxpayer rights documentation, e.g., Pub 1, Your Rights as a Taxpayer, Notice 609, Privacy Act Notice, and, if required, Form 12180, Third Party Contact Authorization, and Form 2848, Power of Attorney and Declaration of Representative, should be sent to the taxpayer with the opening letter.
  - b. Additional provisions relating to the examination of fiduciary returns are set forth in IRM 4.10.8.4.4, Fiduciary Cases.
  - c. The examiner should take all necessary steps to protect the statute of limitations. The normal statute of limitations for fiduciary income tax returns is three years after the later of the due date of the return or the filing date. See IRC 6501(a) and IRM 4.25.1.2.1, Verify and Protect Statute of Limitations.
- (3) If an estate files an IRC 6501(d) election, the statute of limitations ends 18 months after the date of the election. An IRC 6501 election is made on a Form 4810, Request for Prompt Assessment, and applies to all specified fiduciary income tax returns filed by an estate prior to the filing of the election.
- (4) The statute of limitations for the fiduciary income tax return may be extended by consent. Consent is secured on Form 872, Consent to Extend the Time to Assess Tax. See IRM 25.6.22.6.7, Decedent's Estate (Income Tax – Form 1041).

**Note:** If the applicable statute of limitations will expire within one year, the examiner should discuss with their manager to determine whether the return should be established for examination.

- (5) If the taxable income of an estate is distributed from an estate to a beneficiary and reported on Form 1041, Schedule K-1, Beneficiary's Share of Income, Deductions, Credits, a referral must be made to Estate and Gift Tax, Workload Selection and Delivery (Estate and Gift WSD). Contact information regarding WSD referrals is located on the *Estate and Gift Tax Contacts* Knowledge Management webpage.
- (6) The workpapers necessary for the examination of a Form 1041 return are located in Notebook, and must include the Other Tax Returns Lead Sheet.
- (7) The examiner should consider whether penalties are applicable and document the assertion or non-assertion of penalties.
- (8) If the fiduciary does not agree to the recommended adjustments, use Form 4549-A, Income Tax Discrepancy Adjustments to make the recommended adjustments and to summarize the unagreed issues. The 30-day and 90-day

letter procedures for an estate tax return also apply to fiduciary income tax return examinations. Letter 950, 30 Day Letter - Straight Deficiency, and Form 870, Waiver of Restrictions on Assessment Collection of Deficiency in Tax and Acceptance of Overassessment, must be included in the unagreed package.

- (9) There are no special closing procedures for a fiduciary income tax return. The Form 5344, Examination Closing Record, and Form 3198, Special Handling Notice for Examination Case Processing are used to close a fiduciary income tax examination. Regular estate and gift tax closing procedures should be followed. For case maintenance and IMS upload information, see IRM 4.25.1, Estate and Gift Tax Examinations. For instructions on Form 1041 case examination case closure procedures, see IRM 4.25.10, Case Closure Procedures.

4.25.11.9.2  
(05-26-2023)  
**Report Guidelines for  
Form 1041 Examination**

- (1) The Form 1041 examination report forms for issuance to the taxpayer and authorized representative are not available in the Estate and Gift Tax Notebook Job Aid (Notebook). Use the *Form 1041 WorkcenterMY report writer* to generate Form 4549, Income Tax Examination Changes.
- (2) The 1041 Workcenter is an Excel report writing program developed for the examination of Forms 1041, Fiduciary Income Tax Returns. Additional report writing procedures are set forth at IRM 4.10.8, Report Writing. The Excel workbook allows users to create reports for up to three years.
- (3) To create a new 1041 report file, select the 1041 Workcenter Excel file and select the “save as” option. You must enable macros prior to using the worksheet. Change the file name to reflect the specific case, and save the new case file to the examiner’s SBU folder.
- (4) The 1041 WorkcenterMY contains multiple worksheets or “pages.” The user can view data pages by clicking on navigational “buttons” located on each of the data pages. The Introduction and Index pages are the point from which the user can navigate to all of the other pages. The buttons appear in groups at the bottom of the Index page. For any given page, the user can return to the Index page by clicking the button at the top of the page.
- (5) The examination report forms used for a fiduciary income tax return vary depending upon the type of adjustment necessary:
- The examiner should send a Form 4549, Income Tax Examination Changes, to the taxpayer and authorized representative if there is a deficiency or over-assessment relating to the trust or estate. The Form 4549 contains a signature line whereby the taxpayer consents to the recommended adjustment(s).
  - If the examiner determines that the only changes to the Form 1041 affect the IRC 652 or IRC 662 inclusion to a beneficiary (i.e., there is no tax change to the trust or estate), the examiner should send a Form 4549 and provide an explanation in the “Other Information” field. The taxpayer should sign the bottom of the Form 4549 and the case will be closed with an 01 disposal code. At the time of the case closure, the examiner should make a referral to Estate and Gift Tax Workload Selection and Delivery (Estate and Gift WSD).
  - The examiner may attach Form 886-A, Explanation of Items, if the recommended adjustments to the Form 1041 need to be described in more detail.

4.25.11.10  
(07-28-2020)  
**Whistleblower  
Examinations**

- (1) The IRS Whistleblower Office, under Services and Enforcement, administers the program designed to receive information that helps uncover tax noncompliance and provides appropriate awards to whistleblowers. This section provides guidance for examining whistleblower estate and gift tax whistleblower claims. Cases are routed to examination through the Estate and Gift Workload Selection and Delivery. See IRM 4.25.3.9.2.5, Estate and Gift Tax, Planning, Classification, and Selection, Whistleblower Referrals, for more details about the Estate and Gift WSD whistleblower case roles and responsibilities.
- (2) IRM 25.2.2 provides guidance on how to file claims under IRC 7623. Public guidance is also available in Pub 5251, The Whistleblower Claim Process.
- (3) The Whistleblower Office is responsible for analyzing incoming information from whistleblowers. The office assigns the information to the appropriate IRS office for investigation. Servicewide Examiner and SME review procedures are located in the following IRM subsections IRM 25.2.1 and IRM 25.2.2.

4.25.11.11  
(01-07-2014)  
**IRC 6163 Election  
Examination**

- (1) IRC 6163(a) permits an extension for paying estate tax on the value of reversionary or remainder interests in property included in the gross estate. The time for payment will be postponed until six months following the termination of the preceding interest in the property.
- (2) IRC 6163(b) permits the extension of time for paying the estate tax that was granted under IRC 6163(a) if the estate can show reasonable cause for the additional extension. The extension will be for an additional three years from the expiration date of the postponement provided for in IRC 6163(a).

4.25.11.11.1  
(08-07-2015)  
**Estate Tax Extension of  
Time to Pay Under IRC  
6163**

- (1) If an IRC 6163 estate tax extension is granted, the collection of tax and accrued interest is suspended until six months after the precedent interest terminates.
- (2) An estate that elects to postpone that part of the estate tax attributable to a reversionary or remainder interest may prepay a portion of the outstanding liability without payment of accrued interest or acceleration of the remaining tax. See Rev. Rul. 83-103.

4.25.11.11.2  
(01-07-2014)  
**Notice of Election of  
Estate Tax Extension of  
Time to Pay under IRC  
6163**

- (1) Notice of the exercise of the election to postpone the payment of the tax attributable to a reversionary or remainder interest should be filed on or before the date prescribed for payment of the tax.
- (2) The notice of election may be made in the form of a letter or by filing Form 4868 prior to the date the estate tax payment is originally due. The election may also be made by the estate if the executor checks the Part 3, line 4 election box on a timely filed Form 706.
  - a. The estate must attach a certified copy of the will or other instrument under which the reversionary or remainder interest was created. A copy verified by the executor if the instrument is not filed of record is also acceptable.
  - b. Additional documentation may be requested in order to determine whether the election is valid.
- (3) If the duration of the precedent interest is dependent upon the life of any person, the notice of election must show the date of birth of that person.



4.25.11.11.3  
(01-07-2014)  
**Determining the Tax  
Attributable to the  
Reversionary or  
Remainder**

- (1) If the decedent's gross estate consists of both a reversionary or remainder interest in property and other property, the tax attributable to the reversionary or remainder interest is an amount which bears the same ratio to the total tax as the net value of the reversionary or remainder interest bears to the total value of the estate (computed in accordance with special rules). In applying this ratio, the value of the reversionary or remainder interest is reduced by:
  - a. The amount of claims, mortgages, and indebtedness which is a lien upon such interest
  - b. Losses in respect of such interest during the settlement of the estate which are deductible under the provisions of IRC 2054 or IRC 2106(a)(1)
  - c. Any amount deductible in respect of such interest under IRC 2055 or IRC 2106(a)(2) for charitable, etc. transfers.
  - d. The portion of the marital deduction allowed under the provisions of IRC 2056 on account of bequests, etc., of such interests to the decedent's surviving spouse
- (2) Likewise, in applying the ratio, the value of the gross estate is reduced by such deductions having similar relationship to the items comprising the gross estate.

4.25.11.11.4  
(08-07-2015)  
**IRC 6163 Bond  
Requirement**

- (1) As a prerequisite to the postponement of the payment of the tax attributable to a reversionary or remainder interest pursuant to IRC 6163, a bond equal to double the amount of the tax and interest for the estimated duration of the precedent interest must be furnished, conditioned upon the payment of the tax and interest accrued thereon within six months after the termination of the precedent interest.
- (2) If it is determined that the amount of the tax attributable to the reversionary or remainder interest was understated in the bond, a new bond or a supplemental bond may be required, or the tax, to the extent of the understatement, may be collected.
- (3) If the estate does not post bond as required, the examiner should deny the IRC 6163 election.
- (4) The bond must be conditioned upon the principal or surety promptly providing notice when the precedent interest terminates. The principal or surety must also provide annual notice (during the month of September) as to the continuance of the precedent interest, if the duration of the precedent interest is dependent upon the life or lives of any person or persons, or is otherwise indefinite.
- (5) In the case of any proposed bond, Estate and Gift examination will consult with Area Counsel for drafting and review of the bond agreement.
- (6) Once the examination of the return is completed, the principal and surety should be notified to send the annual notice and the notice when the precedent interest terminates to the Advisory Estate Tax Lien Group.

4.25.11.11.5  
(07-28-2020)  
**Preparing Agreed Case  
with 6163 Election Case  
File for CCP**

- (1) Review transcripts to ensure that a TC 488 posted to master file.

- (2) Once the examiner determines that the estate meets the threshold requirements for a 6163 election, the examiner will contact the estate to solicit the bond agreement. Collateral must be equal to twice the amount of the tax deferred and interest accrued through the deferral period under IRC 6163. Upon receipt of the estate's proposed bond agreement, the examiner will request local Area Counsel review for approval. Once the bond agreement is approved by Counsel, and the bond is secured, the examiner will notify the appropriate Technical Group at the Campus, and the Advisory Estate Tax Lien Group by encrypted e-mail that the 6163 election has been approved.
- (3) Prepare Form 2276 and all attachments thereto. See IRM 5.6.1.8, Preparing Form 2276, Collateral Deposit Record.
- (4) Once the examiner determines that the estate made a valid IRC 6163 election, the examiner should prepare a separate IRC 6163 case folder. This folder should be captioned with the name of the estate and the date the return was received. The following documents should be included in this separate 6163 case folder:
  - a. Proof of election (letter, Part 3, Line 4 election, etc.)
  - b. Copies of Pages 1, 2 and 3 of Form 706, and Schedule(s) used to report the decedent's interest
  - c. Copies of all documents used to determine the fair market value of the decedent's interest in the reversionary or remainder interest
  - d. A copy of the examiner's analysis confirming the validity of the IRC 6163 election
  - e. A copy of the examination report showing adjustments and calculations of all relevant penalties and interest
  - f. A copy of Form 1273, Report of Estate Tax Examination Changes, Form 6180, Line Adjustment - Estate Tax, if applicable, and the examiner's narrative report of examination changes (e.g., Form 886-A, Explanation of Items, or similar documentation)
  - g. Two copies of Form 2276, Collateral Deposit Record, and supporting extended tax and interest calculations. Include one copy of Form 2276 in the estate tax examination workpaper file and another copy in the 6163 file for CCP
  - h. Complete copy of the Counsel-approved bond
  - i. Copy of Form 2848, Power of Attorney and Declaration of Representative

**Note:** Send via secure email the appropriate Technical Group at the Campus and the Advisory Estate Tax Lien Group a copy of the 6163 file described above.

- (5) The examiner should work with the Advisory Estate Tax Lien Group to ensure that the bond is perfected.
- (6) If the required collateral was not received by Estate and Gift examination, advise the Campus and the taxpayer that the election (under IRC 6163) of an extension of time to pay is invalid.
  - a. If extension is terminated, request input of TC 489 to remove the account from the deferred status on the BMF. See IRM 4.25.2.8.2.6 paragraph (8).
- (7) Estate and Gift Campus 6163 election processing and monitoring procedures are located at IRM 4.25.2.8.2.6, Estate Tax Extension of Time to Pay Under IRC 6163.



4.25.11.12  
(05-26-2023)  
**Foreign Bank and  
Financial Account  
Report (FBAR)**

- (1) A Report of Foreign Bank and Financial Accounts, FinCEN Form 114 (FBAR), formerly Form TDF 90.22-1, is a required annual filing used to report foreign bank and financial accounts. See Bank Secrecy Act (BSA), especially 31 USC 5314, and Treas. Reg. 31 CFR 1010.350.
- (2) When performing FBAR-related functions, examiners are acting under Title 31. Provisions of the Internal Revenue Code generally do not apply to FBARs. Specifically, information gathered in a Title 26 (estate and/or gift tax audit) cannot be used in a Title 31 inquiry unless there is a related statute determination in the form of a Related Statute Memorandum (RSM) signed by the examiner's group manager. See IRM 4.26.17.2.1, Starting an FBAR Examination Resulting from Title 26 - Related Statute Memorandum (RSM) Required.
- (3) For Estate and Gift Tax examiners, FBARs are not required filing checks. However, examiners should verify the responses to the questions about foreign financial accounts and foreign trusts that appear on Form 1040, Schedule B, Part III. Examiners can verify the filing of an FBAR in the FinCEN Query system by contacting the E&G FinCEN Query System Coordinator. The name and contact information for the current E&G FinCEN Query System Coordinator can be found in the FBAR folder on the Estate and Gift SharePoint (see How to Get FBARs Run). If a required FBAR has not been filed, or a required FBAR contains errors or omissions, before an FBAR examination can be started — and before the taxpayer can be asked about FBAR filings — examiners must first obtain a related statute memorandum with the group manager's signature.
- (4) Also, the examiner may need to request assistance from BSA Fraud.
- (5) A trustee or a representative of an estate is treated as a U.S. person for purposes of FBAR filing requirements. When an individual dies, the obligation to file FBARs continues with the person or person(s) who take the property from the decedent, assuming that the filing requirements otherwise continue to be met.
- (6) The FBAR is a calendar year report and must be filed on or before April 15 of the year following the calendar year being reported for calendar years 2016 and later. See IRM 4.26.17.3.1.1, FBAR Statute of Limitations on Assessments. Effective July 1, 2013, the FBAR must be filed electronically through *FinCEN's BSA e-filing* system. The FBAR is not filed with a federal tax return. When the IRS grants a filing extension for a taxpayer's income tax return, it does not extend the time to file an FBAR. Prior to the passing of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, there was no provision for requesting an extension of time to file an FBAR. The Act mandates a maximum six-month extension of the filing deadline. To implement the statute with minimal burden to the public, FinCEN will grant filers failing to meet the FBAR annual due date of April 15 an automatic extension to October 15 each year. Accordingly, specific requests for this extension are not required.
- (7) Unlike estate and gift tax returns, the six (6) year civil statute of limitations on FBAR penalty assessment commences to run from the due date, even if no FBAR is filed. For more information on the FBAR statute of limitations on assessment, see IRM 4.26.17.3.1.1, FBAR Statute of Limitations on Assessments.

- (8) The examiner must verify the civil statute of limitations on FBAR penalty assessment and document the filing date and statute of limitations date in the case Form 9984, Activity Record. See IRM 4.26.17.3.1.1, FBAR Statute of Limitations on Assessments.
- (9) Persons with an FBAR filing requirement may voluntarily consent to extend the civil statute of limitation on FBAR penalty assessment. See IRM 4.26.17.3.1.3, Extending the FBAR Statute of Limitations.
- (10) Very specific procedures are required when an FBAR examination is warranted. The examiner should consult IRM 4.26.17, Report of Foreign Bank and Financial Accounts (FBAR) Procedures, before commencing any FBAR examination procedures.
- (11) FBAR examinations will be established and managed in IMS.
- (12) If during an FBAR examination, and on review of the taxpayer's Form 8938 (attached to Form 1040), it is determined that there may be penalties applicable to Form 8938, you must refer the potential Form 8938 penalties to income tax. Follow the instructions in Part 1 of Referral Procedures in the Referrals – to and from EG folder on the Estate and Gift Tax SharePoint.

4.25.11.13  
(05-26-2023)

**Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent**

- (1) An executor of an estate or other person(s) required to file a Form 706 or Form 706-NA under IRC 6018 (a) or (b) is required to file Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent, and Schedule(s) A with the IRS; and also to furnish each beneficiary listed on the Form 8971 with that beneficiary's Schedule A, with limited exceptions. The filing requirement applies to returns filed after July 31, 2015. The IRC 6035 filing requirement for Form 8971 and Schedule(s) A does not apply to estates filing only to elect portability of the DSUE, or make an allocation or election respecting generation-skipping transfer tax.
- (2) Proposed regulations provide guidance regarding the filing requirements and completion of Form 8971 and Schedule(s) A.
- (3) All estate tax return examiners are required to perform a filing check for Form 8971 and related Schedule(s) A as part of the examination of the Form 706 or Form 706-NA. A TC 971 and AC 368 will show up on the Form 706's BMFOL transcript. Campus Estate and Gift will associate the information return and related Schedule(s) A with the Form 706 by either sending to WSD for scanning or to Kansas City Files for association. See IRM 4.25.2.5.8, Form 8971, for Campus Estate and Gift's Form 8971 processing procedures.
- (4) For procedures regarding the filing check and further examination requirements, if warranted, use the Form 8971 lead sheet, available on the Estate and Gift Tax SharePoint.

4.25.11.13.1  
(05-26-2023)

**Processing Delinquent Form 8971 and/or Schedule(s) A Secured by Examiner**

- (1) Secure the delinquent information returns (Form 8971, Information Regarding Beneficiaries Acquiring Property from a Decedent and/or Schedule(s) A) that were required to be filed.
- (2) Date stamp each Form 8971 and Schedule A with the received date.
- (3) At the top of the Form 8971, annotate in red ink, "Delinquent Return Secured by Examination."

- (4) Forward a copy of the Form 8971 to Campus Estate and Gift via eFax to request the TC 971 AC 368 input on the Form 706 account module. For the current eFax number and required information, see the Basis Consistency - Form 8971 folder on the Estate and Gift SharePoint.
- (5) Analyze the Form 8971 case for penalties. See IRM 4.25.7.8, Form 8971 Penalties

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**Exhibit 4.25.11-1 (07-30-2019)****IRC 6166 Lien Referral Package for Advisory and Estate and Gift Campus**

The IRC 6166 Lien referral package should include the following documents:

<b>Document</b>	<b>Instructions</b>
Form 4349, Computation of Estate Tax Due with Return and Annual Installment	This form must be submitted on all examined or surveyed returns. In a partially agreed case, use only the agreed figures. Form 4349 verifies the deferred tax computation on all IRC 6166 cases. Indicate by checking the appropriate boxes on Form 4349 that audit action has been completed and that the election is valid. Also note on the form if any of the qualifying assets have been sold or liquidated.
Estate tax report	Copy of Form 1273, Report of Estate Tax Examination Changes, Forms 886-A, including narratives (for examined returns only) and Form 6180, Line Adjustments - Estate Tax. The examiner should also provide copies of all interrelated computation worksheets.
Copy of Form 706	The examiner should include a copy of the IRC 6166 election and all attachments. The examiner should include a copy of the first three pages of the Form 706.
Copies of Form 706, Schedules A, B, F, G, and K and any attachments thereto	Appraisals should not be attached unless requested by Advisory.
Form 2848, Power of Attorney and Declaration of Representative	The Form 2848 should be verified and sent to the CAF unit.
Narrative	Listing of all businesses listed on the estate tax return, including the business name and taxpayer identification number (TIN). This information may be listed separately or on a related Form 706 schedule.
If the estate makes an IRC Section 2056A (QDOT) election	Send bonds and/or letters of credit to the Advisory Estate Tax Lien Group for safekeeping when an estate has an IRC Section 2056A (QDOT) election. Included in the package should be the original bond or letter of credit, a copy of the trust agreement, Form 2848, the first 3 pages of the Form 706 with Schedule M, and any examination documents.

