

Internal Revenue Service
Estate & Gift General Program & Return Information
For External Audiences

WHERE DO YOU FILE?

- File all estate & gift tax returns at the Cincinnati Campus:
(Forms 706, 709, 706NA, 706A, 706D)

**Internal Revenue Service Center
Cincinnati, OH 45999**

OR for courier service:

**Internal Revenue Service
201 W. Rivercenter Blvd.
Stop 842G
Covington, KY 41011**

IRS GENERAL INFORMATION OR QUESTIONS HOTLINES

- Website for E&G information: www.irs.gov
- Estate & Gift Toll-Free number is: **866-699-4083**
Please call this number for copies of 709s you do not have.
- For pre-filing or tax law questions call: **800-829-1040 or 800-829-4933**

NOTE: Questions will only be answered for those authorized on a valid Power of Attorney (POA) holder or the taxpayer.

FILING REQUIREMENTS & DUE DATES

- An "Information Return" is required under the 2010 estate filing requirements (for decedent's dying in this year). The information return is due the same day as the decedent's final income tax return. It is filed if the fair market value of the property acquired from a decedent exceeds \$1.3 million. **There is a \$10,000 penalty imposed on an Executor who fails to file the information return.** A statement must be provided to each Beneficiary within 30 days of filing an Information Return. A penalty of \$50 is imposed on an executor for each instance in which the executor fails to provide the statement.

- Form 4768 gives an automatic 6 month extension (12 months if only Executor is abroad). It is used for Form 706; 706-D; 706-NA; or 706-QDT.
 - Form 8892 gives an automatic 6 month extension for 709s.
 - Form 2758 gives an extension for 706-GS(D); 706-GS(T) and 1041.
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ORGANIZATIONAL MAKE-UP OF THE ESTATE & GIFT PROGRAM

- The program is headed by the Chief of Estate Tax. There are four territory Managers (Northeast, East, Central, and West). Estate and Gift Tax Attorneys work for Group Managers who report to Territory Managers. There is also a Policy staff and specialists working for the Chief.
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CLASSIFICATION – HOW ARE RETURNS SELECTED FOR EXAM?

- Returns are filed at the Cincinnati Campus.
 1. They are first processed for identification factors which are input to our system (SSN, NAME, TAX DUE, ETC).
 2. The returns are then checked for math errors.
 3. Returns are classified for potential audit issues, with the number of returns selected for audit being based on program priorities and work plan needs.
 4. The Scope of the examination is determined based on:
 - a. size,
 - b. character,
 - c. evidence of intent to mislead,
 - d. manner in which an item was reported, and
 - e. the relationship with other items reported on the return.
 5. It is important to know that every single return filed is reviewed by someone (either an estate & gift tax attorney or paralegal) and this includes taxable and non-taxable returns.
 6. Incomplete returns (Missing information or schedules) are sent to “Entity” for completion.
 7. Returns identified as having potential examination issues are sent to the field approximately 6 months after filing.
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ESTATE & GIFT PROGRAM PRIORITIES

- Examinations of Estate Tax Returns filed for estates of decedents dying before January 1, 2010
- Gift Tax Returns

- Non-Filers of Estate and Gift Tax Returns:
 - Federal/State initiatives
 - Non-filer projects
 - Whistleblower Office referrals

We use internal and external data to discover non-filers. We also cooperate with various states, counties, and local governments to discover non-filers.

- International (There is increasing coordination with the International Income Tax Division)
- Penalties
- Intra-Family Transactions
- Closely-Held Business Interests
- Family Limited Partnerships

NOTE: In 2008, \$24,870,000,000 in estate tax revenue was collected.

“DIRTY DOZEN” REASONS A RETURN IS AUDITED

- Outdated form used
- Incomplete Form 4768 (Extension of time to file/pay tax). The Preparer must complete Part 2 to get the extension of time to pay.
- Failure to include wills, trusts, backup material where it is readily found.
- Failure to include appraisal and/or the summary page indicating the major factors of the appraisal: basis of value (five times earnings, adjusted asset, and conclusion of value; discounts taken, short history of company or flip to verify percentage included in estate.
- Answers on page 3 of Form 706 checked “yes” without including explanation.
- Failure to include prior gifts.
- Listing gifts on Schedule G instead of Line 4 or failure to gross-up gift tax paid within three years of death.
- Assets on Schedule E shown at 50% based on state rules, or at less than 100% with no documentation as to why.

- Failure to include computations for Marital, Charitable, CLAT, GRAT etc.
 - Failure to sign return.
 - Failure to put SSN on check with a “V” after the SSN to indicate it is an estate (especially on the check).
 - Failure to file Form “843” as a Protective Claim for Refund and take any sales expenses that were not paid yet as a deduction under the protective claim for refund (and not as a Sch. J expense). Note: Put in “red” ink across the top of a Form 843 Claim for refund the word Protective, and that holds open the statute of limitations for you.
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THE EXAMINATION PROCESS

- The examination process is intended to encourage compliance and discover non-compliance with the tax laws. Generally speaking, the examination process involves reviewing the return and any attachments, identifying issues, gathering additional evidence (including documentation and testimony), and making a determination as to the correct amount of tax due. As a result of the examination, the Estate Tax Attorney (ETA) will propose to the taxpayer or the POA that the tax return be “no changed” or that adjustments be made to the return that will increase the amount of tax (deficiency) or reduce the amount of tax (refund or abatement). The ETA may also propose that the taxpayer pay penalties if the examination indicates that penalties are appropriate. The IRS authority to examining returns is found in IRC §7602.
- ETAs have no authority to settle cases based upon hazards of litigation. An ETA may resolve legal and valuation issues by considering all of the evidence, including discussions with the POA and the taxpayer.
- No one in IRS, including ETAs, has the authority to compromise penalties in exchange for the taxpayer’s concession on the legal or valuation issues.
- If a POA has a question or concern regarding a particular ETA or audit, we encourage the POA to contact the ETA’s manager. Also, in unagreed cases, we encourage the POA to contact the ETA’s manager for an unagreed conference.
- In order to leverage resources and to increase examination efficiency, the IRS E&G Program has developed and implemented the concept of a national workload. This means that cases are assigned to the Field based upon the location of the resources and personnel necessary to complete the work as quickly and expeditiously as possible, not the geographic location of the taxpayer.

IRS COMMUNICATIONS WITH THE TAXPAYER

We usually begin with requesting additional information from the taxpayer. The most commonly requested information is:

1. Power of Attorney
 2. Forms 1040 and 1041
 3. Copies of Wills, Trusts, etc. (Reformation MUST be completed prior to submission of the estate tax return)
 4. Forms 709
 5. Requests that follow the schedules of the estate tax return, based on where there is an issue:
 - a. Appraisals for real estate
 - b. Valuations for stocks/bonds
 - c. Life insurance forms
 - d. Appraisals for partnership investments/closely held companies
 - e. Verification of debts/expenses
 6. Verification of charitable status of foundations, organizations
- We may contact third parties for additional information. If so, you will be notified prior to such contact, and offered a chance to agree to such contact. If not, we will send you information regarding any such contacts. We can make the contacts with or without agreement. The difference is the amount of information you must receive regarding the contact.
 - Dates requested of the taxpayer to respond by are in all correspondence we send. These are mutual commitment dates, and are designed to:
 - give target dates for closing the exam and intermediate actions;
 - encourage cooperation between the IRS and the taxpayer; and,
 - reduce the amount of time spent on the exam.
 - Under our bypass procedures, we may notify the taxpayer directly if the ETA believes that the Power of Attorney is responsible for unreasonable delay or hindrance. This is under IRC 7521(c). A warning letter is sent to the POA by the estate tax attorney's manager first. Senior management must approve the "Bypass" procedure.

ENFORCEMENT TOOLS

- In order to fairly and efficiently administer the tax laws, the IRS sometimes uses various enforcement tools to achieve compliance. These tools include:

Penalties are assessed to encourage voluntary compliance and to discourage non-compliance with the tax laws. The assessment of penalties by an examiner generally requires the approval of management.

Summonses are used to obtain testimony and evidence in situations in which the party being summonsed refuses to provide that testimony or evidence voluntarily. The issuance of a summons generally requires the approval of management and is often coordinated with Counsel. See IRC §§7602, 7603, 7604, and 7609.

Bypass Procedures are used when a practitioner is dilatory in providing information, scheduling meetings, or is otherwise not cooperating with the examination ETA. The use of bypass procedures requires the approval of management.

WHAT TO EXPECT AFTER AN EXAMINATION

- An examination report is prepared outlining any proposed adjustments. If the taxpayer agrees with the proposed adjustments, the case is closed agreed. If the case is un-agreed, we either (1) Issue a 30-day letter, which gives the taxpayer the opportunity to request a hearing with an appeals officer (if there is 6 months left on the statute of limitations), or (2) Issue a statutory notice of deficiency, also known as a 90-day letter. The taxpayer then pays the deficiency or files a petition with the tax court within the 90 days.
 - There is also the possibility of a “fast-track-settlement” meeting at Appeals, where an Appeals Officer is present at the meeting, the Rep. is there, and the ETA, with Manager, is also present. The Rep and ETA render their positions to the Appeals Officer, and then, all parties try to agree on an acceptable outcome, based on the positions put forth at the meeting. This is a very fast and efficient means of resolving disputes.
 - Estate Tax Attorneys are not authorized to consider “hazards of litigation” or “settle cases. Appeals can give consideration to these things.
 - It must be remembered that a closing letter is not a closing agreement. The IRS can issue a “re-opening” memorandum if the IRS finds errors not disclosed during the audit.
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WHISTLEBLOWER OFFICE

- The office uses confidential informants to identify tax evasion. Rewards can be 15% to 30% of the tax the IRS collects.

- To make a claim, an informant must file new Form 211, Application for Award for Original Information, which asks informants to provide an estimate of the tax owed, the pertinent facts in the case and an explanation of how the informant obtained the information. Completed Forms 211 should be sent to:

**Internal Revenue Service
Whistleblower Office
SE:WO
1111 Constitution Ave, NW
Washington, D.C. 20224**