



# MANUAL TRANSMITTAL

Department of the Treasury  
Internal Revenue Service

5.5.9

FEBRUARY 7, 2025

## EFFECTIVE DATE

(02-07-2025)

## PURPOSE

- (1) This transmits a revision to IRM 5.5.9, Decedent, Estate and Gift Taxes, Collecting Gift Tax and Generation-Skipping Transfer Tax.

## MATERIAL CHANGES

- (1) IRM 5.5.9.1.3, Roles and Responsibilities: Changed reference from territory managers to field compliance managers due to a title change.
- (2) IRM 5.5.9.1.4, Management and Review: Updated IRM 1.4.50 title reference to match new title name.
- (3) IRM 5.5.9.3.12, Gift Tax Penalty Abatement Requests: Changed to link to the new website to send documents to Independent Office of Appeals.
- (4) IRM 5.5.9.4.1, Generation-Skipping Transfer Tax Reported on Estate Tax Returns: Changed the reference from Wage and Investment (W&I) to Taxpayer Services (TS) due to reorganization.
- (5) Throughout the IRM: Fixed links, changed bullet list to table, and corrected IRM title.

## EFFECT ON OTHER DOCUMENTS

This transmittal supersedes IRM 5.5.9 manual transmittal dated March 28, 2024, Collecting Gift Tax and Generation-Skipping Transfer Tax.

## AUDIENCE

Small Business/Self-Employed Collection Employees

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5.5.9

Collecting Gift Tax and Generation-Skipping Transfer Tax

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5.5.9.1  
(12-16-2022)  
**Program Scope and Objectives**

- (1) **Purpose:** This IRM section provides the following:
  - Information to begin a gift tax or generation-skipping transfer tax collection investigation
  - Guidance on applicable liens for gift tax and generation-skipping transfer tax
  - Instructions to collect on gift tax and generation-skipping transfer tax
- (2) **Audience:** This IRM is used by Collection employees investigating gift tax or generation-skipping transfer tax balance due and delinquent return cases. Field Collection revenue officers use this IRM when protecting the government's interest and pursuing collection action on gift tax or generation-skipping transfer tax liabilities.
- (3) **Policy Owner:** Director, Small Business/Self-Employed Division (SB/SE), Headquarters, Collection Policy.
- (4) **Program Owner:** Collection Policy, Global Strategic Compliance, oversees policy and guidance for the estate and gift tax collection program.
- (5) **Primary Stakeholders:** SB/SE Collection. Other functions that are affected by, or have input to, the procedures include Chief Counsel, IRS Independent Office of Appeals, Estate and Gift Examination, Campus Estate and Gift, and the Taxpayer Advocate Service.

5.5.9.1.1  
(12-16-2022)  
**Background**

- (1) This IRM will provide guidance on collection issues that are unique to gift tax and generation-skipping transfer tax collection cases including methods to locate assets, case analysis, and collection against assets.

5.5.9.1.2  
(12-16-2022)  
**Authority**

- (1) The authority to collect tax on a tax assessment is addressed in IRC 6502, Collection after assessment. Collection principles are described in IRM 1.2.1.6.2, Policy Statement 5-2, Collecting Principles. IRM 1.2.1.6.1 explains why enforcement is a necessary component to move the taxpayer towards compliance with their tax obligations and to promote a system of voluntary compliance. Delegation orders for various collection activities are addressed in IRM 1.2.2, Servicewide Delegations of Authority.
- (2) IRM 1.2.65.3, SB/SE Functional Delegation Orders - Collection, provides delegation orders that are specific to the Small Business/Self Employed Collection organization.
- (3) Internal Revenue Code and Treasury Regulations related to this section include the following:

U.S. Code (USC) Section	Treasury Regulation Section	Treasury Regulation or USC Title
IRC 2501	26 CFR 25.2501-1	Imposition of tax
IRC 2601	26 CFR 26.2601-1(a)	Transfers subject to the generation-skipping transfer tax
IRC 2602	No regulation	Amount of tax

<b>U.S. Code (USC) Section</b>	<b>Treasury Regulation Section</b>	<b>Treasury Regulation or USC Title</b>
IRC 2603	No regulation	Liability for tax
IRC 2611	26 CFR 26.2611-1	Generation-skipping transfer defined
IRC 2612	26 CFR 26.2612-1	Definitions
IRC 2613	26 CFR 26.2613-1	Skip person
IRC 2661	No regulation	Administration
IRC 2662	26 CFR 26.2662-1	Generation-skipping transfer tax return requirements
IRC 6161	26 CFR 1.6161-1	Extension of time for paying tax or deficiency
IRC 6321	26 CFR 301.6321-1	Lien for taxes
IRC 6323	26 CFR 20.6323-1	Validity and priority against certain persons
IRC 6324	26 CFR 301.6324-1	Special liens for estate and gift taxes; personal liability of transferees and others
IRC 6325	26 CFR 301.6325-1	Release of lien or discharge of property
IRC 6331	26 CFR 301.6331-1	Levy and distraint
IRC 6334	26 CFR 301.6334-1	Property exempt from levy
IRC 6335	26 CFR 301.6335-1	Sale of seized property
IRC 6502	26 CFR 301.6502-1	Collection after assessment
IRC 6601	26 CFR 301.6601-1	Interest on underpayments
IRC 6901	26 CFR 301.6901-1	Procedure in the case of transferred assets
IRC 6902	26 CFR 301.6902-1	Burden of proof
IRC 7401	26 CFR 301.7401-1	Authorization
IRC 7402	No regulation	Jurisdiction of district courts

U.S. Code (USC) Section	Treasury Regulation Section	Treasury Regulation or USC Title
IRC 7403	26 CFR 301.7403-1	Action to enforce lien or to subject property to payment of tax

5.5.9.1.3  
(02-07-2025)  
**Roles and  
Responsibilities**

- (1) These procedures apply to Field Collection revenue officers who are responsible for investigating and collecting on the following returns:
  - Gift tax and generation-skipping transfer (GST) tax reported on Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return
  - GST tax reported on Form 706-GS (D), Generation-Skipping Transfer Tax Return for Distributions
  - GST tax reported on Form 706-GS (T), Generation-Skipping Transfer Tax Return for Terminations
  - GST tax reported on Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return
  - GST tax reported on Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return Estate of nonresident not a citizen of the United States
  - GST tax reported on Form 706-Schedule R-1 Generation-Skipping Transfer Tax Direct Skips from a Trust Payment Voucher
- (2) Director, Field Collection, is the executive responsible for all Field Collection programs.
- (3) Director, Collection Policy, is the executive responsible for the policies and procedures followed by Field Collection employees.
- (4) Field Collection area directors, field compliance managers, and group managers are responsible for ensuring Field Collection personnel comply with these procedures.
- (5) Field Collection revenue officers are responsible for following the procedures in this IRM.
- (6) Field Collection Civil Enforcement Advice and Support Operations (CEASO) Advisory employees and Counsel may provide advice and may review some of the Field Collection revenue officer collection activity described in this IRM. CEASO Property Appraisal and Liquidation Specialists (PALS) may take actions on these cases.

5.5.9.1.4  
(02-07-2025)  
**Program Management  
and Review**

- (1) IRM 1.4.50, Resource Guide for Managers, Collection Group Manager, Field Compliance Manager and Area Director Operational Aid, contains responsibilities of managers in Field Collection case work.
- (2) IRM 1.4.53, Resource Guide for Managers, Advisory and Property Appraisal and Liquidation Specialist Group Manager Operational Aid, contains responsibilities of Civil Enforcement Advice and Support Operations (CEASO) group managers.

- (3) Operational and program reviews are conducted to ensure that program delivery and case actions are in accordance with administrative requirements. National quality and consistency reviews are conducted to ensure program consistency and effectiveness in case processing. See IRM 5.13.1, Embedded Quality Collection Field Organizations Administrative Guidelines.

5.5.9.1.5  
(12-16-2022)

**Program Controls**

- (1) Integrated Collection System (ICS) is used to control gift tax and generation-skipping transfer tax collection and delinquent return accounts assigned to Field Collection and to document case work.
- (2) The ENTITY Case Management System can generate reports to assist in managing assigned inventory.

5.5.9.1.6  
(12-16-2022)

**Terms and Acronyms**

- (1) Throughout this IRM, references to “IRC 6321 assessment lien” should be interpreted as the statutory federal tax lien that arises under IRC 6321, Lien for taxes.
- (2) The following table includes common acronyms used in gift tax and generation-skipping transfer tax cases:

Acronym	Definition
AC	Action Code
AIMS	Audit Information Management System
ATAT	Abusive Tax Avoidance Transactions
BMF	Business Master File
CC	Command Code
CDP	Collection Due Process
CFR	Code of Federal Regulations
CEASO	Civil Enforcement Advice and Support Operations
CSED	Collection Statute Expiration Date
DLN	Document Locator Number
E&G	Estate & Gift
GST	Generation-Skipping Transfer
ICS	Integrated Collection System
IDRS	Integrated Data Retrieval System
IRC	Internal Revenue Code
IRM	Internal Revenue Manual
IRS	Internal Revenue Service
MFT	Master File Tax
NFOI	Non-Field Other Investigation



Acronym	Definition
NFTL	Notice of Federal Tax Lien
SB/SE	Small Business/Self Employed
SRS	Specialist Referral System
SSN	Social Security Number
TIN	Taxpayer Identification Number
U.S.	United States

(3) Common terms used in gift tax cases include the following:

Term	Definition
Donor	The individual that gave a gift
Donee	The individual or entity that received a gift

5.5.9.1.7  
(12-16-2022)  
**Related Resources**

(1) Related resources include the following:

IRM Number	IRM Title
IRM 4.25.2	Campus Estate and Gift
IRM 4.25.11	Special Examination Procedures
IRM 5.1.12	Cases Requiring Special Handling
IRM 5.5.5	Processing Estate and Gift Tax Extensions
IRM 5.5.7	Collecting Estate Tax
IRM 5.10	Seizure and Sale
IRM 5.11	Notice of Levy
IRM 5.12	Federal Tax Liens
IRM 5.17.2	Federal Tax Liens
IRM 5.17.12	Investigations and Reports
IRM 5.17.14	Fraudulent Transfers and Transferee and Other Third-Party Liability
IRM 25.3.2	Suits by the United States

5.5.9.2  
(12-16-2022)  
**Entity Case Codes for  
Gift Tax and  
Generation-Skipping  
Transfer Tax Cases**

- (1) Group managers and revenue officers are responsible for ensuring the correct case code and sub code are input on Integrated Collection System (ICS) based on the type of Master File Tax (MFT) case assigned to the revenue officer.
- (2) ICS Code 501 (ESTATE-DECEDENT) is used for MFT 51 cases on Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, accounts.

**Note:** ICS Code 501 is also used for MFT 52 cases on Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return and Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return Estate of nonresident not a citizen of the United States, accounts. See IRM 5.5.7, Collecting Estate Tax, for more information on collecting estate tax.

- (3) ICS Code 502 (ESTATE-FIDUCIARY) is used for MFT 78 cases on Form 706-GS (D), Generation Skipping Transfer Tax Return for Distributions, accounts, and for MFT 77 cases on Form 706-GS (T), Generation-Skipping Transfer Tax Return for Terminations, accounts.

**Note:** ICS Code 502 is also used for MFT 05 cases on Form 1041, U.S. Income Tax Return For Estates and Trusts, accounts.

- (4) If an Abusive Tax Avoidance Transactions (ATAT) Revenue Officer is assigned to a gift tax or generation-skipping transfer tax case, the case should include sub code 323 (ATAT ESTATE AND GIFT).
- (5) Transaction code (TC) 971 action code (AC) 281 may be used to stop the aging on suit development cases. Group managers must document the ICS case history indicating their approval to input TC 971 AC 281. See IRM 5.20.2.4, Aging of ATAT and Suit Development Cases.
- (6) Related cases may include individual income tax, estate or trust income tax, or estate tax accounts. Managers should typically assign related cases to the same revenue officer.

5.5.9.3  
(12-16-2022)  
**Collecting Gift Tax**

- (1) A gift under common law is usually defined as the transfer of property by a donor (transferor), without consideration, to a donee (transferee) who accepts the property. The individual who gives the gift is known as the donor. The individual or entity that receives the gift is known as the donee.
- (2) A gift for federal gift tax purposes requires the following three elements:
  - There must be a donor.
  - There must be a direct or indirect transfer of property by the donor who relinquishes complete dominion and control over the property.
  - The transfer must be for less than full and adequate consideration in money or money's worth.
- (3) Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, is filed to report transfers subject to the federal gift tax and certain generation-skipping transfer (GST) tax. See IRM 5.5.9.4.2 for information on collecting generation-skipping transfer tax reported on Form 709.

- (4) A taxpayer must file Form 709 when a taxable gift exceeds the annual exclusion amount for the year of the gift. Review *Form 709 instructions* for the year of the gift to determine the Form 709 filing requirement for that particular year.
- (5) Form 709 is due by April 15th of the year after the gift was made. If the donor died during the year of the gift, Form 709 may be due on a different date. See *Form 709 instructions* to determine the correct due date.
- (6) Certain gifts might not be taxable. If there is a question regarding a Form 709 filing requirement or of a gift included on a gift tax return, consult with Estate and Gift (E&G) Examination through the *Specialist Referral System (SRS)*. E&G Examination employees examine gift tax returns, and they are familiar with Form 709 filing requirements.
- (7) The donor (individual that gave the gift) must file Form 709 to report the gift, and they are primarily responsible for paying the gift tax. If the donor does not pay the gift tax liability, the donee may have to pay the tax.
- (8) If the donor dies, the donor's estate will become liable for any unpaid gift tax.

**Note:** If the donor transferred property prior to death but retained an interest in the property, the property might not be considered a gift. It may instead be includable on an estate tax return as part of the decedent's gross estate. For example, the decedent's gross estate would include property the decedent transferred into a **revocable** trust prior to death. Similarly, the decedent's gross estate would include property the decedent transferred to an **irrevocable** trust prior to death if the decedent retained a life estate in the transferred property or an interest in the income of the trust. If there are any questions regarding how an asset should be reported, consult with E&G Examination through the *Specialist Referral System (SRS)*.

5.5.9.3.1  
(12-16-2022)  
**Gift Tax Assessments**

- (1) Gift tax is assessed as follows on Integrated Data Retrieval System (IDRS):
  - The taxpayer identification number (TIN) is usually the donor's social security number (SSN) with a "V" indicator (Format: XXX-XX-XXXXV). The donor is the individual that gave the gift.
  - On rare occasions, if a gift tax return has been assessed under an invalid SSN, the TIN may end with a "W" instead of a "V." Additional research may be needed to determine the correct TIN. In addition, if a gift tax return is filed by an individual that does not have an SSN (such as a non-United States citizen), the TIN may begin with a "9" and end with a "W."
  - The master file tax account (MFT) is 51.
  - The tax period is the year of the gift with month ending 12 (Format: YYYY12).
  - Gift tax is a Business Master File (BMF) liability. Therefore, information related to this tax can be obtained using IDRS command code (CC) BMFOL.
- (2) If there is a TC 420, Examination Indicator, on IDRS that has not been reversed by a TC 421, the case may be assigned to an Estate and Gift (E&G) examiner to review or examine the return. Check IDRS command code (CC) AMDIS for possible case assignment information. If there is a case assignment number, check *Knowledge Management Estate and Gift Contacts* to locate the

E&G Examination Group that is assigned to the case. If there is no case assignment, the return may, or may not, get assigned to E&G Examination in the future. Some common codes seen on CC AMDIS on gift tax cases include the following:

Status Code	Definition
06	Return is in Kansas City awaiting classification. In this process, the IRS will determine to either accept the return as filed or to forward the return through the review process for a possible examination of the return.
08	Return selected for further review. Return may still be later accepted as filed or return may be examined. Return not yet assigned for examination.
10	Assigned to Estate and Gift Examination
12 and 14	Started examination in Estate and Gift Examination
90	Closed examination

**Note:** See *Document 6209 Code Retriever* for other status codes on AMDIS.

#### 5.5.9.3.2 (12-16-2022)

#### Extensions of Time to File Gift Tax Returns

- (1) The method a donor must use to request an extension of time to file a Form 709 gift tax return depends on whether the donor is also requesting an extension of time to file their Form 1040, U.S. Individual Income Tax Return. An extension of time to file does not extend the time to pay the tax. See IRM 5.5.9.3.3, Extensions of Time to Pay Gift Tax.
- (2) Any extension of time to file Form 1040, U.S. Individual Income Tax Return, will also automatically extend the time to file a gift tax return for the same year. Income tax extensions are requested on Form 4868, Application for Automatic Extension of Time to File U.S. Individual Income Tax Return, or Form 2350, Application for Extension of Time to File U.S. Income Tax Return. U.S. citizens and resident aliens abroad who expect to qualify for special tax treatment file Form 2350. A donor may only use Form 4868 or Form 2350 to request an extension of time to file a gift tax return if they are also requesting an extension of time to file their income tax return. Donors that file Form 4868 or Form 2350 that also need to make a payment with their extension of time to file request should use Form 8892-V, Payment Voucher, included with Form 8892 to remit their payment.
- (3) If a donor is not requesting an extension of time to file their income tax return, they can request an extension of time to file a gift tax return by submitting Form 8892, Application for Automatic Extension of Time to File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax. These donors should make gift tax payments by using the Form 8892-V payment voucher attached to Form 8892.

**Note:** There are special rules for donors that are out of the country. Contact Estate & Gift Examination through the *Specialist Referral System (SRS)* if you have

questions regarding these special rules. They are most familiar with situations that affect gift tax filing requirements.

- (4) A Transaction Code (TC) 460 on Integrated Data Retrieval System (IDRS) indicates that a taxpayer received an extension of time to file and the date that the extension of time to file will expire. The failure to file penalty is not assessed while an extension of time to file is in effect.

#### 5.5.9.3.3 (12-16-2022) Extensions of Time to Pay Gift Tax

- (1) A donor may request an extension of time to pay gift tax by submitting Form 1127, Application for Extension of Time for Payment of Tax Due to Undue Hardship.

**Note:** Form 1127 is also used to request an extension of time to pay for other types of returns.

- (2) The time that the extension of time to pay gift tax can be extended to depends on whether the tax is from an original assessment, or if it is the result of a tax deficiency assessment.
- (3) On an original tax assessment, the IRS may extend the time for payment of gift tax reported on Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, for a reasonable period not to exceed six months from the date the payment is due. In some cases, the extension may exceed six months if the taxpayer is out of the country.
- (4) The amount due as the result of a gift tax deficiency assessment may be extended for a reasonable amount of time not to exceed 18 months from the date payment of the deficiency is due, and in exceptional circumstances, for an additional 12 months.

**Note:** An extension to pay a deficiency will not be granted if the deficiency is due to negligence, intentional disregard of rules and regulations, or fraud with intent to evade tax.

- (5) An extension of time to pay may only be granted when it is shown that payment of the tax will result in an undue hardship to the donor.
- (6) Form 1127 extensions of time to pay gift tax requests are processed by Campus Estate & Gift. Form 1127 is then forwarded to Advisory to approve or disapprove the request.
- (7) When Advisory receives a request for an extension of time to pay gift tax, they will open a Non-Field Other Investigation (NFOI) on Integrated Collection System (ICS), and they will document their case history with their determination. Revenue officers can check the ICS history for information regarding any prior extension of time to pay requests, and they can contact Advisory for their case file for any related taxpayer correspondence.
- (8) If Advisory approves an extension of time to pay gift tax, they will request input of a Transaction Code (TC) 470 (no closing code) on Integrated Data Retrieval System (IDRS) for the appropriate number of cycles and a TC 270 for \$0.00. Campus Examination Estate & Gift will usually document the TXMOD history base with the new extension date by inputting **F1127EXT PAYMTDUE MMDDYYYY**.

- (9) Approval of an extension of time to pay does not relieve the taxpayer from liability for interest that accrues during the period of the extension. However, it does provide relief from the failure to pay penalty through the date the extension of time to pay was granted.
- (10) For more information on processing Form 1127, see IRM 5.1.12.26, Form 1127, Application for Extension to Pay Due to Financial Hardship, and IRM 5.5.5, Processing Estate and Gift Tax Extensions.

5.5.9.3.4  
(12-16-2022)  
**Ordering Gift Tax  
Returns**

- (1) Obtain a copy of Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, to identify the donor (individual that gave the gift), donee (individual that received the gift), and for a description of the gift. If the IRS is currently examining the return, you may be able to secure a copy of the return from Estate & Gift (E&G) Examination with any potential examination changes. See IRM 5.5.9.3.1, Gift Tax Assessments, for more information on examination codes. See *Knowledge Management Estate and Gift Examination Contacts* to locate an E&G Examination Group. You can also request a copy of the return from the taxpayer.
- (2) For returns processed January 2020 or later, some gift tax returns may have been scanned, and digital copies may be available. See *Knowledge Management Ordering Estate & Gift Tax Returns* for the current procedure to follow to obtain a copy of a scanned gift tax return. The date associated with the TC 150 on Integrated Data Retrieval System (IDRS) can be reviewed to determine if a gift tax return was processed January 2020 or later.
- (3) If a digital copy of the return is not available, and you need to order a paper copy of Form 709 from IRS Files, complete a separate Form 2275, Records Request, Charge and Recharge, for each gift tax return that you need. Include the Document Locator Number (DLN) from Integrated Data Retrieval System (IDRS) Command Code (CC) TXMOD or BMFOL.
- (4) When completing Form 2275, provide all names and nicknames used by the taxpayer to assist Files with locating the return. Gift tax returns are stored by the Service Center number (indicated by the first two digits of the DLN) then in alphabetical order. Providing any variations of the taxpayer's name and former names (such as a maiden name) will assist Files with locating the return. The taxpayer may be willing to provide any possible names in which gift tax returns could be filed. Any additional names can be added to the bottom of Form 2275. The signature on line ten may be digital. See *Knowledge Management Ordering Estate & Gift Tax Returns* for the fax number to send Form 2275 to request a gift tax return.
- (5) For gift tax returns processed before January 2020, when a gift tax examination was completed by E&G Examination or reviewed by IRS Independent Office of Appeals (Appeals), the examination papers will likely be with the paper gift tax return. For gift tax returns processed January 2020 or later, when a gift tax examination is completed by E&G Examination or reviewed by Appeals, the examination papers may be available electronically. You may need to try both methods to locate examination documents which may identify additional gifted assets.
- (6) If the gift tax was determined in Tax Court, IRS Counsel may have copies of gift tax returns, or you may be able to obtain these documents from the Clerk's office associated with the Tax Court.



- (7) If you are looking for a complete historical record of gift tax returns filed, and the case is not under examination by E&G Examination, check IDRS CC BMFOL for recently filed gift tax returns. Since all historical data may not be reflected on BMFOL, also check CC MFTRAC to pull information under the taxpayer's social security number on all filed returns to include ones that have fallen off the retention register. IRM 4.25.1.3.1, Obtaining Historical Gift Tax Returns (Form 709), has additional information to obtain historical gift tax returns.
- (8) When Form 706 or Form 706-NA estate tax return is filed, Files will pull all historic gift tax returns to associate with the estate tax return. In this case, order the Form 706 or Form 706-NA file to obtain copies of gift tax returns. See IRM 5.5.7.8, Ordering Estate Tax Returns, for information on how to request an estate tax return.
- (9) If you are assisting a taxpayer with obtaining copies of previously filed gift tax returns, refer them to the *IRS website* to search under "Frequently Asked Questions on Gift Taxes" where they will find procedures to follow.
- (10) See *Knowledge Management Locations to Return F709, F706, and F706-NA* for the location to send a gift tax return back to Service Center Files for storage.

5.5.9.3.5  
(12-16-2022)  
**Gift Tax Initial Analysis**

- (1) Initial analysis involves examining the overall case to understand the issues involved and the necessary actions to move the case to a resolution.
- (2) For cases in which a gift tax return has been filed, review Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, for information to aid in your investigation. Form 709 will provide the following information:
  - Donor's (individual that gave the gift) name and address
  - Donee's (individual or entity that received the gift) name and address
  - Relationship of the donee to the donor
  - Description of the gift
  - Date of the gift
  - Value of the gift
- (3) The gifted assets are listed on Form 709, Schedule A, which contains three parts. If prepared correctly, Part 1 should list gifts for which there is no additional generation-skipping transfer tax liability. Parts 2 and 3 contain information on gifts that include additional generation-skipping transfer tax liabilities. Therefore, all gifts listed on Parts 1, 2, and 3 on Form 709, Schedule A, will need to be reviewed to identify the gifts and the recipient of the gifts (donees) during a tax year. Any generation-skipping transfer tax that is reported on Form 709 should be collected like gift tax. See IRM 5.5.9.4.2, Generation-Skipping Transfer Tax Reported on Gift Tax Returns.
- (4) If the gift tax account has been audited, the examination files and work papers should be reviewed to identify changes in the value of gifts received by each donee. Check Integrated Data Retrieval System (IDRS) command code (CC) AMDIS to determine the status of an examination. See IRM 5.5.9.3.1, Gift Tax Assessments, for commonly seen codes on IDRS CC AMDIS on gift tax accounts. Any examination papers should be with either the original Form 709 paper file or with the electronic file. See IRM 5.5.9.3.4, Ordering Gift Tax Returns, for procedures to request a Form 709 file.

5.5.9.3.6  
(12-16-2022)**Liens on Gift Tax  
Liabilities**

(1) The following sections in the Internal Revenue Code address liens that can be used to collect on unpaid gift tax accounts:

- Like other collection cases, the IRC 6321 assessment lien is available to collect on gift tax liabilities. See IRM 5.12.1.3, Creation and Duration, for more information on the IRC 6321 lien.
- IRC 6324(b), Lien for Gift Tax, provides that there is a federal gift tax lien that automatically attaches to the gifted asset received by the donee (recipient of the gift). It lasts for a period of ten years from the date of the gift. If the gifted asset is transferred to a purchaser (i.e., by selling the property for fair market value) or to a security interest holder (i.e., by encumbering the property and removing the recipient's equity), the gift tax lien is divested from the asset, and a "like lien" is created that attaches to the personal assets of the donee.

<b>Lien:</b>	<b>Attaches to:</b>	<b>Duration:</b>
IRC 6321 Assessment Lien	<p>Attaches to all assets of the donor (individual that gave the gift) on the date the gift tax is assessed and on assets acquired thereafter by the donor while the gift tax remains unpaid.</p> <p>This lien does not attach to the property given as a gift unless the property is later reacquired by the donor.</p> <p>A Notice of Federal Tax Lien (NFTL) can be filed to compete with other creditors.</p>	<p>Arises on date of assessment and remains until the tax is paid in full or the collection statute expires.</p> <p>If the collection statute has been extended, Notices of Federal Tax Liens (NFTL) may be refiled to maintain priority over most other creditors and transfers.</p>



<b>Lien:</b>	<b>Attaches to:</b>	<b>Duration:</b>
Gift Tax Lien IRC 6324(b)	<p>Attaches automatically to all gifts made during the tax period for which the unpaid gift tax arose.</p> <p>Lien is not recorded.</p> <p>The lien attaches to the appreciation on the gifted property, and it is not limited to the value as of the date of the gift.</p>	<p>Arises on the date of the gift and lasts for ten years.</p> <p>Nothing can extend the duration of this lien.</p>
Gift Tax "Like Lien" under IRC 6324(b)	<p>When the gifted property is transferred to a purchaser or security interest holder, the gift tax lien is divested from the property. The IRS then has a "like lien" against all assets of the donee (recipient of the gift).</p> <p>The "like lien" is for the value of the gift that was received by the donee as of the date of the gift, or the remaining tax due, whichever is less.</p>	<p>Arises on the date the gifted property is transferred to a purchaser or security interest holder.</p> <p>This lien lasts for ten years from the date of the gift. Nothing can extend the duration of the "like lien."</p>

- (2) The liens that arise under IRC 6321 and IRC 6324(b) are cumulative. The IRS has the right to use either of these liens to collect a gift tax liability. When collecting on a gift tax account, administrative seizures and judicial actions should be coordinated through the local Civil Enforcement Advice and Support Operations (CEASO) office just like in any other collection case.

5.5.9.3.6.1  
(12-16-2022)  
**IRC 6321 Assessment  
Lien on Gift Tax  
Liabilities**

- (1) An IRC 6321 assessment lien attaches to all the property and rights to property of the donor (individual that gave the gift) as of the date of assessment. Since the property that created the gift tax liability was given as a gift, it was transferred out of the donor's hands before there was an assessment. Therefore, the gifted property is not subject to the IRC 6321 assessment lien unless the donor re-acquires the property. See IRM 5.12.1.3, Creation and Duration, for more information on how the IRC 6321 assessment lien arises.

- (2) The IRC 6321 assessment lien on gift tax liabilities has the following characteristics:
- There is an assessment of tax, the donor is provided with notice and demand for payment, and the donor neglects or refuses to pay.
  - This lien arises on the date of assessment and expires when the collection statute expires. Since the assessment is made after the date of the gift, the IRC 6321 assessment lien expires after the unrecorded gift tax lien expires.
  - A Notice of Federal Tax Lien can be filed under IRC 6323 to establish the lien's priority among certain creditors.
  - The lien may be enforced by levy or seizure against the donor's property and rights to property.
  - The lien may be enforced through judicial action, when necessary.
  - The donor should receive all required appeal rights. See IRM 5.1.9 for information on appeal rights. Also see IRM 25.27.1 for information on third-party contacts.
- (3) The normal ten-year collection statute expiration date (CSED) applies for gift taxes. An event may occur to extend or suspend the CSED on a gift tax liability. See IRM 5.1.19, Collection Statute Expiration, for information on events that affect the CSED.
- (4) If a NFTL is filed, it should be filed in the donor's name (the individual against whom the tax was assessed) and the donor's address. The location to file a NFTL depends on the type of property (real or personal) and where the donor resides or the location where the property is located. See IRM 5.12.7-2, State and Territory Filing Locations, for information on where to file NFTLs based on the type of property and location.
- (5) A recorded NFTL will put other creditors, potential buyers, transferees, and title companies on notice of unpaid gift tax.

5.5.9.3.6.2  
(12-16-2022)

**IRC 6324(b) Gift Tax Lien  
and Like Lien**

- (1) IRC 6324(b), Lien for Gift Tax, imposes a gift tax lien on all gifts that were made during the period for which the gift tax liability occurred. The lien is in effect for ten years from the date of the gift.
- (2) The gift tax lien attaches to the current value of the gifted property or to the current gift tax liability, whichever is less. The gift tax lien is not limited to the value of the gift at the date the asset was gifted. It attaches to any appreciation or depreciation in value of the gifted property.
- (3) The gift tax lien attaches to all gifts that were made during the tax period for which the unpaid gift tax arose. This includes gifts made to all donees during that time period even if the gifts they received did not create the gift tax liability that is due, and even if the other donees already paid the portion of the gift tax attributable to the gifts they received.

**Example:** A taxpayer (donor) gifted \$1M cash to the taxpayer's daughter (donee 1) and \$500,000 cash to the taxpayer's son (donee 2) during the same tax year. The taxpayer paid the gift tax associated with the gift made to the taxpayer's daughter. However, the tax based on the gift to the taxpayer's son was not paid.

Even though the portion of the gift tax related to the daughter's gift was paid, the IRC 6324(b) gift tax lien will still attach to the \$1M cash gift

received by the daughter (donee 1), or the remaining liability, whichever is less. The gift tax lien will also attach to the \$500,000 cash gift received by the son (donee 2), or the remaining liability, whichever is less.

- (4) The IRC 6324(b) gift tax lien follows the gift into the donee's (recipient of the gift) hands and into subsequent transferee's hands.

**Example:** A taxpayer (donor) gave a gift of stock to her son. The IRC 6324(b) gift tax lien attaches to the stock. The son then transfers the stock to his girlfriend for no consideration. The IRC 6324(b) gift tax lien still attaches to the stock since it was transferred for no consideration.

- (5) If the donee (recipient of the gift) transfers the gift to a purchaser (i.e., by selling the property for fair market value) or to a security interest holder (i.e., by encumbering the property and removing the recipient's equity), the asset is divested of the gift tax lien, and a "like lien" then arises on all the donee's other property and after acquired property. The IRS can take enforced collection using the "like lien" against the donee's personal assets. If the donee then transfers their own asset to a purchaser or security interest holder, the "like lien" is divested from that personal asset owned by the donee.

**Example:** A taxpayer (donor) gifted real property valued at \$1M and money in a bank account valued at \$2M to his cousin (donee). The IRC 6324(b) gift tax lien attaches to the real property and to the money in the bank account. The cousin then sells the real property for fair market value and spends the money in the bank account. The gift tax lien is divested from the assets, and the IRS then has a "like lien" on all the other assets of the cousin for \$3M (value of the \$1M real property and value of the \$2M bank account), or the remaining tax liability, whichever is less.

If the cousin owns assets of a yacht and an airplane, the "like lien" attaches to the yacht and airplane. If the cousin then sells the yacht for fair market value, the "like lien" is automatically divested from the yacht, but the "like lien" will remain attached to the cousin's airplane. The amount of the "like lien" that attaches to the airplane is \$3M, or the remaining tax liability, whichever is less.

- (6) The gift tax lien and the gift tax "like lien" have the following characteristics:
- No assessment is necessary.
  - Notice and demand are not required.
  - There are no appeal rights related to these liens because they arise automatically.
  - They are not recorded. No notice of lien is filed with the recording office.
  - Both the gift tax lien and the gift tax "like lien" expire ten years from the date of the gift and cannot be extended.
  - These liens can be enforced through seizure, levy, or judicial action if the ten-year statute on the gift tax lien or "like lien" has not expired. Judicial action does not extend these liens. Therefore, any suit recommendation should be made several years before the expiration of the gift tax lien or "like lien."

- The gift tax lien and “like lien” are inferior to superpriority liens described in IRC 6323, Validity and Priority Against Certain Persons, such as mechanics liens and ad valorem property tax liens.

5.5.9.3.6.2.1  
(12-16-2022)

#### Levy or Seizure Using the Gift Tax Lien

- (1) When issuing a levy or conducting a seizure to enforce the unrecorded IRC 6324(b), Lien for Gift Tax, that attaches to the asset received by the donee (recipient of the gifted asset), special language should be used on the seizure or levy forms.

**Example:** “You are hereby notified that the property and rights to property described below are subject to the gift tax lien provided by Section 6324(b) of the Internal Revenue Code for unpaid gift taxes owed by [Name of Donor], using Tax Identification Number [Donor’s TIN]. Said property and rights to property are hereby levied upon [or seized] for satisfaction of the aforesaid tax, together with all additions as provided by law. Demand is hereby made upon you to turn over said property and rights to property, or if less, the full amount of the unpaid gift tax liability specified above.”

**Note:** When the levied party does not need the taxpayer identification to identify the taxpayer’s assets, the TIN should be redacted from the notice of levy. See IRM 5.11.2.2.2, Preparing the Notice of Levy.

- (2) Include any specific information about the asset that is subject to the gift tax lien and any known account numbers.

**Example:** “Known accounts include Steve Bass account number 0123456 and Helen Trout account number 0654321.”

5.5.9.3.7  
(12-16-2022)

#### Donor Liability for Gift Tax

- (1) The person who makes a gift is known as the donor. This individual has the primary responsibility for paying the gift tax and any penalties and interest on the gift tax. See IRC 2502(c), Tax to be paid by donor. The gift tax liability is assessed under the donor’s social security number. See IRM 5.5.9.3.1, Gift Tax Assessments, for more information on how gift tax is assessed.
- (2) If the donor dies before paying the gift tax liability, the donor’s estate will become liable for paying the gift tax debt. See 26 CFR 25.2502-2, Donor primarily liable for tax.
- (3) The IRC 6321 assessment lien attaches to the donor’s assets, and it may be used for collection through seizure, levy, and judicial action on the donor’s property to collect any gift taxes assessed against the donor. See IRM 5.5.9.3.6.1, IRC 6321 Assessment Lien on Gift Tax Liabilities. The collection statute expiration date (CSED) is ten years from the date of the assessment, plus any extensions or suspensions provided by law.

5.5.9.3.8  
(12-16-2022)

#### Donee and Subsequent Transferee Liability for Gift Tax

- (1) There are two aspects to IRC 6324(b), Lien for Gift Tax:
  - a. It creates a gift tax lien and “like lien” as discussed in IRM 5.5.9.3.6.2, IRC 6324(b) Gift Tax Lien and Like Lien.
  - b. It creates a personal liability of the donee (recipient of the gift) which is discussed in this IRM subsection.

- (2) When the donor (individual that gave the gift) fails to pay the gift tax owed, IRC 6324(b) makes the donee (recipient of the gift) personally liable for the unpaid gift tax.
- (3) The donee's liability is not limited to the gift tax owed on the specific gift that the donee received. When gifts have been received by multiple donees within a given year, each donee is personally liable for the entire gift tax debt (including penalties and interest) arising out of the year of the gift. This personal liability is for up to the value of the gift received by that donee, or the remaining tax liability, whichever is less, even when the remaining tax due is attributable to gifts received by another donee. See *La Fortune v. Commissioner*, 263 F.2d 186 (10th Cir. 1958).

**Example:** A taxpayer (donor) gifted real property valued at \$2M to her father and a recreational vehicle (RV) valued at \$1M to her sister during the same year. The gift tax associated with the gift to the father was paid. However, the gift tax associated with the gift to the sister was not paid.

Both the father and the sister have a personal liability to pay the gift tax owed on the sister's gift since both gifts were made during the same tax year. The IRS can make an administrative IRC 6901 transferee assessment or pursue a suit to establish a transferee liability against the father for up to the value of the asset he received (\$2M) at the date of the gift and against the sister for up to the value of the asset she received (\$1M) at the date of the gift, or the remaining tax liability, whichever is less.

- (4) The donee liability can also be asserted on gifts that did not generate any part of the gift tax liability because they were subject to the annual exclusion or were subject to the marital deduction, charitable deduction, or unified credit. However, caution should be used when collecting unpaid gift tax from charities.
- (5) The donee's liability may include penalties and interest assessed against the donor if the tax, penalties, and interest still fall within the value of the gift received by the donee during the year that the gift tax is due.
- (6) When a gift has been made to a trust, donee liability may be asserted against beneficiaries of the trust. Generally, the law treats a gift to a trust as a gift to the beneficiaries of the trust who held a present interest rather than a gift to the trustee or to the trust itself. Because these cases are often fact dependent, consult with Counsel before asserting donee liability against the beneficiary of a trust.
- (7) The donee (recipient of the gift) liability under IRC 6324(b) is a type of transferee liability. One of the following must occur before collection action can be taken under this personal liability provision. These administrative and judicial collection tools against the donee are available in addition to collection action based on the gift tax lien or gift tax "like lien." See IRM 5.5.9.3.6.2, IRC 6324(b) Gift Tax Lien and Like Lien:
  - An administrative IRC 6901 transferee assessment, or
  - A suit to establish transferee liability
- (8) If the donee (recipient of the gift) transferred the gifted asset to another individual, except for a sale of the asset for fair market value, an IRC 6901

administrative transferee assessment or a suit to establish a transferee liability can also be made against the individual that received the asset from the donee as a subsequent transferee.

- (9) The following is the assessment statute for an IRC 6901 administrative transferee assessment against a donee (recipient of the gift) and against subsequent transferees:
- Initial IRC 6901 administrative transferee statute is the regular three-year assessment statute plus an additional year due to the transfer of the asset to the donee (recipient of the gift) as transferee (for a total of four years).
  - If the asset was transferred a second time (donee transfers asset for no consideration to an additional transferee), the assessment statute is extended for an additional year (for a total of five years).
  - If the asset was transferred a third time, the assessment statute is extended for an additional year (for a total of six years).
  - The assessment statute does not get extended any further due to additional transfers, so that the administrative transferee assessment against the additional transferees cannot exceed six years.
- (10) After an IRC 6901 administrative transferee assessment is made against the donee (recipient of the gift) or subsequent transferee, notice and demand is provided, and there is a neglect or refusal to pay, an IRC 6321 lien is created which attaches to all of the donee or subsequent transferee's assets. A Notice of Federal Tax Lien may be filed on this separate assessment against the donee or subsequent transferee. The separate transferee assessment against the donee or subsequent transferee will have its own collection statute expiration date (CSED) based on the assessment date of the tax.
- (11) Alternatively, a suit to establish a transferee liability against the donee or subsequent transferee may be filed. The statute of limitations for the United States to assert personal liability through a suit to establish a transferee liability against a donee (recipient of the gift) or against a subsequent transferee is the same as the period for collection against the donor (individual that gave the gift). It runs for ten years from the date of assessment, or it may run longer if an event occurred to extend or suspend the collection statute. Therefore, a suit to establish a transferee liability may be filed against the donee or subsequent transferee through the collection statute expiration date. See *United States v. Botefuhr*, 309 F.3d 1263 (10th Cir. 2002).
- (12) These collection alternatives against the donee (recipient of the gift) and subsequent transferees of a donee are separate from the government's right to collect against the assets owned by the donor (individual that gave the gift) using the IRC 6321 assessment lien. The government is not required to pursue the donor before attempting to collect the unpaid tax from a donee or subsequent transferee. The government is not required to pursue the donee or a subsequent transferee in any particular order or to pursue all the donees or transferees. Transferee liability is independent of the gift tax lien and may be pursued by the government without first pursuing the gifted asset.
- (13) Referrals for an IRC 6901 transferee assessment or for a suit to establish a transferee liability against the donee (recipient of the gift) or against subsequent transferees should include information regarding the liability and collectibility on all donees and any subsequent transferees.



- (14) For additional information, see IRM 5.1.14.2, Transferee Liability and Fraudulent Conveyances, IRM 5.17.14, Fraudulent Transfers and Transferee and Other Third Party Liability, IRM 5.17.12.11, Fraudulent Transfers and Transferee and Other Third Party Liability, and IRM 25.3.2, Suits by the United States.

5.5.9.3.9  
(12-16-2022)  
**Summary of Gift Tax  
Collection Options**

- (1) The following is a summary of available collection tools to collect on a gift tax liability:

<b>Administrative or Judicial Collection Tool</b>	<b>IRM References</b>
Collect against assets owned by the donor (issuer of the gift) using the IRC 6321 assessment lien.	IRM 5.5.9.3.6.1, IRC 6321 Assessment Lien on Gift Tax Liabilities
All regular IRC 6321 administrative and judicial collection tools are available.	IRM 5.5.9.3.7, Donor's Liability for Gift Tax.
Collect against gifted assets using the IRC 6324(b) gift tax lien.	IRM 5.5.9.3.6.2, IRC 6324(b) Gift Tax Lien and Like Lien
Collection action using the IRC 6324(b) "like lien."	IRM 5.5.9.3.6.2, IRC 6324(b) Gift Tax Lien and Like Lien
Administrative transferee assessment or a suit to establish transferee liability against the donee (recipient of the gift) based on the personal liability provision of IRC 6324(b) to collect against the donee's personal assets.	IRM 5.5.9.3.8, Donee and Subsequent Transferee Liability for Gift Tax.
Administrative transferee assessment or a suit to establish a transferee liability against a transferee of the donee (recipient of the gift) if the donee transferred the property to another individual (except for sales for fair market value).	

5.5.9.3.10  
(12-16-2022)  
**Unfiled Gift Tax Returns**

- (1) A Field Collection employee may receive a delinquent return investigation to secure an unfiled Form 709, United States Gift (and Generation-Skipping) Tax Return. This may result from an expired extension of time to file. A Field Collection employee may also become aware of an unfiled gift tax return while working an investigation on a related case such as an income tax liability of a

taxpayer that gave a gift that was not properly reported to the IRS. If additional information is needed to determine if a gift tax return should be filed, a summons may be issued. See IRM 5.5.9.3.11, Issuing a Summons for Gift Tax Information.

- (2) The following actions may also be taken:
  - If an extension of time to file had been previously requested, contact the donor and question what assets were transferred that they thought required filing of a gift tax return. Summons the work papers of the donor, attorney, or accounting firm that prepared the extension of time to file request.
  - Check county records on the donor for transferred assets, such as real property, transferred in the year of the possible gift. If the donor is deceased, also check probate records to see if there is litigation concerning gifts that heirs may have received prior to the donor's death.
  - Determine if property was transferred to a trust.
  - Check Integrated Data Retrieval System (IDRS) Command Code (CC) IRPTRL under the donor's social security number to determine if there was a decline in interest or dividend income from one year to the next year. This may indicate that stock, a savings account, or certificate of deposit was gifted because gifts of cash may decrease the size of these accounts. IRPTR may reflect changes in income, sales of assets, or mortgage interest reported to the IRS.
  - Check the donor's Form 1040, U.S. Individual Income Tax Return, for prior years. They may show a gain on Schedule D, Capital Gains and Losses, for one taxable year that is not reported on a subsequent year's return. This may indicate that an asset was sold or gifted. Check several years for changes in assets.
  - *Accurint* may provide property changes or information on individuals that may be donees.
- (3) Once Field Collection gathers sufficient documentation to support the filing requirement for the tax year in question (see *Form 709 Instructions* for filing requirements for the applicable tax year), Field Collection can submit a referral to Estate & Gift Examination through the *Specialist Referral System* (SRS) if the donor does not voluntarily file the return. Estate and Gift Examination will determine if a substitute for return should be prepared.

5.5.9.3.11  
(12-16-2022)  
**Issuing a Summons for  
Gift Tax Information**

- (1) Form 2039, Summons, is the general, all-purpose summons form to issue for any first-party or third-party summonses. Issue Form 2039 to the donor (individual that gave the gift) or to the donee (recipient of the gift) for testimony, books, and records. Form 2039 and Form 6639, Financial Records Summons, can be used when summoning third parties, such as accountants, title companies, banks, and investment companies.
- (2) For procedural guidance on issuing a summons, refer to IRM 25.5.5, Summons for Taxpayer Records and Testimony, IRM 25.5.6, Summonses on Third-Party Witnesses, and IRM 5.17.6, Legal Reference Guide for Revenue Officers, Summonses.
- (3) In cases in which a Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, has not been filed, the following is an example of wording that may be used to summons for information so that a return may be prepared:



**Example:** “All books, papers, records, and other data in your possession or control relating to any and all gifts, i.e., any transfer of real or personal property, whether tangible or intangible, made directly or indirectly, in trust, to individuals, or to any other entities, where the value of the property transferred exceeds the value of property received, if any. The summoned books, papers, records, and other data include information relating to the fair market value of any gifts made by the donor during (list the applicable taxable year). These documents include, but are not limited to, any of the following:”

- a. “Documents reflecting the property or rights to property transferred and the date of such transfer”
- b. “Documents reflecting the fair market value of such gifts (as of the date the gift was made) and any consideration paid”
- c. “Documents reflecting all prior gift tax returns filed on behalf of the donor”
- d. “Documents reflecting the marital status of the donor at the date of each gift”
- e. “Documents reflecting the identity and age of any person (donee) or entity that received any gift from the taxpayer during the tax year(s)”

5.5.9.3.12  
(02-07-2025)  
**Gift Tax Penalty  
Abatement Requests**

- (1) If a taxpayer submits a request for abatement of penalties on a gift tax return, check the account to determine if it is under examination by Estate & Gift (E&G) Examination. If the return is currently under examination, send the request to the assigned examiner to review the request. See *Knowledge Management Estate and Gift Examination Contacts*.
- (2) If the return was examined, and the examination is now closed, documentation with the return may show why penalties were assessed, or it may show a prior penalty abatement request that was already addressed through the date of examination by E&G Examination, Campus E&G, IRS Independent Office of Appeals, or Tax Court. There may also be an indication of a prior request in the Integrated Data Retrieval System (IDRS) Command Code (CC) TXMOD history. Documents addressing penalties should be attached to Form 709, United States Gift (and Generation-Skipping) Tax Return, paper file or with the electronic file. See IRM 5.5.9.3.4, Ordering Gift Tax Returns, to obtain a copy of Form 709.
- (3) Do not abate a penalty determined by Tax Court. IRC 6512(a) bars taxpayers from obtaining a subsequent administrative abatement, refund claim, or refund suit regarding a penalty that was determined by Tax Court.
- (4) Address any penalty abatement requests that have not already been considered by the IRS or in Tax Court. If the penalty abatement request is due to an IRS error, determine if the penalty was assessed in accordance with IRM and IRC guidance. If the request for abatement is based on reasonable cause, follow the procedures in IRM 20.1.1.3, Criteria for Relief from Penalties, to determine if the reasonable cause criteria has been met. Also see IRM 5.1.15.16, Penalty and Interest Abatements.
- (5) If an abatement is warranted, prepare Form 3870, Request for Adjustment, and fax your request to Campus E&G to fax number (855) 386-5127 or (855) 386-5128. Include the taxpayer request for abatement letter with Form 3870. Penalty abatements on gift tax cases cannot be requested through the Reasonable Cause Assistant (RCA) program because of the “V” or “W” that follows the taxpayer identification number.

- (6) If a penalty abatement request is denied, notify the taxpayer in writing. See IRM 20.1.1.3.5.3, Taxpayer Not Entitled to Relief. If the taxpayer files an appeal, date stamp the protest and document in the case file history that the protest was received. Forward the protest letter to IRS Independent Office of Appeals within 30 days from the postmark date of the protest letter. Also include the following:
- Documentation considered in analyzing reason for penalty assessment
  - Case file history
  - Any pertinent correspondence with the taxpayer
- (7) Electronically route the penalty denial protest to the IRS Independent Office of Appeals through the link on their website, *Appeals Shared Programs Hub*.

5.5.9.3.13  
(03-28-2024)

#### Adjustments and Amended Gift Tax Returns

- (1) During your investigation, a taxpayer may indicate an intention to file an amended gift tax return, or an adjustment may be needed on the account.
- (2) If an **amended** gift tax return is received, and the original return is under review by *Estate and Gift Examination*, forward the amended return to the examination employee for their consideration.
- (3) If an **adjustment** is needed on the account, and the case is under review by E&G Examination, ask the assigned E&G examiner if the adjustment document should be sent to the examining employee or to Campus E&G.
- (4) If an amended return is received or an adjustment is needed on a gift tax account, and the case is not assigned to an E&G Examination employee, fax the documents to Campus E&G at fax number (855) 386-5127 or (855) 386-5128. IRM 10.10.1.3.1.1, Acceptable Forms of Electronic Signatures, allows for taxpayer submission of these requests to be sent with images of handwritten signatures. Documents can also be sent to the following address:
- Internal Revenue Service  
Estate & Gift Tax Group, MS 824G  
7940 Kentucky Drive  
Florence, KY 41042
- (5) Use caution if issuing Letter 4222, Field Collection Case Resolution, to notify a taxpayer of a resolved account. Be sure that there are no pending gift tax or other type of tax examination assessments that could create an additional tax liability.

5.5.9.4  
(12-16-2022)

#### Collecting Generation-Skipping Transfer Tax

- (1) The Generation Skipping Transfer (GST) Tax is a type of transfer tax. This type of tax liability was created to ensure equal taxation when property is transferred to successive generations without intervening estate or gift tax consequences. There are two basic forms of generation-skipping transfers:
- The indirect skip, in which the generation one level below the transferor receives some beneficial interest in the property before the property passes to the generation two or more levels below.
  - The direct skip, in which the property passes directly to the generation two or more levels below the transferor.
- (2) GST tax is reported in one of the following ways:

- Schedule R, Generation-Skipping Transfer Tax, filed with Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, or Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return Estate of nonresident not a citizen of the United States.
  - Form 706-Schedule R-1, Generation-Skipping Transfer Tax Direct Skips From a Trust Payment Voucher
  - Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return
  - Form 706-GS (D), Generation-Skipping Transfer Tax Return for Distributions
  - Form 706-GS (T), Generation-Skipping Transfer Tax Return for Terminations
- (3) Contact Estate and Gift Examination through the *Specialist Referral System* if you have questions regarding the assessment of GST tax and how the tax should be reported.
  - (4) The way GST tax arises will determine how it is collected. See IRC 2603, Liability for tax, and IRC 2661, Administration.
  - (5) Taxpayers can make a request for an extension of time to pay generation-skipping transfer tax. Extensions of time to pay procedures and undue hardship criteria are addressed in IRM 5.5.5, Processing Estate and Gift Tax Extensions.

5.5.9.4.1  
(02-07-2025)  
**Generation-Skipping  
Transfer Tax Reported  
on Estate Tax Returns**

- (1) Schedule R, Generation-Skipping Transfer Tax, is an attachment to Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return or Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return Estate of nonresident not a citizen of the United States. It is used to report the generation-skipping transfer (GST) tax that is payable by the estate for any direct skip transfer (property passes directly to the generation two or more levels below the transferor) of assets that occurred at the date of the decedent's death.
- (2) Some key elements to this tax include the following:
  - GST tax arises under master file tax (MFT) 52 which is assessed under the decedent's social security number (SSN) with a "V". If the decedent did not have a United States social security number, the tax is assessed under an assigned taxpayer identification number (TIN) which usually starts with a "9" and ends with a "W."
  - The property interests that were transferred to the skip person must be includable in the gross estate before they are subject to the GST tax.
  - The GST tax that is reportable on Schedule R is included on Page 1 of the estate tax return as part of the total transfer tax.
  - The executor of the estate has primary responsibility for the GST tax unless the direct skip occurred from certain trusts. See *Form 706 instructions* for information on when additional action must be taken when a direct skip occurs from a trust.
  - If the direct skip occurred from certain trusts with assets includable in the gross estate, the trustee must pay the GST tax instead of the executor. In these cases, the executor of the estate will provide Form 706-Schedule R-1 to the trustee. This is a payment voucher used by the trustee to pay the GST tax. A copy of Form 706-Schedule R-1 should also be provided with the estate tax return. When Schedule R-1 is re-

quired, it is due nine months from the decedent's date of death, and it is processed under the trust's employer identification number as a Non-Master file account under MFT 53. To obtain a copy of Schedule R-1 from the Non-Master File Unit, send an e-mail to *\*TS KCSPS Non-Master File Team*.

- Since the property that creates the generation-skipping transfer tax liability is includable in the gross estate, follow the same collection method as if collecting on the estate tax. See IRM 5.5.7, Collecting Estate Tax.
- The IRC 6324(a), Liens for Estate Tax, and transferee rules apply.
- To obtain a copy of Form 706 or Form 706-NA, Schedule R, see IRM 5.5.7.8, Ordering Estate Tax Returns.

#### 5.5.9.4.2 (12-16-2022)

##### **Generation-Skipping Transfer Tax Reported on Gift Tax Returns**

- (1) Generation-skipping transfer (GST) tax may be reported on Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, when it is also part of a gift tax liability. This would occur if the tax was due to a direct gift by the donor to grandchildren or other individuals two or more generations below the donor.
- (2) Some key elements to this tax include the following:
  - GST tax arises under master file tax (MFT) 51 which is assessed under the donor's social security (SSN) with a "V". If the taxpayer did not have a United States social security number, the tax is assessed under an assigned taxpayer identification number (TIN) which usually starts with a "9" and ends with a "W".
  - The GST tax that is reportable on Form 709 is included on Page 1 of the gift tax return as part of the total tax due on the return.
  - The property interests that were transferred to the skip person must be includable on the gift tax return before they are subject to the GST tax on Form 709.
  - Since the property that creates the GST tax liability is part of the gifted assets reported on the gift tax return, follow the same collection method described in IRM 5.5.9.3 for collecting gift tax.
  - The donor (individual that gave the gift) is primarily responsible for paying the tax.
  - The IRC 6324(b), Lien for Gift Tax, and transferee rules apply.
  - To obtain a copy of Form 709, see IRM 5.5.9.3.4, Ordering Gift Tax Returns.

#### 5.5.9.4.3 (12-16-2022)

##### **Generation-Skipping Transfer Tax Reported on Form 706-GS (D)**

- (1) Generation-skipping transfer (GST) tax may be owed on a separate Form 706-GS (D), Generation-Skipping Transfer Tax Return for Distributions, when the tax is owed due to a distribution to a beneficiary. Form 706-GS (D) is filed to report and pay on some taxable distributions from a trust to a beneficiary.
- (2) Some key elements to this tax include the following:
  - This GST tax is assessed under master file tax (MFT) 78. If the skip-person beneficiary is an individual, Form 706-GS (D) is filed under the individual's social security number with a "V". If the skip-person beneficiary is a trust, Form 706-GS (D) is filed under the trust's employer identification number.
  - When there is a distribution to a beneficiary, the trustee is required to prepare Form 706-GS (D-1), Notification of Distribution from a

Generation-Skipping Transfer Trust. The trustee should provide a copy of the form to the IRS, and they should provide a copy to the beneficiary that received the distribution.

- The beneficiary must then file Form 706-GS (D) to report and pay the tax due to the distribution that the beneficiary received. The beneficiary should attach Form 706-GS (D-1) to Form 706-GS (D).
- All tax is payable by the beneficiary. If the trustee pays the tax from assets still held in the trust, the tax payment is treated as an additional tax distribution to the skip person beneficiary.
- The return is due April 15 of the year following the calendar year when the distribution was made.
- The beneficiary that received the distribution is liable to pay the tax.

5.5.9.4.4  
(12-16-2022)  
**Generation-Skipping  
Transfer Tax Reported  
on Form 706-GS (T)**

- (1) This tax arises from Form 706-GS (T), Generation-Skipping Transfer Tax Return for Terminations. This form is used to report and pay generation-skipping transfer (GST) tax owed due to a taxable termination of a trust.
- (2) Some key elements to this tax include the following:
  - This GST tax is assessed under master file tax (MFT) 77, and it is assessed under the employer identification number (EIN) of the trust.
  - The tax liability may be triggered by the death of a non-skip person in certain situations. Contact Estate and Gift Examination through the *Specialist Referral System* if you have questions regarding the circumstances that trigger this tax.
  - The return is due April 15th of the year following the calendar year in which the termination occurred. See 26 CFR 26.2662-1, Generation-skipping transfer tax return requirements.
  - The trustee of the trust has primary responsibility for paying the tax.

