2024

Instructions for Form 709-NA

United States Gift (and Generation-Skipping Transfer) Tax Return of nonresident not a citizen of the United States

For gifts made during calendar year 2024

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

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Future Developments

For the latest information about developments related to Form 709-NA and its instructions, such as legislation enacted after they were published, go to *IRS.gov/Form709NA*.

For Gifts Made		Use Revision of
After	and Before	Form 709 Dated
– – – – –	January 1, 1982	November 1981
December 31, 1981	January 1, 1987	January 1987
December 31, 1986	January 1, 1989	December 1988
December 31, 1988	January 1, 1990	December 1989
December 31, 1989	October 9, 1990	October 1990
October 8, 1990	January 1, 1992	November 1991
December 31, 1992	January 1, 1998	December 1996
December 31, 1997	January 1, 2024	*

* Use the corresponding annual form.

What's New

- This year is the first year this form has been available. For previous years. see the above table.
- The annual gift exclusion for 2024 is $18,000. See *Annual Exclusion*, later.
- For gifts made to spouses who are not U.S. citizens, the annual exclusion has increased to $185,000.
- The top rate for gifts and generation-skipping transfers remains at 40%. See Table for Computing Gift Tax.

Photographs of Missing Children

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

General Instructions

Purpose of Form

Use Form 709-NA to report the following.

- Certain transfers by nonresidents not citizens of the United States that are subject to the federal gift and certain generation-skipping transfer (GST) taxes and to figure the tax due, if any, on those transfers.
- Allocation of the lifetime GST exemption to property transferred during the transferor's lifetime. (For more details, see *Part 2—GST Exemption Reconciliation*, later under *Schedule D*, and Regulations section 26.2632-1.)

CAUTION *All gift and GST taxes must be figured and filed on a calendar year basis. If you were a U.S. citizen or resident for part of 2024 and made a reportable gift during this time, you must report all gifts that you made during 2024 on Form 709. Do not file Form 709-NA for 2024. See Coordination with Form 709, later.*

Definitions

The following definitions apply in these instructions.

United States. The United States means the 50 states and the District of Columbia.

Domicile. For gift tax purposes, a person acquires domicile in a place by living there, for even a brief period of time, with no definite present intention of later moving. See Regulations section 20.0-1 and 25.2501-1(b) for more information.

Nonresident not a citizen of the Unites States (NRNC). For gift tax purposes, a person is a nonresident not a citizen of the United States (NRNC) if the person is neither domiciled in nor a citizen of the United States at the time the gift is made. A person who acquired U.S. citizenship solely by reason of being a citizen of a U.S. territory or by reason of birth or residence within a U.S. territory is not treated as a U.S. citizen.

Note. A person may be a U.S. resident for income tax purposes yet be considered a nonresident for gift tax purposes.

Further information on U.S. federal gift tax considerations for nonresidents non-citizens of the United States is available at *IRS.gov/Businesses/Small-Business-self-employed/gift-tax-for-nonresidents-notcitizens-of-the-United States* and *IRS.gov/Businesses/SmallBusinesses-selfemployed/FAQs-gift-taxes-for-nonresidents-notcitizens-of-the-United States*.

Long-term U.S. resident. A long-term U.S. resident is an individual (other than a U.S. citizen) who has been a lawful permanent resident of the United States (green card holder) for income tax purposes in at least 8 of the last 15 tax years ending with the tax year in which U.S. income tax residency is terminated. See section 877(e) for more information.

How To Complete Form 709-NA

1. Determine whether you are required to file Form 709-NA.
2. Determine what gifts you must report.
3. Complete lines 1 through 23 of Part 1—General Information.
4. List each gift in Part 1, 2, or 3 of Schedule A, as appropriate.
5. Complete Schedules B and D, as applicable.
6. If the gift was listed in Part 2 or 3 of Schedule A, complete the necessary portions of Schedule D.
7. Complete Schedule A, Part 4.
8. Complete Part 2—Tax Computation.
9. Sign and date the return.

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

Who Must File

In general. If you are an NRNC, you must file a Form 709-NA (whether or not any tax is ultimately due) in the following situations.

- If you gave gifts of real or tangible personal property situated within the United States to someone in 2024 totaling more than the annual exclusion amount of $18,000 ($185,000 in the case of gifts to your spouse who is not a citizen of the United States) you probably must file Form 709-NA. But see *Transfers Not Subject to the Gift Tax* and *Gifts to Your Spouse*, later, for more information on specific gifts that are not taxable.
- Certain gifts, called future interests, are not subject to the annual exclusions. You must file Form 709-NA even if such gifts were under the annual exclusions. See *Annual Exclusion*, later.
- Spouses may not file a joint gift tax return. Each individual is responsible to file a form 709-NA.
- If a taxable gift is of community property, it is considered made one-half by each spouse. For example, a gift of $100,000 of community property is considered a gift of $50,000 made by each spouse, and each spouse must file a gift tax return (Form 709 or 709-NA, as appropriate).
- Likewise, each spouse must file a gift tax return (Form 709 or 709-NA, as appropriate) if they have made a gift of property held by them as joint tenants or tenants by the entirety.
- Only individuals are required to file gift tax returns. If a trust, estate, partnership, or corporation makes a gift, the individual beneficiaries, partners, or stockholders are considered donors and may be liable for the gift and GST taxes.
- The donor is responsible for paying the gift tax. However, if the donor does not pay the tax, the person receiving the gift may have to pay the tax.
- If a donor dies before filing a return, the donor's executor must file the return.

Note. If you are a taxpayer to whom section 877(b) applies for the tax year which includes the date of the transfer, you are required to file a Form 709-NA to report gifts of U.S.-situs intangible property and certain stock. See sections 2501(a)(3), 2501(a)(5), 2511(b), and 877.

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

- You made no gifts during the year to your spouse.
- You did not give more than $18,000 to any one donee.
- All the gifts you made were of present interests.

Unless you are a taxpayer to whom section 877(b) applies, you are also not required to file if your only gifts, regardless of the amount, were of intangible property situated within the United States or other property not situated within the United States for gift tax purposes. Examples of intangible property situated within the United States are stock of U.S. corporations or debt obligations of a U.S. person.

Note. If you made a transfer of property, for less than full and adequate consideration, to a closely held corporation, partnership, or limited liability company situated within the United States holding U.S. real or tangible personal property, and subsequently transfer an interest in that entity, details of the original contribution to that entity should be documented. Failure to disclose such a transfer of real or tangible personal property to the entity on a timely filed Form 709-NA with supporting documents may result in a subsequent determination that a taxable gift was made and not adequately disclosed. See *Adequate Disclosure*, later.

Coordination with Form 709. If you were a U.S. citizen or resident for part of 2024 and made a reportable gift during this time, you must report all gifts that you made during 2024 on Form 709. Unless otherwise specified, the Instructions for Form 709 describe your reporting requirements for the period of 2024 in which you were a U.S. citizen or resident, and these Instructions for Form 709-NA describe your reporting requirements for the period of 2024 in which you were an NRNC.

Gift tax treaties. Gift tax treaties are in effect with the following countries.

- Australia.
- Austria.
- Denmark.
- France.
- Germany.
- Japan.
- United Kingdom.

If you are reporting any items on this return based on the provisions of a gift tax treaty or protocol, attach Form 8833 to this return indicating that the return position is treaty-based. See Regulations section 301.6114-1 for details.

Gifts to charities. For nonresidents not citizens of the United States, for a charitable gift to be deductible, the gift must be to a U.S. charity or trust, and the charity or trust must use the gifted assets within the United States.

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

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

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

Transfers Subject to the Gift Tax

If you are an NRNC, the federal gift tax generally applies to any transfer by gift of real or tangible personal property situated in the United States that you made directly or indirectly, in trust, or by any other means.

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

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

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

Gifts to your spouse. If you are an NRNC, you must file a gift tax return if you made any gift to your U.S. citizen spouse of a terminable interest that does not meet the exception as described later under *Life estate with power of appointment*, or if your spouse is not a U.S. citizen and the total gifts you made to your spouse in the 2024 tax year exceed $185,000.

You must also file a gift tax return to make the qualified terminable interest property (QTIP) election described under *Line 17. Election Out of QTIP Treatment of Annuities*, later.

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

Transfers Not Subject to the Gift Tax

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

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

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

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

Certain exempt organizations. The gift tax does not apply to a transfer to any civic league or other organization described in section 501(c)(4); any labor, agricultural, or horticultural organization described in section 501(c)(5); or any business league or other organization described in section 501(c)(6) for the use of such organization, provided that such organization is exempt from tax under section 501(a). Also, see *Line 7. Charitable Deduction*, later.

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

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

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

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

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

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

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

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

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

1. The refusal must be in writing.
2. The refusal must be received by the donor, the legal representative of the donor, the holder of the legal title to the property disclaimed, or the person in possession of the property within 9 months after the later of:
   a. The day the transfer creating the interest is made, or
   b. The day the disclaimant reaches age 21.

3. The disclaimant must not have accepted the interest or any of its benefits.
4. As a result of the refusal, the interest must pass without any direction from the disclaimant to either:
   a. The spouse of the decedent, or
   b. A person other than the disclaimant.
5. The refusal must be irrevocable and unqualified.

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

Annual Exclusion

The first $18,000 of gifts of present interest to each donee during the calendar year is subtracted from total gifts in figuring the amount of taxable gifts. For a gift in trust, each beneficiary of the trust is treated as a separate donee for purposes of the annual exclusion, but a gift in trust might not be a gift of a present interest.

All of the gifts made during the calendar year to a donee are fully excluded under the annual exclusion if they are all gifts of present interest and they total $18,000 or less.

Note. For gifts made to spouses who are not U.S. citizens, the annual exclusion is $185,000, provided the additional (above the $18,000 annual exclusion) $167,000 gift would otherwise qualify for the gift tax marital deduction (as described in the Schedule A, Part 4, line 4, instructions, later).

Note. Only the annual exclusion (and not the marital deduction) applies to gifts made to spouses who are not citizens of the United States. Deductions and credits are not considered in determining gift tax liability for such transfers. But see *Gift tax treaties*, earlier.

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

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

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

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

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

1. Both the property and its income may be expended by, or for the benefit of, the minor before the minor reaches age 21.
2. All remaining property and its income must pass to the minor on the minor's 21st birthday.
3. If the minor dies before the age of 21, the property and its income will be payable either to the minor's estate or to whomever the minor may appoint under a general power of appointment.

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

Transfers Subject to the GST Tax

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

- Subject to the gift tax,
- Of an interest in property, and
- Made to a skip person. (See *Gifts Subject to Both Gift and GST Taxes*, later.)

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

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

Certain transfers, particularly transfers to a trust, that are not subject to gift tax and are therefore not subject to the GST tax on Form 709-NA may be subject to the GST tax at a later date. This is true even if the transfer is less than the $18,000 annual exclusion. In this instance, you may want to apply a GST exemption amount to the transfer on this return or on a Notice of Allocation. However, you should be aware that a GST exemption may be automatically allocated to the gift if the trust that receives the gift is a "GST trust" (as defined under section 2632(c)). For more information, see Part 2—GST Exemption Reconciliation under Schedule D, and *Part 3—Indirect Skips and Other Transfers in Trust under* Schedule A.

Transfers Subject to an Estate Tax Inclusion Period (ETIP)

Certain transfers receive special treatment if the transferred property is subject to an ETIP. An ETIP is the period during which, should the donor die, the value of transferred property would be includible (other than by reason of section 2035) in the gross estate of the donor or the spouse of the donor. For transfers subject to an ETIP, GST tax reporting is required at the close of the ETIP.

For example, if A transfers a house to a qualified personal residence trust for a term of 10 years, with the remainder to A's granddaughter, the value of the house would be includible in A's estate if A died within the 10-year period during which A retained an interest in the trust. In this case, a portion of the transfer to the trust is a completed gift that must be reported in Part 1 of Schedule A. The GST portion of the transfer would not be reported until A died or A's interest in the trust otherwise ended.

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

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

1. Write "ETIP" at the top of page 1.
2. Complete only lines 1 through 4, 8 through 11, and 15 through 18 of Part I—General Information.

3. Complete Schedule D. Complete columns (b) and (c) of Schedule D, Part 1, as explained in the instructions for that schedule.
4. Complete only lines 10 and 11 of Schedule A, Part 4.
5. Complete Part II—Tax Computation.

Section 2701 Elections

Section 2701 elections may only be made by a nonresident not a citizen whose transfer of property is taxable under section 2501(a)(3) or (a)(5).

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

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

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

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

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

When To File

Form 709-NA is an annual return.

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

If the donor died during 2024, the executor must file the donor's 2024 Form 709-NA not later than the earlier of:

- The due date (with extensions) for filing the donor's estate tax return; or
- April 15, 2025, or the extended due date granted for filing the donor's gift tax return.

Extension of Time To File

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

By extending the time to file your income tax return. Any extension of time granted for filing your calendar year 2024 federal income tax return will also automatically extend the time to file your 2024 federal gift tax return. Income tax extensions are made by using Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return, or Form 2350, Application for Extension of Time To File U.S. Income Tax Return. You may only use these forms to extend the time for filing your gift tax return if you are also requesting an extension of time to file your income tax return.

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

Private Delivery Services (PDSs)

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

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

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

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

Where To File

File Form 709-NA at the following address.

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

If using a PDS, file at this address.

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

Amending Form 709-NA To Provide Supplemental Information

If you find that you must make a correction on a return that has already been filed, and/or provide supplemental information, you should:

- File another Form 709-NA;
- Check the amended return box on line 23b of Part I—General Information;
- Include a statement of what has changed, along with the supporting information; and
- Attach a copy of the original Form 709–NA that has already been filed.

File the amended Form 709-NA at the following address.

Internal Revenue Service Center
Attn: E&G, Stop 824G
7940 Kentucky Drive
Florence, KY 41042-2915

If using a PDS, file at this address.

Internal Revenue Service Center
Attn: E&G, Stop 824G
7940 Kentucky Drive
Florence, KY 41042-2915

If you have already been notified that the return has been selected for examination, you should provide the additional information directly to the office conducting the examination.

Adequate Disclosure

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

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

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

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

Penalties

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

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

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

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

Gift tax return preparers who prepare any return or claim for refund that reflects an understatement of tax liability due to an unreasonable position are subject to a penalty equal to the greater of $1,000 or 50% of the income earned (or to be earned) for the preparation of each such return. Gift tax return preparers who prepare any return or claim for refund with an understatement of tax liability due to willful or reckless conduct can be penalized $5,000 or 75% of the income derived (or to be derived) for the preparation of the return. See section 6694 and, the related regulations, and Ann. 2009-15, 2009-11 I.R.B. 687, available at *IRS.gov/pub/irs-irbs/irb09-11.pdf*, for more information.

Joint Tenancy

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

If you create and fund a joint bank account for yourself and a donee (or a similar kind of ownership by which you can get back the entire fund without the donee's consent), you have made a gift to the donee when the donee draws on the account for the donee's own benefit. The amount of the gift is the amount that the donee took out without any obligation to repay you. This means that any withdrawal made by the nonresident spouse must be reported on a Form 709-NA unless it can be shown that the amounts withdrawn by the nonresident spouse were limited to the nonresident spouse's pro rata share of the amount contributed. Failure to disclose the withdrawal on a timely filed Form 709-NA with supporting documents attached to substantiate contribution may result in a determination at some later time, either upon review of a subsequent gift, or estate tax filing, that a taxable gift was previously made and not disclosed. See *Adequate Disclosure*, earlier.

If the added joint tenant is your spouse who is a U.S. citizen, you do not need to enter the gift on Schedule A. If your spouse is a resident of the United States or an NRNC, enter the gift on Schedule A. See *Gifts to Your Spouse*, later.

If the gift of joint-tenancy property is one of U.S.-situs or deemed U.S.-situs intangible property, see *Who Must File* and *Who does not need to file*, earlier.

Questions about the taxability of joint-tenant transactions may include one of timing. Documentation of these transactions should be maintained. See *Supplemental Documents*, later.

Transfer of Certain Life Estates Received From Spouse

This section will apply only in rare circumstances such as where you received QTIP while a U.S. citizen or pursuant to a tax treaty or protocol.

If you received a qualified terminable interest (see *Line 17. Election Out of QTIP Treatment of Annuities* under *Schedule A*, later) from your spouse for which a marital deduction was elected on your spouse's estate or gift tax return, you will be subject to the gift tax (and GST tax, if applicable) if you dispose of all or part of your life income interest (by gift, sale, or otherwise).

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

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

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

Specific Instructions

Part 1—General Information

Line 3. U.S. Taxpayer Identification Number

Enter your social security number (SSN), if applicable, or your individual taxpayer identification number (ITIN), but only if you have previously used the ITIN to file other U.S. tax returns. If you do not have an SSN or a previously used ITIN, the IRS will assign an Internal Revenue Service Number (IRSN) to you. If you have already been assigned an IRSN, please enter the number on line 3. If you do not have an SSN, ITIN, or IRSN, leave line 3 blank.

Line 4. Legal Residence (Domicile)

For gift tax purposes, an individual acquires domicile in a place by living there, for even a brief period of time, with no definite present intention of later moving.

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

Line 5. Citizenship

Enter your citizenship.

Lines 8a–14. Address

Enter your current mailing address.

Foreign Address. If you have a foreign address, enter the city name on the appropriate line. Don't enter any other information on that line, but also complete the spaces below that line. Don't abbreviate the country name. Follow the country's practice for entering the postal code and the name of the province, county, or state.

P.O. Box. Enter your box number only if your post office doesn't deliver mail to your home.

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

Schedule A. Computation of Taxable Gifts

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

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

If, in 2024, you contributed more than $18,000 to a QTP on behalf of any one person, you may elect to treat up to $90,000 of the contribution for that person as if you had made it ratably over a 5-year period. The election allows you to apply the annual exclusion to a portion of the contribution in each of the 5 years, beginning in 2024. You can make this election for as many separate people as you made QTP contributions.

You can only apply the election to a maximum of $90,000. You must report all of your 2024 QTP contributions for any single person that exceed $90,000 (in addition to any other gifts you made to that person).

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

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

Example. In 2024, D contributed $100,000 to a QTP for the benefit of A. D elects to treat $90,000 of this contribution as having been made ratably over a 5-year period. Accordingly, for 2024, D reports the following.

	$10,000	(the amount of the contribution that exceeded $90,000)
+	$18,000	(the one-fifth portion from the election)
	$28,000	the total gift to A listed in Part 1 of Schedule A for 2024

In 2025, D gives a gift of $20,000 cash to B and no other gifts. On D's Form 709-NA, D reports in Part 1 of Schedule A the $20,000 gift to B and an $18,000 gift to A (the one-fifth portion of the 2024 gift that is treated as made in 2025). In column (e) of Part 1, D lists "2025" as the date of the gift.

D makes no gifts in 2026, 2027, or 2028. D is not required to file Form 709-NA in any of those years to report the one-fifth portion of the QTP gift because D is not otherwise required to file Form 709-NA.

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

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

Contributions to QTPs do not qualify for the education exclusion.

How To Complete Parts 1, 2, and 3

After you determine which gifts you made in 2024 that are subject to the gift tax, list them on Schedule A. You must divide these gifts between:

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

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

Use the following guidelines when entering gifts on Schedule A.

- *Enter a gift only once—in Part 1, 2, or 3.*
- *Do not enter any gift or part of a gift that qualified for the political organization, educational, or medical exclusion.*

Gifts to Donees Other Than Your Spouse

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

If the total gifts of present interests to any donee are more than $18,000 in the calendar year, then you must enter all such gifts that you made during the year to or on behalf of that donee, including those gifts that will be excluded under the annual exclusion. If the total is $18,000 or less, you need not enter on Schedule A any gifts (except gifts of future interests) that you made to that donee. Enter these gifts in the top half of Part 1, 2, or 3, as applicable.

Gifts to Your Spouse

Spouses who are not U.S. citizens. If your spouse is not a U.S. citizen and you gave your spouse a gift of a future interest, you must report on Schedule A all gifts to your spouse for the year. If all gifts to your spouse were present interests, do not report on Schedule A any gifts to your spouse if the total of such gifts for the year does not exceed $185,000 and all gifts in excess of $18,000 would qualify for a marital deduction if your spouse were a U.S. citizen (see the instructions for Schedule A, Part 4, line 4). If the gifts exceed $185,000, you must report all of the gifts even though some may be excluded.

Spouses who are U.S. citizens. Except for the gifts described below, you do not need to enter any of your gifts to your U.S. citizen-spouse on Schedule A.

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

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

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

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

Gifts Subject to Both Gift and GST Taxes

Definitions

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

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

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

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

1. During the lifetime of the beneficiary, no corpus or income may be distributed to anyone other than the beneficiary; and
2. If the beneficiary dies before the termination of the trust, the assets of the trust will be included in the gross estate of the beneficiary.

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

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

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

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

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

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

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

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

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

Determining the Generation of a Donee

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

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

former spouse) from the number of generations between the grandparent and the descendant (donee).

3. A person who at any time was married to a person described in (1) or (2) above is assigned to the generation of that person. A person who at any time was married to the donor is assigned to the donor's generation.
4. A relationship by adoption or half-blood is treated as a relationship by whole-blood.

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

1. A person who was born not more than 12½ years after the donor is in the donor's generation.
2. A person born more than 12½ years, but not more than 37½ years, after the donor is in the first generation younger than the donor.
3. Similar rules apply for a new generation every 25 years.

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

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

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

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

Charitable Remainder Trusts

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

Generation Assignment Where Intervening Parent Is Deceased

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

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

This special rule may also apply in other cases of the death of a parent of the transferee. If property is transferred to a descendant of a parent of the transferor and that person's parent (who is a lineal descendant of the parent of the transferor) is deceased at the time the transfer is subject to gift or estate tax, then for purposes of generation assignment, the individual is treated as a member of the generation that is 1 generation below the lower of:

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

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

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

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

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

Examples

The GST rules can be illustrated by the following examples.

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

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

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

Example 4. You establish a trust that pays all of its income to your grandchildren for 10 years. At the end of 10 years, the corpus is to be distributed to your children. Because for this purpose interests in trusts are defined only as present interests, all of the interests in this trust are held by skip persons (the

children's interests are future interests). Therefore, the trust is a skip person and you should list the entire amount you transferred to the trust in Part 2 of Schedule A even though some of the trust's ultimate beneficiaries are nonskip persons.

Part 1—Gifts Subject Only to Gift Tax

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

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

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

Columns (b) Through (d)

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

For real estate, give:

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

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

For transfers of intangible assets reportable by a donor under section 2501(a)(3), include detailed information about the property transferred sufficient enough to identify the specific property.

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

Column (e). Donor's Adjusted Basis of Gifts

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

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

Columns (f) and (g). Date and Value of Gift

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

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

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

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

Supplemental Documents

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

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

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

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

Part 2—Direct Skips

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

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

Column (k). Section 2632(b) Election

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

How to report GSTs after the close of an ETIP. If you are reporting a GST that was subject to an ETIP (provided the ETIP closed as a result of something other than the death of the transferor; see Form 706), do not include the transfer subject to an ETIP on Schedule A. Rather, report the transfer subject to an ETIP on Schedule D. See *Part 1—Generation-Skipping Transfers* under Schedule D, later. Report all other gifts made during the year on Schedule A as you normally would.

Part 3—Indirect Skips and Other Transfers in Trust

Some gifts made to trusts are subject only to gift tax at the time of the transfer but may later be subject to GST tax. The GST tax

could apply either at the time of a distribution from the trust, at the termination of the trust, or both.

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

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

Column (k). Section 2632(c) Election

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

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

Election 2. You may elect not to have the automatic rules apply to both the current transfer and any and all future transfers made to a particular trust.

Election 3. You may elect to treat any trust as a GST trust for purposes of the automatic allocation rules.

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

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

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

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

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

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

Part 4—Taxable Gift Reconciliation

Line 1

Enter only gifts made by the donor.

Line 2

Enter the total annual exclusions you are claiming for the gifts listed on Schedule A. See *Annual Exclusion*, earlier.

Deductions

Line 4. Marital Deduction

CAUTION *Do not enter on line 4 any gifts to your spouse who was not a U.S. citizen at the time of the gift unless section 2523(f)(6) applies, or you are claiming a marital deduction under a treaty obligation. If so, see Gift tax treaties, earlier.*

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

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

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

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

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

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

1. Your spouse is entitled for life to all of the income from the entire interest.
2. The income is paid yearly or more often.
3. Your spouse has the unlimited power, while alive or by will, to appoint the entire interest in all circumstances.
4. No part of the entire interest is subject to another person's power of appointment (except to appoint it to your spouse).

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

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

Election to deduct QTIP. You may elect to deduct a gift of a terminable interest if it meets requirements (1), (2), and (4) under

Life estate with power of appointment, earlier even though it does not meet requirement (3).

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

Line 5

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

Line 7. Charitable Deduction

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

- The United States, a state or political subdivision of a state, or the District of Columbia for exclusively public purposes;
- A domestic corporation organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, which is not disqualified for tax exemption under section 501(c)(3) by reason of attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office;
- A trust, or community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation, and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of (or in opposition to) any candidate for public office; but only if such gifts are to be used within the United States exclusively for such purposes;
- A fraternal society, order, or association operating under a lodge system, if the transferred property is to be used only for religious, charitable, scientific, literary, or educational purposes, including the encouragement of art and the prevention of cruelty to children or animals; or
- Posts or organizations of war veterans, or auxiliary units or societies of any such posts or organizations, if such posts, organizations, units, or societies are organized in the United States or any of its possessions, and if no part of their net earnings inures to the benefit of any private shareholder or individual.

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

Line 10. GST Tax

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

If you entered gifts in Part 2, complete Schedule D, and enter on line 10 the total from Schedule D, Part 3, column (g). Otherwise, enter zero on line 10.

Line 17. Election Out of QTIP Treatment of Annuities

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

The donor spouse can elect out of QTIP treatment, however, by checking the box on line 17 and entering the item number from Schedule A for the annuities for which you are making the election. Any annuities entered on line 17 cannot also be entered on line 4 of Schedule A, Part 4. Any such annuities that are not listed on line 17 must be entered on line 4 of Schedule A, Part 4. If there is more than one such joint and survivor annuity, you are not required to make the election for all of them. Once made, the election is irrevocable.

Schedule B. Gifts From Prior Periods

If you did not file gift tax returns for previous periods, check the "No" box on page 1 of Form 709-NA, line 22a, of Part 1—General Information . If you filed gift tax returns for previous periods, check the "Yes" box on line 22a and complete Schedule B by listing the years or quarters in chronological order as described below. If you need more space, attach a separate sheet using the same format as Schedule B.

CAUTION *Complete Schedule A before beginning Schedule B.*

Column (a)

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

Column (b)

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

TIP *You will not use columns (c) and (d), outlined below, unless you are listing gifts from prior periods that were reported by you under a treaty obligation in which you received and used an applicable credit amount, and you are filing this return under a similar treaty obligation. See Gift tax treaties, earlier.*

Column (c)

To determine the amount of applicable credit (formerly unified credit) used for gifts made after 1976, use the *Worksheet for Schedule B, Column (c) (Credit Allowable for Prior Periods)*, in the Instructions for Form 709, unless your prior gifts total $500,000 or less.

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

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

Column (d)

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

Column (e)

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

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

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

Redetermining the Applicable Credit

If under a treaty obligation you have an applicable credit amount (unified credit) or received a deceased spousal unused exclusion (DSUE), and need to redetermine your applicable credit amount, see the instructions to Form 709, *Redetermining the Applicable Credit* under Schedule B. *Gifts From Prior Periods* in the instructions for Form 709.

Table of Basic Exclusion and Credit Amounts

See Instructions for Form 709.

Schedule D. Computation of GST Tax

Part 1—Generation-Skipping Transfers

Enter in Part 1 all of the gifts you listed in Part 2 of Schedule A, in the same order and showing the same values. If reporting the GST portion of transfers subject to an ETIP, see *How to report GSTs after the close of an ETIP*, later.

Column (a)

List items from Schedule A, Part 2, column (a), in the same order. Next, list items to be reported on Schedule D (including ETIP transfers), if any.

Column (b)

Only provide descriptions for ETIP transfers; otherwise, leave blank.

Column (d)

You are allowed to claim the gift tax annual exclusion currently allowable for your reported direct skips (other than certain direct skips to trusts—see *Note* below) using the rules and limits discussed earlier for the gift tax annual exclusion. However, you must allocate the exclusion on a gift-by-gift basis for GST computation purposes. You must allocate the exclusion to each gift, to the extent desired but not exceeding the maximum allowable amount, in chronological order, beginning with the earliest gift that qualifies for the exclusion. Be sure that you do not claim a total exclusion of more than $18,000 per donee.

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

How to report GSTs after the close of an ETIP. If you are reporting a GST that occurred because of the close of an ETIP, complete Part 1 as follows.

Column (b). For transfers subject to an ETIP only, describe each transfer as provided in the instructions for Part 1 of Schedule A. In addition, describe the interest that is closing the ETIP, explain what caused the interest to terminate, list the date the ETIP closed, and list the year the gift portion of the transfer was reported and its item number on Schedule A that was originally filed to report the gift portion of the ETIP transfer.

Column (c).

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

Part 2—GST Exemption Reconciliation

Line 1

Every donor is allowed a lifetime GST exemption. The amount of the exemption for 2024 is $13,610,000. For transfers made through 1998, the GST exemption was $1 million. The exemption amounts for 1999 through 2024 are as follows.

Year	Amount
1999	$1,010,000
2000	$1,030,000
2001	$1,060,000
2002	$1,100,000
2003	$1,120,000
2004 and 2005	$1,500,000
2006, 2007, and 2008	$2,000,000
2009	$3,500,000
2010 and 2011	$5,000,000
2012	$5,120,000
2013	$5,250,000
2014	$5,340,000
2015	$5,430,000
2016	$5,450,000
2017	$5,490,000
2018	$11,180,000
2019	$11,400,000
2020	$11,580,000
2021	$11,700,000
2022	$12,060,000
2023	$12,920,000
2024	$13,610,000

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

Example. A donor made $1,750,000 in direct-skip GSTs through 2005, and allocated all $1,500,000 of the exemption to those transfers. In 2024, the donor makes a $2,000,000 taxable GST. The donor can allocate $2,000,000 of exemption to the 2024 transfer but cannot allocate the $9,420,000 of unused 2024 exemption to pre-2024 transfers.

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

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

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

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

Table for Computing Gift Tax

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

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

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

Line 5

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

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

Line 6

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

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

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

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

Note. Where the property involved in such a transfer is subject to an ETIP, an allocation of the GST exemption at the time of the transfer will only become effective at the end of the ETIP. For details, see *Transfers Subject to an Estate Tax Inclusion Period (ETIP)*, earlier, and section 2642(f).

Part 3—Tax Computation

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

Column (c)

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

Column (d)

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

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

Lines 4 and 5

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

Line 7—Other credits

If, under a treaty obligation, you are claiming an applicable credit amount (formerly unified credit) or DSUE amount, see *Gift tax treaties*, earlier; the instructions to Form 709,*Schedule C. Portability of Deceased Spousal Unused Exclusion (DSUE)*

Amount and Restored Exclusion Amount in the Instructions for Form 709.

Line 8

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

Line 14

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

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

Signature

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

Return preparer. Anyone who is paid to prepare the return must sign the return, enter their preparer taxpayer identification number (PTIN), and fill in the other blanks in the *Paid Preparer Use Only* area unless that person is paid for preparation as part of their duties as your employee. The paid preparer must:

- Sign the return in the space provided for the preparer's signature;
- Enter the preparer information, including the preparer's PTIN; and
- Give a copy of the return to the nonresident not a citizen filer.

Third-party designee. If you want to allow the return preparer (listed on the bottom of page 1 of Form 709-NA) to discuss your 2024 Form 709-NA with the IRS, check the "Yes" box to the far right of your signature on page 1 of your return.

If you check the "Yes" box, you are authorizing the IRS to call your return preparer to answer questions that may arise during the processing of your return. You are also authorizing the return preparer of your 2024 Form 709-NA to:

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

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

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

Disclosure, Privacy Act, and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. We need the information to figure and collect the right amount of tax. Form 709-NA is used to report (1) transfers subject to the federal gift and certain GST taxes and to figure the tax, if any, due on those transfers; and (2) allocations of the lifetime GST exemption to property transferred during the transferor's lifetime.

Our legal right to ask for the information requested on this form is found in sections 6001, 6011, 6019, and 6061, and their regulations. You are required to provide the information requested on this form. Section 6109 requires that you provide your identifying number.

Generally, tax returns and return information are confidential, as stated in section 6103. However, section 6103 allows or requires the IRS to disclose or give such information shown on your Form 709-NA to the Department of Justice to enforce the tax laws, both civil and criminal, and to cities, states, the District of Columbia, and U.S. commonwealths and territories for use in administering their tax laws. We may also disclose this information to other countries under a tax treaty, to federal and state agencies to enforce federal nontax criminal laws, or to federal law enforcement and intelligence agencies to combat terrorism.

We may disclose the information on your Form 709-NA to the Department of the Treasury and contractors for tax administration purposes; and to other persons as necessary to obtain information that we cannot get in any other way for purposes of determining the amount of or to collect the tax you owe. We may disclose the information on your Form 709-NA to the Comptroller General to review the Internal Revenue Service. We may also disclose the information on your Form 709-NA to Committees of Congress; federal, state, and local child support agencies; and to other federal agencies for the purpose of determining entitlement for benefits or the eligibility for, and the repayment of, loans.

If you are required to but do not file a Form 709-NA, or do not provide the information requested on the form, or provide fraudulent information, you may be charged penalties and be subject to criminal prosecution.

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

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

Recordkeeping	52 min.
Learning about the law or the form	1 hr., 53 min.
Preparing the form	2 hr., 21 min.
Copying, assembling, and sending the form to the IRS	1 hr., 3 min.

Comments and suggestions. We welcome your comments about this publication and suggestions for future editions.

You can send us comments through *IRS.gov/FormComments*. Or, you can write to the Internal Revenue Service, Tax Forms and Publications, 1111 Constitution Ave. NW, IR-6526, Washington, DC 20224.

Although we can't respond individually to each comment received, we do appreciate your feedback and will consider your comments and suggestions as we revise our tax forms, instructions, and publications. **Don't** send tax questions, tax returns, or payments to the above address. Instead, see *Where To File*, earlier.