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# 2021 Gift Tax Return Checklist

## Form 709

Taxpayer (donor) name and number \_\_\_\_\_

Prepared by \_\_\_\_\_ Date \_\_\_\_\_ Reviewed by \_\_\_\_\_ Date \_\_\_\_\_

<b>100) General</b>	Yes/ Done	No/ N/A
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▶ 101) Obtain a signed engagement letter.		
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▶ 102) Was there a change in marital status during the year?		
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▶ 103) Consider asking the taxpayer (donor) to sign a Form 2848, <i>Power of Attorney and Declaration of Representative</i> , and/or Form 8821, <i>Tax Information Authorization</i> .		
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▶ 104) Request that the taxpayer (donor) provide any correspondence, to or from the IRS or state tax authority, including any adjustments that have been made to prior gift tax returns.		
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▶ 105) Consider if there are any conflicts of interest between the donor and spouse or between the donor and donee(s).		
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▶ 106) Consider state gift tax return filing requirements, if any.		
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▶ 107) If the donor died during the gift year, determine the due date of Form 709.		
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▶ 108) Consider if any disaster relief provisions apply.		
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▶ 109) Inquire whether the donor made any gifts of a present interest in property with a total value in excess of \$15,000 to a donee.		
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▶ 110) Consider possible exceptions for transfers to political organizations, tuition paid directly to a qualified educational institution, medical expenses paid directly by the donor and gifts to charities. Also consider the rules related to gifts of partial interests and qualified conservation easements.		
.....		
▶ 111) Inquire whether the donor made any gifts of a future interest in property (e.g., reserving a life estate in real property or gifts to an irrevocable life insurance trust (ILIT)).		
.....		

- ▶ 112) If the donor is married, determine if the election to split gifts with the donor's spouse is appropriate (note that the spouse's consent and a separate Form 709 may be required).
- ▶ 113) If a gift-splitting election is to be made, verify that all gifts are split and the gifts are listed on both returns. When gifts are made to a trust where the spouse is one of the beneficiaries, be aware of the amount of the gift to split and the allocation of the generation-skipping transfer (GST) exemption.
- ▶ 114) Determine if the gifts were made from community property funds. If so, separate gift tax returns will be required for each half of the gift. Gifts of community property are automatically considered made one-half by each spouse. If there is any uncertainty as to whether the gifted property is community property, consider electing to gift split.
- ▶ 115) Inquire whether the donor made any gifts of joint tenancy property, or property held as tenants by the entirety, where the interest transferred is a future interest or a present interest greater than \$15,000.
- ▶ 116) Inquire whether the donor made any gifts of community property where one-half is a future interest or a present interest greater than \$15,000.
- ▶ 117) Inquire whether the donor made any gifts to a non-U.S. citizen spouse of more than \$159,000.
- ▶ 118) Inquire whether the donor made any gifts to a non-U.S. citizen spouse of a terminable interest (note the exception for certain life estates with a power of appointment).
- ▶ 119) Inquire whether the donor made any gifts of qualified terminable interest property (QTIP).
- ▶ 120) If the donor is a nonresident, inquire whether the donor made any gifts of tangible property.
- ▶ 121) Inquire whether the donor made any gifts that qualify as an annual exclusion gift for gift tax purposes, but not for GST tax purposes.
- ▶ 122) Inquire whether the donor made any gifts that qualify for an annual exclusion for gift tax purposes to which GST tax would be allocated unless the donor "opts out" of automatic allocation.
- ▶ 123) Inquire whether the donor sold any property for less than full and adequate consideration.
- ▶ 124) Inquire whether the donor made any interest-free or below-market loans.
- ▶ 125) Inquire whether the donor forgave any debts.
- ▶ 126) Inquire whether the donor made any charitable gifts in addition to one of the gifts described above. Note that there is no Form 709 reporting required if all gifts are to charities and the donor transferred his or her entire interest in the property to qualifying charities.
- ▶ 127) Inquire whether the donor made any split-interest gifts (e.g., to a charitable remainder trust).
- ▶ 128) If a decedent's community property life insurance, retirement benefits or annuities were paid to a non-spouse beneficiary, determine if the surviving spouse has made a gift.

Yes/ No/  
Done N/A

- ▶ 129) Determine the need to hire a qualified appraiser(s) (see Regs. Sec. 301.6501(c)-1(e) and (f)).
- ▶ 130) Obtain an attachment showing the computation and related support for any valuation discounts. If valuation discounts are claimed, check the box on Schedule A, Line A.
- ▶ 131) Inquire whether the donor was involved with any lapse or release of a general power of appointment.
- ▶ 132) Inquire whether the formation, recapitalization or contribution to a closely held corporation, partnership or LLC involving the donor has any gift tax consequences.
- ▶ 133) Inquire whether the donor paid premiums on a life insurance policy owned by someone other than the donor.
- ▶ 134) Consider having the donee execute a qualified disclaimer of the gifted property to remove the property from his or her gross estate.
- ▶ 135) Review the trust or other document and obtain copies of the "Crummey" letters to ensure that any gifts will be treated as present interest.

Comments/explanations

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**200) Schedule A: Computation of taxable gifts**

Yes/ No/  
Done N/A

- ▶ 201) Determine if transfers were made to grandchildren or other skip persons.
- ▶ 202) If transfers were made to a trust, attach a certified or verified copy of the trust document (or a brief description of the terms of the trust). Obtain the trust's taxpayer identification number and the required information about the trust's beneficiaries.
- ▶ 203) For real estate transfers, attach a copy of the appraisal, and the legal description for each parcel and make note of any retained interest.
- ▶ 204) For an interest in a closely held business, attach the required financial data under Regs. Sec. 301.56501(c)-1(f)(2) or a qualified appraisal.
- ▶ 205) Consider the special valuation rules and elections pursuant to Sec. 2701 for transfers of certain interests in corporations, partnerships and LLCs.
- ▶ 206) Consider the special valuation rules of Sec. 2702 for transfers in trust.
- ▶ 207) For shares of publicly traded stock that are gifted, include the number of shares, the type (common or preferred) the principal exchange, and CUSIP number.

Yes/ No/  
Done N/A

- ▶ 208) For gifts of virtual currency, determine the proper valuation.
- ▶ 209) For notes that are gifted, include the name of the maker, maturity date, principal amount, unpaid principal, interest rate, compounding and the date to which interest has been paid.
- ▶ 210) For life insurance policies, include the insurer, policy number and a completed Form 712, *Life Insurance Statement*. Inquire whether the policy is funded through a split dollar arrangement.
- ▶ 211) If gift taxes are payable, determine if any of the gift tax will be paid by the donee.
- ▶ 212) Reconcile the basis of gifts of depreciable property to income tax depreciation records.
- ▶ 213) If gifts were made to a Sec. 529 plan and the gifts are to be reported over five years, check the box on Form 709 to make the election. Gift tax returns are not required for the balance of the five-year period if no further reportable gifts are made to the same donee.

Comments/explanations

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**300) Schedule B: Gifts from prior periods**

Yes/ No/  
Done N/A

- ▶ 301) Inquire about the existence of prior unreported gifts to determine the need to file delinquent returns.
- ▶ 302) If it is determined that prior year returns should be amended to adequately disclose gifts made, consult Rev. Proc. 2000-34.
- ▶ 303) Recalculate the amount of the unified credit or the applicable exclusion amount claimed if any prior taxable gifts were unreported.
- ▶ 304) Verify that previous years' unified credit(s) were recalculated based on revised tax rates.
- ▶ 305) Consider amending prior year returns to adjust unified credit and/or GST exemption amounts for post-Windsor gifts made by same-sex spouses.

Comments/explanations

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**400) Schedule C: Deceased spouse unused exclusion (DSUE)**

Yes/ No/  
Done N/A

- ▶ 401) Determine whether a DSUE amount is available on the date the taxable gift was made (note that remarriage does not prevent the use of a DSUE).
- ▶ 402) Ensure the DSUE amount is used before the surviving spouse's donor's exclusion. Note that the surviving spouse can apply the DSUE amount received from the estate of his or her last deceased spouse against any tax liability arising from subsequent lifetime gifts and transfers at death.
- ▶ 403) Note that the sum of DSUE amounts from multiple spouses is reported in Part 2, but older amounts cannot be used after the death of a subsequent spouse.

Comments/explanations

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**500) Schedule D: GST tax**

Yes/ No/  
Done N/A

- ▶ 501) Determine if the gift tax annual exclusion is allowable for GST purposes.
- ▶ 502) Review gift tax returns after 1985 for use of the GST tax exemption.
- ▶ 503) If taxpayer (donor) elects out of automatic allocation of GST exemption, confirm in writing with the taxpayer (donor), check the appropriate box and attach an election statement.
- ▶ 504) Consider making late GST exemption allocations to previously unreported gifts (note the distinction between life insurance and other assets).
- ▶ 505) Document in writing the taxpayer's (donor's) decision to allocate, or not allocate, the GST exemption.
- ▶ 506) Consider the use of formula language, instead of a stated amount, to allocate the GST exemption.
- ▶ 507) Consider a special QTIP election (reverse QTIP) for gifts in trust where a QTIP election has been made.
- ▶ 508) Consider seeking relief under Sec. 2642(g) for transfers in trust with unintended GST tax consequences.

Comments/explanations

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**600) Miscellaneous**

- ▶ 601) Consider disclosure of all gifts subject to valuation, including gifts under \$15,000 (adequate disclosure is necessary to start the statute of limitations with respect to such gifts).
- ▶ 602) Consider disclosing non-gift transactions on Form 709 (such as sales to family members or trusts) to start the statute of limitations.
- ▶ 603) Consider disclosing gifts in trust valued at less than the annual exclusion (\$15,000) to start the statute of limitations for adequate disclosure.
- ▶ 604) Consider the need to file an information return for gifts received by U.S. persons from foreign donors under Sec. 6039F (Form 3520 is due at the same time as the recipient's Form 1040).
- ▶ 605) Attach extension forms (Forms 4868 or 8892), if applicable.
- ▶ 606) Consider having the donor provide to the donees the information on gift taxes paid for them to adjust their basis in appreciated assets received.
- ▶ 607) Remind taxpayers to make sure that both gift tax returns of spouses who elect to split gifts are mailed in the same envelope. Confirm that both spouses sign where indicated on their respective returns and in the split-gift election signature area.
- ▶ 608) Consider recommending to the client to use certified mail when filing.
- ▶ 609) Confirm that you/your firm have met all professional responsibilities as outlined in the AICPA Code of Professional Conduct, AICPA Statements on Standards for Tax Services and federal and state authorities, such as Circular 230. Consider potential conflicts of interest, preparer penalties and reminders to clients about their responsibility for the contents of the tax return.
- ▶ 610) Internal processing procedures:
  - Reconcile source documents to final return results.
  - Prepare filing instructions and a transmittal letter.
  - Confirm delivery instructions (portal, mail, pickup or delivery).
- ▶ 611) Provide your client with complete returns and advise your client to retain copies indefinitely. Return original documents to your client and provide other documents/support, as applicable.

Comments/explanations

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