HANDLING FEDERAL ESTATE AND GIFT TAXES

Revised, 6th

2026–2027 Edition
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by

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VOLUME 1

Chapters 1–12

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Authors' Highlights

Author's Note

On July 4, 2025, President Trump signed into law PL 119-21, popularly known as the "One Big Beautiful Bill Act" (OBBBA). While OBBBA made numerous changes to the tax code, there was only one change to the transfer taxes of Subtitle B: an increase in the basic exclusion amount to $15,000,000, indexed for inflation after 2026. I.R.C. § 2010(c)(3)(A). The legislation states the effective date "*apply to estates of decedents dying and gifts made after December 31, 2025*."

Volume 1

§ 2:102 Interests in business; goodwill

Note 7 has been updated to reflect the latest version of Form 706.

§ 2:116 Qualified terminable interest property

Updated Note 2 following the Second Circuit's affirmation of *Kalikow* in 2025.

§ 2:124 Reporting of lifetime gifts

Note 4 has been updated to reflect the most current instructions for Form 706.

§ 3:201 Effect of interest rate and other terms of note

Added *Estate of Barbara Galli v. Commissioner* to note 7, where the Tax Court held § 7872 did not apply because the interest on the loan met the applicable AFR.

§ 5:68 Generally

Section updated to reflect the latest version of Form 706 and the instructions.

§ 5:87 Protective election—How to make protective election

Last paragraph of section updated to reflect the latest version of the instructions for Form 706.

§ 5:90 Making qualified woodlands election

Section updated to reflect the latest version of Form 706.

§ 6:24 Attorneys' fees; form

Note 13 has been updated to reflect the most current instructions for Form 706.

§ 6:98 Effect of alternate valuation

Note 2 has been updated to reflect the most current instructions for Form 706.

§ 6:155 "Terminal interests" defined—Illustrative cases

Added a discussion of *Estate of Griffin* where the Tax Court held that the $300,000 bequest was not a terminable interest because it created a separate trust requiring any remaining amounts to pass to the surviving spouse's estate and thus qualified for the marital deduction.

§ 6:199 Election required

Added *Estate of Griffin* to note 1. In *Griffin* the Tax Court stated that there is no "substantial compliance" standard for making the QTIP election. If the election is not made, there is no QTIP.

§ 6:200 Election required—QTIP election and omitted assets

Updated the mailing address for Form 706.

§ 6:201 Election required—Failure to make QTIP election

Added to footnote 4 two 2026 private letter rulings permitting an extension of time to make a QTIP election after the estate tax return was filed.

§ 6:203. Election required—Election out of QTIP treatment

Section updated to reflect the latest version of Form 706.

§ 6:218 Executor's election

Section updated to reflect the latest version of Form 706 and the instructions.

§ 7:13 Extension of time to make portability election for decedents dying after December 31, 2010

Added citations to footnote 1 of several 2026 private letter rulings allowing extensions of time to make an election under I.R.C. § 2010(c)(5)(A) permitting surviving spouse to utilize decedent's deceased spousal unused exclusion (DSUE) amount.

§ 7:18 Generally

Material under the "Observation" updated to reflect the latest version of Form 706.

§ 7:26 Generally

Section updated to reflect the latest instructions for Form 706.

§ 7:52 Generally

Section updated to reflect the latest instructions for Form 706.

§ 8:2 Computation of tax

Notes 4 and 5 updated to reflect the latest instructions for Form 706.

§ 8:3 Computation of tax—Unified credit for citizen of U.S. possessions

Note 1 updated to reflect the latest instructions for Form 706-NA.

§ 9:1 Requirements for filing U.S. citizen or resident's estate tax return

Notes 5 and 6 updated to reflect the latest instructions for Form 706.

§ 9:5 Person(s) required to file estate tax return—Persons in possession of estate assets must file

Note 3 updated to reflect the latest instructions for Form 706.

§ 9:7 Additional estate tax return for early disposition of farm or closely held business

Note 2 updated to reflect the latest instructions for Form 706-A.

§ 9:8 Additional estate tax return for early disposition of farm or closely held business—Person required to file additional estate tax return

Note 2 updated to reflect the latest instructions for Form 706-A.

§ 9:13 Supplemental data to accompany return—Required documents

Multiple changes to reflect the latest instructions for Form 706 and Form 706-NA.

§ 9:16 Signing and verification of estate tax returns—If more than one executor

Notes for section updated to reflect the latest instructions for Form 706.

§ 9:21. Automatic Extension of time for filing; form of application for extension

Section updated to reflect the latest instructions for Form 4768.

§ 9:22. Where to file estate tax returns—Deceased United States residents

Updated the mailing address for Form 706.

§ 9:36. Amending the return

Notes for section updated to reflect the latest instructions for Form 706.

§ 10:23. Generally

Note 4 updated to reflect the latest instructions for Form 706.

§ 10:29. Application for extension of time to pay; form

Section updated to reflect the latest instructions for Form 706.

§ 10:31. Reversion or remainder interests

Note 6 updated to reflect the latest instructions for Form 706.

§ 10:64. Manner of election

Section updated to reflect the latest instructions for Form 706.

§ 11:12. Closing letters issued only on request

Added Proposed Reg. § 300.12 (REG-103193-26) to n. 1. The proposed regulations increases the cost for a closing letter to $76 for requests received on or after the date that is 30 days after the regulation becomes final.

Volume 2 (starts at Chapter 13)

§ 14:11 Donative intent—When is a transfer a loan or a gift: case study

Added *Estate of Barbara Galli* to n. 1. In *Galli* the Tax Court held that a transfer structured as a loan was not a gift because the Service failed to provide adequate proof

§ 16:76 Trump accounts

A new section addresses the gift tax consequences of transfers to Trump accounts (I.R.C. § 530A), created in July 2025 by the tax act popularly known as the One Big Beautiful Bill. Transfers to these accounts are not present interests and therefore do not qualify for the annual exclusion under § 2503(b). As a result, contributors must file a gift tax return and rely on the unified credit to avoid current gift tax.

§ 16:170 IRS cannot grant extension of time to make QTIP election after gift tax return is filed

Updated section to reflect the latest Form 709.

§ 18:3 Transfers subject to the gift tax

Note 3 updated to reflect the latest instructions for Form 709.

§ 18:23 Extension of time to file

Note 1 updated to reflect the latest instructions for Form 709.

§ 18:24 Where gift tax return is filed

Updated section to reflect the latest instructions for Form 709.

§ 18:29 Supplemental data to be furnished by donor

Note 3 updated to reflect the latest instructions for Form 709.

§ 19:43 Extension of time to apply the GST exemption amount

Added to footnote 7 a 2026 private letter ruling permitting an extension of time to allocate the GST exemption amount.

§ 19:44 Extension of time to allocate GST exemption

Added to footnote 7 a 2026 private letter ruling permitting an extension of time to make a GST trust election due to the accounting firm's failure to elect GST trust treatment and to allocate any of the grantor's GST exemption on the grantor's Form 709.

§ 19:45 Election out of automatic allocation rules: Election out statement

Added to note 3 several private letter rulings permitting an extension of time to opt out of the GST automatic allocation rules.

§ 19:56 Time and manner of reverse QTIP election

Notes 4 and 5 updated to reflect the latest Form 706 and Form 709.

§ 19:57 Time and manner of reverse QTIP election—Extension of time to make election

Added a citation to footnote 1 a recent private letter ruling allowing an extension of time to make a reverse QTIP election.

§ 19:75 Modifications to "grandfathered" exempt trusts: court ordered modifications

Added Private Letter Ruling 202622002 to note 1. The Ruling permitted court-ordered trust modifications that removed trustee geographic and institutional limitations and added fiduciary authority to direct trust investments and exercise other administrative powers without affecting the trust's GST-exempt status.

§ 19:93 No Loss of GST Exemption due to Creation of Testamentary GPA

Added a series of Private Letter Rulings to note 1. In the rulings, the IRS determined there was no loss of exempt status for agreement requiring judicial approval adding testamentary general power of appointment.

§ 19:119 Misstatements of valuation

Note 2 updated to reflect the latest Instructions for Form 706-GS(D) and Form 706-GS(T).

Dedication

To our families.

JMK KMY

About the Authors

Myron Kove (Mike) has been co-author of Handling Estate and Gift Taxes for several years. As co-author he substantially revised and updated the text using knowledge gained over his long and distinguished legal career. Mike is now taking his retirement and Kevin Yamamoto, Professor of Law at South Texas College of Law Houston, is the new co-author. Professor Yamamoto is the editor of Federal Transfer Taxes Code and Regulations and many articles and books on the subject of estate tax. We congratulate Mike on his retirement and are grateful for his very important contribution to the text.

James M. Kosakow, a partner at McLaughlin & Stern, LLP, New York, NY, and a Fellow of the American College of Trust and Estate Counsel, is admitted to practice in New York, Connecticut and Florida, and before the U.S. Tax Court. He is co-author with Professor Gerry Beyer of Revocable Trusts 5th and Irrevocable Trusts 4th, both published by Thomson Reuters, and is a contributing author to Strategies for Trusts and Estates in New York, 2015 Edition: Leading Lawyers on Analyzing Recent Developments and Navigating the Estate Planning Process in New York (Inside the Minds). He was assistant editor of Insights and Strategies, a nationally distributed monthly financial and estate planning newsletter for professionals and has authored or co authored more than twenty articles in the field of estate planning and trust and estate administration. Jim was an Adjunct Professor of Estate Planning in the Center for Professional Education at the Pace University Lubin School of Business and the Department of Finance, Law and Taxation at New York University School of Continuing and Professional Studies. He has been named by Worth magazine as one of the "Top 100 Attorneys" in the nation for private clients, by Law & Politics as a "New York Super Lawyer" and as one of The Best Lawyers in America for Trusts and Estates by U.S. News-Best Lawyers. He is also rated AV Preeminent by Martindale-Hubbell, identifying him as part of a select group of lawyers recognized for their legal abilities and professional ethical standards. He serves on the Planned Giving Advisory Councils of the American Cancer Society, The New York Historical Society and the Hospital for Special Surgery. Jim received his bachelors degree from Connecticut College and his law degree from Benjamin N. Cardozo School of Law at Yeshiva University.

Kevin Yamamoto is a law professor at South Texas College of Law Houston, teaching courses in income, estate, and corporate tax. Kevin received his bachelor's degree from the University of California, Davis, his law degree from the University of San Diego College of Law, and LL.M. in Taxation from the University of Florida. He is the co-author of a number of books published by West on the subject of taxation.

Preface

Tax law is constantly evolving, either through legislation, judicial decision, or regulatory pronouncements. We will continue to report twice-yearly subsequent developments, which will be integrated in the text rather than in the form of separate supplements.

A continuing feature (following the copyright page) is the Authors' Highlights, which lists several recent important developments (reported in greater detail in the text) which may be of special interest to practitioners. The Authors' Highlights will change with each new edition.

In the preparation of this revised edition, we wish to acknowledge the contribution of John Oberst, Attorney Editor. His insightful comments and suggestions were of great value in the preparation of the manuscript. We also thank Mary Hoggard, Legal Assistant, and Jennie Sheehan, Trusts and Estates Paralegal, both with McLaughlin & Stern LLP, for their assistance in editing the text.

James M. Kosakow
Kevin M. Yamamoto

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VOLUME 2

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