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Internal Revenue Service

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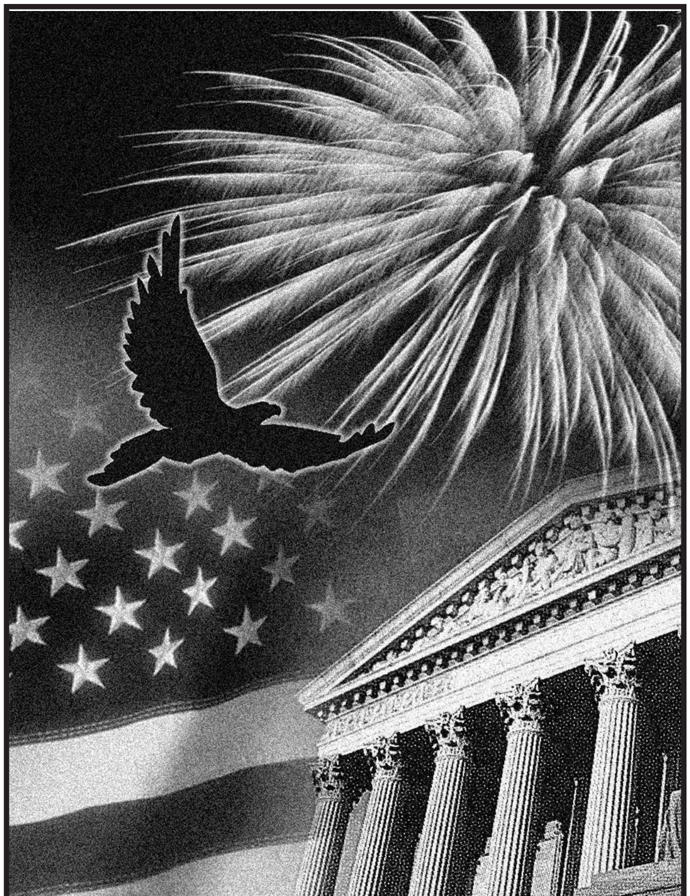
Survivors, Executors, and Administrators

For use in preparing

2022 Returns



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Dec 7, 2022

Contents

Future Developments

For the latest information about developments related to Pub. 559, such as legislation enacted after it was published, go to *IRS.gov/Pub 559*.

What's New

Filing status name changed to qualifying surviving spouse. The filing status qualifying widow(er) is now called qualifying surviving spouse. The rules for the filing status have not changed. The same rules that applied to qualifying widow(er) apply to qualifying surviving spouse. See *Qualifying surviving spouse*, later.

Extension of time to elect portability. Effective July 8, 2022, Rev. Proc. 2022-32 provides a simplified method for certain estates to obtain an extension of time to file a return on or before the fifth anniversary of the decedent's death to elect portability of the deceased spousal unused exclusion (DSUE) amount. See *Filing requirements*, later, for more information.

Reminders

Net operating loss (NOL) carryback. Generally, an NOL arising in a tax year beginning in 2021 or later may not be carried back and instead must be carried forward indefinitely. However, farming losses arising in tax years beginning in 2021 or later may be carried back 2 years and carried forward indefinitely.

For special rules for NOLs arising in 2018, 2019, or 2020, see Pub. 536, Net Operating Losses (NOLs) for Individuals, Estates, and Trusts, for more information.

Excess deductions on termination. Under *Final Regulations - TD9918*, each excess deduction on termination of an estate or trust retains its separate character as an amount allowed in arriving at adjusted gross income (AGI), a non-miscellaneous itemized deduction, or a miscellaneous itemized deduction. For more information, see the Instructions for Form 1041.

Consistent treatment of estate and trust items. Beneficiaries must generally treat estate items the same way on their individual returns as they are treated on the estate's return.

Consistent basis reporting between estate and person acquiring property from a decedent. Certain executors are required to report the estate tax value of property passing from a decedent to the IRS and to the recipient of the property (beneficiary). See *Consistent Basis Reporting Requirement*, later, for more information.

Photographs of missing children. The Internal Revenue Service is a proud partner with the *National Center for Missing & Exploited Children® (NCMEC)*. Photographs of missing children selected by the Center may appear in this publication 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.

Introduction

This publication is designed to help those in charge (personal representatives) of the property (estate) of an individual who has died (decedent). It shows how to complete and file federal income tax returns and explains their responsibility to pay any taxes due on behalf of the decedent. An example of the decedent's final tax return, Form 1040, U.S. Individual Income Tax Return, and the estate's income tax return, Form 1041, U.S. Income Tax Return for Estates and Trusts, are discussed in this publication.

The publication also explains how much money or property a taxpayer can give away during their lifetime or leave to their heirs at their death, before any tax will be owed. A discussion of Form 709, United States Gift (and Generation-Skipping Transfer) Tax Return, and Form 706, United States Estate (and Generation-Skipping Transfer) Tax Return, is included.

Also included in this publication are the following items.

- A checklist of the forms you may need and their due dates.
- A worksheet to reconcile amounts reported in the decedent's name on information returns including Forms W-2, Wage and Tax Statement; 1099-INT, Interest Income; 1099-DIV, Dividends and Distributions; etc. The worksheet will help you correctly determine the income to report on the decedent's final return and on the return for either the estate or a beneficiary.

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

You can send us comments through *IRS.gov/FormComments*. Or you can write to: Internal Revenue Service, Tax Forms and Publications Division, 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 as we revise our tax forms, instructions, and publications. **Don't** send tax questions, tax returns, or payments to the above address.

Getting answers to your tax questions. If you have a tax question not answered by this publication, or the *How To Get Tax Help* at the end of this publication, go to the IRS Interactive Tax Assistant page at *IRS.gov/help/ITA* where you can find topics using the search feature or by viewing the categories listed.

Getting tax forms, instructions, and publications. Go to *IRS.gov/Forms* to download current and prior-year forms, instructions, and publications.

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Useful Items

You may want to see:

Publication

- ❑ **3** Armed Forces' Tax Guide

Form (and Instructions)

- ❑ **SS-4** Application for Employer Identification Number
- ❑ **56** Notice Concerning Fiduciary Relationship
- ❑ **1040** U.S. Individual Income Tax Return
- ❑ **1040-SR** U.S. Tax Return for Seniors
- ❑ **1041** U.S. Income Tax Return for Estates and Trusts
- ❑ **706** United States Estate (and Generation-Skipping Transfer) Tax Return
- ❑ **709** United States Gift (and Generation-Skipping Transfer) Tax Return
- ❑ **1310** Statement of Person Claiming Refund Due a Deceased Taxpayer

See *How To Get Tax Help* near the end of this publication for information about getting publications and forms. Also near the end of this publication is Table A, a checklist of forms and their due dates for the executor, administrator, or personal representative.

Personal Representative

A *personal representative* of an estate is an executor, administrator, or anyone who is in charge of the decedent's property. Generally, an *executor* (or *executrix*) is named in a decedent's will to administer the estate and distribute properties as the decedent has directed. An *administrator* (or *administratrix*) is usually appointed by the court if no will exists, if no executor was named in the will, or if the named executor can't or won't serve.

In general, an executor and an administrator perform the same duties and have the same responsibilities.

For estate tax purposes, if there is no executor or administrator appointed, qualified, and acting within the United States, the term "executor" includes anyone in actual or constructive possession of any property of the decedent. It includes, among others, the decedent's agents and representatives; safe-deposit companies, warehouse companies, and other custodians of property in this country; brokers holding securities of the decedent as collateral; and the debtors of the decedent who are in this country.

Duties

The primary duties of a personal representative are to collect all the decedent's assets, pay the decedent's creditors, and distribute the remaining assets to the heirs or other beneficiaries.

The personal representative must also perform the following duties.

- Apply for an employer identification number (EIN) for the estate.
- File all tax returns, including income, estate, and gift tax returns, when due.
- Pay the tax determined up to the date of discharge from duties.

Other duties of the personal representative in federal tax matters are discussed in other sections of this publication. If any beneficiary is a nonresident alien, see Pub. 515, Withholding of Tax on Nonresident Aliens and Foreign Entities, for information on the personal representative's duties as a withholding agent.

Penalty. There is a penalty for failure to file a tax return when due unless the failure is due to reasonable cause. Reliance on an agent (attorney, accountant, etc.) isn't reasonable cause for late filing. It is the personal representative's duty to file the returns for the decedent and the estate when due.

Identification number. The first action you should take if you're the personal representative for the decedent is to apply for an EIN for the estate. You should apply for this number as soon as possible because you need to enter it on returns, statements, and other documents you file concerning the estate. You must also give the identification number to payers of interest and dividends and other payers who must file a return concerning the estate.

You can get an EIN by applying online at *IRS.gov/EIN*. Generally, if you apply online, you will receive your EIN immediately upon completing the application. You can also apply using Form SS-4. Generally, if you apply by mail, it takes about 4 weeks to get your EIN. See *IRS.gov/Businesses/Small-Businesses-&-Self-Employed/Employer-ID-Numbers-EINs* for other ways to apply.

Payers of interest and dividends report amounts on Forms 1099 using the identification number of the person to whom the account is payable. After a decedent's death, Forms 1099 must reflect the identification number (EIN, individual identification number (ITIN), or social security number (SSN)) of the estate or beneficiary to whom the amounts are payable. As the personal representative handling the estate, you must furnish this identification number to the payer. For example, if interest is payable to the estate, the estate's EIN must be provided to the payer and used to report the interest on Form 1099-INT. If the interest is payable to a surviving joint owner, the survivor's identification number, such as an SSN or ITIN, must be provided to the payer and used to report the interest.

If the estate or a survivor may receive interest or dividends after you inform the payer of the decedent's death, the payer should give you (or the survivor) a Form W-9, Request for Taxpayer Identification Number and Certification (or a similar substitute form). Complete this form to inform the payer of the estate's (or if completed by the survivor, the survivor's) identification number and return it to the payer.

CAUTION *Don't use the deceased individual's identifying number to file an individual income tax return after the decedent's final tax return. Also don't use the decedent's identifying number to make estimated tax payments for a tax year after the year of death.*

Penalty. If you don't include the EIN or the taxpayer identification number (TIN) of another person where it is required on a return, statement, or other document, you are liable for a penalty for each failure, unless you can show reasonable cause. You are also liable for a penalty if you don't give the TIN of another person when required on a return, statement, or other document.

Notice of fiduciary relationship. The term “fiduciary” means any person acting for another person. It applies to persons who have positions of trust on behalf of others. It generally includes a guardian, trustee, executor, administrator, receiver, or conservator. A personal representative for a decedent's estate is also a fiduciary.

Form 56. If you are appointed to act in a fiduciary capacity for another, you must file a written notice with the IRS stating this. Form 56 is used for this purpose. See the Instructions for Form 56 for filing requirements and other information.

File Form 56 as soon as all the necessary information (including the EIN) is available. It notifies the IRS that you, as the fiduciary, are assuming the powers, rights, duties, and privileges of the decedent. The notice remains in effect until you notify the IRS (by filing another Form 56) that your fiduciary relationship with the estate has terminated.

Termination of fiduciary relationship. Form 56 should also be filed to notify the IRS if your fiduciary relationship is terminated or when a successor fiduciary is appointed if the estate hasn't been terminated. See Form 56 and its instructions for more information.

At the time of termination of the fiduciary relationship, you may want to file Form 4810, Request for Prompt Assessment Under Internal Revenue Code Section 6501(d), and Form 5495, Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905, to wind up your duties as fiduciary. See below for a discussion of these forms.

Request for prompt assessment (charge) of tax. The IRS ordinarily has 3 years from the date an income tax return is filed, or its due date, whichever is later, to charge any additional tax due. However, as a personal representative, you may request a prompt assessment of tax after the return has been filed. This reduces the time for making the assessment to 18 months from the date the written request for prompt assessment was received. This request can be made for any tax return (except the estate tax return) of the decedent or the decedent's estate. This may permit a quicker settlement of the tax liability of the estate and an earlier final distribution of the assets to the beneficiaries.

Form 4810. Form 4810 can be used for making this request. It must be filed separately from any other document.

As the personal representative for the decedent's estate, you are responsible for any additional taxes that may be due. You can request prompt assessment of any of the decedent's taxes (other than federal estate taxes) for any years for which the statutory period for assessment is open. This applies even though the returns were filed before the decedent's death.

Failure to report income. If you or the decedent failed to report substantial amounts of gross income (more than 25% of the gross income reported on the return) or filed a false or fraudulent return, your request for prompt assessment won't shorten the period during which the IRS may assess the additional tax. However, such a request may relieve you of personal liability for the tax if you didn't have knowledge of the unpaid tax.

Request for discharge from personal liability for tax. An executor can make a request for discharge from personal liability for a decedent's income, gift, and estate taxes. The request must be made after the returns for those taxes are filed. To make the request, file Form 5495. For this purpose, an executor is an executor or administrator that is appointed, qualified, and acting within the United States.

Within 9 months after receipt of the request, the IRS will notify the executor of the amount of taxes due. If this amount is paid, the executor will be discharged from personal liability for any future deficiencies. If the IRS hasn’t notified the executor at the end of the 9-month period, the executor will be discharged from personal liabilities.

CAUTION *Even if the executor is discharged from personal liability, the IRS will still be able to assess tax deficiencies against the executor to the extent the executor still has any of the decedent's property.*

Insolvent estate. Generally, if a decedent's estate is insufficient to pay all the decedent's debts, the debts due to the United States must be paid first. Both the decedent's federal income tax liabilities at the time of death and the estate's income tax liability are debts due to the United States. The personal representative of an insolvent estate is personally responsible for any tax liability of the decedent or of the estate if the personal representative had notice of such tax obligations or failed to exercise due care in determining if such obligations existed before distribution of the estate's assets and before being discharged from duties. The extent of such personal responsibility is the amount of any other payments made before paying the debts due to the United States, except where such other debt paid has priority over the debts due to the United States. Income tax liabilities need not be formally assessed for the personal representative to be liable if the personal representative was aware or should have been aware of their existence.

Fees Received by Personal Representatives

All personal representatives must include fees paid to them from an estate in their gross income. If you aren't in the trade or business of being an executor (for instance, you are the executor of a friend's or relative's estate), report these fees on your Schedule 1 (Form 1040), line 8z. If you are in the trade or business of being an executor, report fees received from the estate as self-employment income on Schedule C (Form 1040), Profit or Loss From Business.

If the estate operates a trade or business and you, as executor, actively participate in the trade or business while fulfilling your duties, any fees you receive related to the operation of the trade or business must be reported as self-employment income on Schedule C (Form 1040).

Final Income Tax Return for Decedent—Form 1040 or 1040-SR

The personal representative (defined earlier) must file the final income tax return (Form 1040 or 1040-SR) of the decedent for the year of death and any returns not filed for preceding years. A surviving spouse, under certain circumstances, may have to file the returns for the decedent. See *Joint Return*, later.

Return for preceding year. If an individual died after the close of the tax year, but before the return for that year was filed, the return for the year just closed won't be the final return. The return for that year will be a regular return and the personal representative must file it.

Example. S. Smith died on March 21, 2022, before filing the 2021 tax return. The personal representative must file the 2021 return by April 15, 2022. The final tax return covering the period from January 1, 2022, to March 20, 2022, is due April 15, 2023.

Note. See *When and Where To File*, later, if the due date falls on a weekend or legal holiday. See Pub. 509, Tax Calendars, for a list of all legal holidays.

Name, Address, and Signature

Write the word "DECEASED," the decedent's name, and the date of death across the top of the tax return. If filing a joint return, write the name and address of the decedent and the surviving spouse in the name and address fields. If a joint return isn't being filed, write the decedent's name in the name field and the personal representative's name and address in the address field.

Third party designee. You can check the "Yes" box in the Third Party Designee area on Form 1040 or 1040-SR to authorize the IRS to discuss the return with a friend, a family member, or any other person you choose. This allows the IRS to call the person you identified as the designee to answer any questions that may arise during the processing of the return. It also allows the designee to perform certain actions. See the Instructions for Form 1040 (and 1040-SR) for details.

Signature. If a personal representative has been appointed, that person must sign the return. If it is a joint return, the surviving spouse must also sign it. If no personal representative has been appointed, the surviving spouse (on a joint return) signs the return and writes in the signature area "Filing as surviving spouse." If no personal representative has been appointed and if there is no surviving spouse, the person in charge of the decedent's property must file and sign the return as "personal representative."

Paid preparer. If you pay someone to prepare, assist in preparing, or review the tax return, that person must sign the return and fill in the other blanks in the *Paid Preparer Use Only* area of the return. See the Form 1040 and 1040-SR instructions for details.

When and Where To File

The final income tax return is due at the same time the decedent's return would have been due had death not occurred. A final return for a decedent who was a calendar year taxpayer is generally due on April 15 following the year of death, regardless of when during that year death occurred. However, when the due date falls on a Saturday, Sunday, or legal holiday, the return is filed timely if filed by the next business day.

Generally, you must file the final income tax return of the decedent with the Internal Revenue Service Center for the place where you live. A tax return for a decedent can be electronically filed. A personal representative may also obtain an income tax filing extension on behalf of a decedent.

Filing Requirements

The gross income, age, and filing status of a decedent generally determine whether a return must be filed. Gross income is all income received by an individual from any source in the form of money, goods, property, and services that isn't tax-exempt. It includes gross receipts from self-employment, but if the business involves manufacturing, merchandising, or mining, subtract any cost of goods sold. In general, filing status depends on whether the decedent was considered single or married at the time of death. See the income tax return instructions or Pub. 501, Dependents, Standard Deduction, and Filing Information.

Refund

A return must be filed to obtain a refund if tax was withheld from salaries, wages, pensions, or annuities, or if estimated tax was paid, even if a return isn't otherwise required to be filed. Also, the decedent may be entitled to other credits that result in a refund. These advance payments of tax and credits are discussed later under *Credits, Other Taxes, and Payments*.

Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer. Form 1310 doesn't have to be filed if you are claiming a refund and either of the following applies to you.

- You are a surviving spouse filing an original or amended joint return with the decedent.
- You are a court-appointed or certified personal representative filing the decedent's original return and a copy of the court certificate showing your appointment is attached to the return.

If the personal representative is filing a claim for refund on Form 1040-X, Amended U.S. Individual Income Tax Return, or Form 843, Claim for Refund and Request for Abatement, and the court certificate has already been filed with the IRS, attach Form 1310 and write "Certificate Previously Filed" at the bottom of the form.

Example. E. Green died before filing the tax return. You were appointed the personal representative for E. Green's estate, and you file the Form 1040 or 1040-SR showing a refund due. You don't need Form 1310 to claim the refund if you attach a copy of the court certificate to the tax return showing you were appointed the personal representative.

TIP *If you are a surviving spouse and you receive a tax refund check in both your name and your deceased spouse's name, you can have the check reissued in your name alone. Return the joint-name check marked "VOID" along with Form 1310 to your local IRS office or the service center where you mailed your return, along with a written request for reissuance of the refund check. A new check will be issued in your name and mailed to you.*

Death certificate. When filing the decedent's final income tax return, don't attach the death certificate or other proof of death to the final return. Instead, keep it for your records and provide it if requested.

Nonresident Alien

If the decedent was a nonresident alien who would have had to file Form 1040-NR, U.S. Nonresident Alien Income Tax Return, you must file that form for the decedent's final tax year. See the Instructions for Form 1040-NR for the filing requirements, due date, and where to file.

Joint Return

Generally, the personal representative and the surviving spouse can file a joint return for the decedent and the surviving spouse. However, the surviving spouse alone can file the joint return if no personal representative has been appointed before the due date for filing the final joint return for the year of death. This also applies to the return for the preceding year if the decedent died after the close of the preceding tax year and before filing the return for that year. The income of the decedent that was includible on the decedent's return for the year up to the date of death (see *Income To Include*, later) and the income of the surviving spouse for the entire year must be included on the final joint return.

A final joint return with the decedent can't be filed if the surviving spouse remarried before the end of the year of the decedent's death. The filing status of the decedent in this instance is married filing a separate return.

For information about tax benefits to which a surviving spouse may be entitled, see *Tax Benefits for Survivors*, later, under *Other Tax Information*.

Personal representative may revoke joint return election. A court-appointed personal representative may revoke an election to file a joint return previously made by the surviving spouse alone. This is done by filing a separate return for the decedent within 1 year from the due date of the return (including any extensions). The joint return filed by the surviving spouse will then be regarded as the separate return of that spouse by excluding the decedent's items and refiguring the tax liability.

Relief from joint liability. In some cases, one spouse may be relieved of joint liability for tax, interest, and penalties on a joint return for items of the other spouse that were incorrectly reported on the joint return. If the decedent qualified for this relief while alive, the personal representative can pursue an existing request, or file a request, for relief from joint liability. For information on requesting this relief, see Pub. 971, Innocent Spouse Relief.

Income To Include

The decedent's income includible on the final return is generally determined as if the person were still alive except that the tax period is usually shorter because it ends on the date of death. The method of accounting regularly used by the decedent before death also determines the income includible on the final return. This section explains how some types of income are reported on the final return.

For more information about accounting methods, see Pub. 538, Accounting Periods and Methods.

Cash Method

If the decedent accounted for income under the cash method, only those items actually or constructively received before death are included on the final return.

Constructive receipt of income. Interest from coupons on the decedent's bonds is constructively received by the decedent if the coupons matured in the decedent's final tax year but had not been cashed. Include the interest income on the final return.

Generally, a dividend is considered constructively received if it was available for use by the decedent without restriction. If the corporation customarily mailed its dividend checks, the dividend was includible when received.

If the individual died between the time the dividend was declared and the time it was received in the mail, the decedent didn't constructively receive it before death. Don't include the dividend in the final return.

Accrual Method

Generally, under an accrual method of accounting, income is reported when earned.

If the decedent used an accrual method, only the income items normally accrued before death are included on the final return.

Interest and Dividend Income (Forms 1099)

Form(s) 1099 reporting interest and dividends earned by the decedent before death should be received and the amounts included on the decedent's final return. A separate Form 1099 should show the interest and dividends earned after the date of the decedent's death and paid to the estate or other recipient that must include those amounts on its return. You can request corrected Forms 1099 if these forms don't properly reflect the right recipient or amounts.

For example, a Form 1099-INT, reporting interest payable to the decedent, may include income that should be reported on the final income tax return of the decedent, as well as income that the estate or other recipient should report, either as income earned after death or as income in respect of the decedent (discussed later). For income earned after death, you should ask the payer for a Form 1099 that properly identifies the recipient (by name and identification number) and the proper amount. If that isn't possible, or if the form includes an amount that represents income in respect of the decedent, report the interest as shown under *How to report* next.

See *U.S. savings bonds acquired from decedent* under *Specific Types of Income in Respect of a Decedent*, later, for information on savings bond interest that may have to be reported on the final return.

How to report. If you are preparing the decedent's final return and you have received a Form 1099-INT for the decedent that includes amounts belonging to the decedent and to another recipient (the decedent's estate or another beneficiary), report the total interest shown on Form 1099-INT on Schedule B (Form 1040), Interest and Ordinary Dividends. Next, enter a subtotal of the interest shown on Forms 1099, and the interest reportable from other sources for which you didn't receive Forms 1099. Then, show any interest (including any interest you receive as a nominee) belonging to another recipient separately and subtract it from the subtotal. Identify the amount of this adjustment as “Nominee Distribution” or other appropriate designation.

Report dividend income for which you received a Form 1099-DIV on the appropriate schedule using the same procedure.

Note. If the decedent received amounts as a nominee, you must give the actual owner a Form 1099, unless the owner is the decedent's spouse. See the General Instructions for Certain Information Returns for more information on filing Forms 1099.

Partnership Income

The death of a partner closes the partnership's tax year for that partner. Generally, it doesn't close the partnership's tax year for the remaining partners. The decedent's distributive share of partnership items must be figured as if the partnership's tax year ended on the date the partner died. To avoid an interim closing of the partnership books, the partners can agree to estimate the decedent's distributive share by prorating the amounts the partner would have included for the entire partnership tax year.

On the decedent's final return, include the decedent's distributive share of partnership items for the following periods.

1. The partnership's tax year that ended within or with the decedent's final tax year (the year ending on the date of death).
2. The period, if any, from the end of the partnership's tax year in (1) to the decedent's date of death.

Example. M. Smith was a partner in XYZ partnership and reported the income on a tax year ending December 31. The partnership uses a tax year ending June 30. M. Smith died August 31, 2022, and the estate established its tax year through August 31.

The distributive share of partnership items based on the decedent's partnership interest is reported as follows.

- Final Return for the Decedent—January 1 through August 31, 2022, includes XYZ partnership items from (a) the partnership tax year ending June 30, 2022; and (b) the partnership tax year beginning July 1, 2022, and ending August 31, 2022 (the date of death).
- Income Tax Return of the Estate—September 1, 2022, through August 31, 2023, includes XYZ partnership items for the period September 1, 2022, through June 30, 2023.

S Corporation Income

If the decedent was a shareholder in an S corporation, include on the final return the decedent's share of the S corporation's items of income, loss, deduction, and credit for the following periods.

1. The corporation's tax year that ended within or with the decedent's final tax year (the year ending on the date of death).
2. The period, if any, from the end of the corporation's tax year in (1) to the decedent's date of death.

Self-Employment Income

Include self-employment income actually or constructively received or accrued, depending on the decedent's accounting method. For self-employment tax purposes only, the decedent's self-employment income will include the decedent's distributive share of a partnership's income or loss through the end of the month in which death occurred. For this purpose, the partnership's income or loss is considered to be earned ratably over the partnership's tax year.

Community Income

If the decedent was married and domiciled in a community property state, half of the income received and half of the expenses paid during the decedent's tax year by either the decedent or spouse may be considered to be the income and expenses of the other. For more information, see Pub. 555, Community Property.

HSA, Archer MSA, or Medicare Advantage MSA

The treatment of an HSA (health savings account), an Archer MSA (medical savings account), or a Medicare Advantage MSA at the death of the account holder depends on who acquires the interest in the account. If the decedent's estate acquires the interest, the fair market value (FMV) of the assets in the account on the date of death is included in income on the decedent's final return. The estate tax deduction, discussed later, doesn't apply to this amount.

If a beneficiary acquires the interest, see the discussion under *Income in Respect of a Decedent*, later. For other information on HSAs, Archer MSAs, or Medicare Advantage MSAs, see Pub. 969, Health Savings Accounts and Other Tax-Favored Health Plans.

Coverdell Education Savings Account (ESA)

Generally, the balance in a Coverdell ESA must be distributed within 30 days after the individual for whom the account was established reaches age 30, or dies, whichever is earlier. The treatment of the Coverdell ESA at the death of an individual under age 30 depends on who acquires the interest in the account. If the decedent's estate acquires the interest, the earnings on the account must be included on the final income tax return of the decedent. The estate tax deduction, discussed later, doesn't apply to this amount. If a beneficiary acquires the interest, see the discussion under *Income in Respect of a Decedent*, later.

The age 30 limitation doesn't apply if the individual for whom the account was established or the beneficiary that acquires the account is an individual with special needs. This includes an individual who, because of a physical, mental, or emotional condition (including a learning disability), requires additional time to complete the individual's education.

For more information on Coverdell ESAs, see Pub. 970, Tax Benefits for Education.

Accelerated Death Benefits

Accelerated death benefits are amounts received under a life insurance contract before the death of the insured individual. These benefits also include amounts received on the sale or assignment of the contract to a viatical settlement provider.

Generally, if the decedent received accelerated death benefits on the life of a terminally or chronically ill individual, whether on the decedent's own life or on the life of another person, those benefits aren't included in the decedent's income. For more information, see the discussion under *Gifts, Insurance, and Inheritances*, under *Other Tax Information,* later.

Deductions

Generally, the rules for deductions allowed to an individual also apply to the decedent's final income tax return. Show on the final return deductible items the decedent paid (or accrued, if the decedent reported deductions on an accrual method) before death. This section contains a detailed discussion of medical expenses because the tax treatment of the decedent's medical expenses can be different. See *Medical Expenses*, later.

Standard Deduction

If you don't itemize deductions on the final return, the full amount of the appropriate standard deduction is allowed regardless of the date of death. For information on the appropriate standard deduction, see the Form 1040 and 1040-SR instructions or Pub. 501.

Medical Expenses

Medical expenses paid before death by the decedent are deductible, subject to limits, on the final income tax return if deductions are itemized. This includes expenses for the decedent, as well as for the decedent's spouse and dependents.

CAUTION *Qualified medical expenses aren't deductible if paid with a tax-free distribution from an HSA or an Archer MSA.*

Election for decedent's expenses. Medical expenses not paid before death are liabilities of the estate and are shown on the federal estate tax return (Form 706). However, if medical expenses for the decedent are paid out of the estate during the 1-year period beginning with the day after death, you can elect to treat all or part of the expenses as paid by the decedent at the time they were incurred.

If you make the election, you can claim all or part of the expenses on the decedent's income tax return (if deductions are itemized) rather than on the federal estate tax return (Form 706). You can deduct expenses incurred in the year of death on the final income tax return. You should file an amended return (Form 1040-X) for medical expenses incurred in an earlier year, unless the statutory period for filing a claim for that year has expired.

The amount you can deduct on the income tax return is the amount above 7.5% of AGI. Amounts not deductible because of this percentage can't be claimed on the federal estate tax return.

Making the election. You make the election by attaching a statement, in duplicate, to the decedent's income tax return or amended return. The statement must state that you haven't claimed the amount as an estate tax deduction, and that the estate waives the right to claim the amount as a deduction. This election applies only to expenses incurred for the decedent, not to expenses incurred to provide medical care for dependents.

Example. R. Brown used the cash method of accounting and filed the income tax return on a calendar year basis. R. Brown died on June 1, 2022, at the age of 78, after incurring $800 in medical expenses. Of that amount, $500 was incurred in 2021 and $300 was incurred in 2022. R. Brown itemized the deductions when the 2021 income tax return was filed. The personal representative of the estate paid the entire $800 liability in August 2022.

The personal representative may file an amended return (Form 1040-X) for 2021 claiming the $500 medical expense as a deduction, subject to the 7.5% limit. The $300 of expenses incurred in 2022 can be deducted on the final income tax return if deductions are itemized, subject to the 7.5% limit. The personal representative must file a statement in duplicate with each return stating that these amounts have **not** been claimed on the federal estate tax return (Form 706), and waiving the right to claim such a deduction on Form 706 in the future.

Medical expenses not paid by estate. If you paid medical expenses for your deceased spouse or dependent, claim the expenses on your tax return for the year in which you paid them, whether they are paid before or after the decedent's death. If the decedent was a child of divorced or separated parents, the medical expenses can usually be claimed by both the custodial parent and the noncustodial parent to the extent paid by that parent during the year.

Insurance reimbursements. Insurance reimbursements of previously deducted medical expenses due a decedent at the time of death and later received by the decedent's estate are includible in the income tax return of the estate (Form 1041) for the year the reimbursements are received. The reimbursements are also includible in the decedent's gross estate.

CAUTION *No deduction for funeral expenses can be taken on the final Form 1040 or 1040-SR of a decedent. These expenses may be deductible for estate tax purposes on Form 706.*

Deduction for Losses

A decedent's NOL deduction from a prior year and any capital losses (including capital loss carryovers) can be deducted only on the decedent's final income tax return. See Pub. 536. You can't deduct any unused NOL or capital loss on the estate's income tax return.

Note. Generally, an NOL arising in a tax year beginning in 2021 or later may not be carried back and instead must be carried forward indefinitely. However, farming losses arising in tax years beginning in 2021 or later may be carried back 2 years and carried forward indefinitely.

At-risk loss limits. Special at-risk rules apply to most activities that are engaged in as a trade or business or for the production of income.

These rules limit the deductible loss to the amount for which the individual was considered at-risk in the activity. An individual will generally be considered at-risk to the extent of the money and the adjusted basis of property that are contributed to the activity and certain borrowed amounts for use in the activity. An individual will be considered at-risk for amounts borrowed only if the individual was personally liable for the repayment or if the amounts borrowed were secured by property other than that used in the activity. The individual isn't considered at-risk for borrowed amounts if the lender has an interest (other than as a creditor) in the activity or if the lender is related to a person (other than the taxpayer) who has an interest in the activity. For more information, see Pub. 925, Passive Activity and At-Risk Rules.

Passive activity rules. A *passive activity* is any trade or business activity in which the taxpayer doesn't materially participate. To determine material participation, see Pub. 925. Rental activities are passive activities regardless of the taxpayer's participation, unless the taxpayer meets certain eligibility requirements.

Individuals, estates, and trusts can offset passive activity losses only against passive activity income. Passive activity losses or credits not allowed in 1 tax year can be carried forward to the next year.

If a passive activity interest is transferred because a taxpayer dies, the accumulated unused passive activity losses are allowed as a deduction against the decedent's income in the year of death. Losses are allowed only to the extent they are greater than the excess of the transferee's (recipient of the interest transferred) basis in the property over the decedent's adjusted basis in the property immediately before death. The part of the accumulated losses equal to the excess isn't allowed as a deduction for any tax year.

Use Form 8582, Passive Activity Loss Limitations, to summarize losses and income from passive activities and to figure the amounts allowed. For more information, see Pub. 925.

Credits, Other Taxes, and Payments

Discussed below are some of the tax credits, types of taxes that may be owed, income tax withheld, and estimated tax payments reported on the final return of a decedent.

Credits

On the final income tax return, you can claim any tax credits that applied to the decedent before death. Some of these credits are discussed next.

Earned income credit. If the decedent was an eligible individual, you can claim the earned income credit on the decedent's final return even though the return covers less than 12 months. If the allowable credit is more than the tax liability for the year, the excess is refunded.

For more information, see Pub. 596, Earned Income Credit (EIC).

Credit for the elderly or the disabled. This credit is allowable on a decedent's final income tax return if the decedent met both of the following requirements in the year of death.

- The decedent was a "qualified individual."
- The decedent had income (AGI and nontaxable social security and pensions) less than certain limits.

For details on qualifying for or figuring the credit, see Pub. 524, Credit for the Elderly or the Disabled.

Child tax credit. If the decedent had a qualifying child, you may be able to claim the child tax credit on the decedent's final return even though the return covers less than 12 months. You may be able to claim the additional child tax credit and get a refund if the credit is more than the decedent's liability. For more information, see the Instructions for Form 1040.

Adoption credit. Depending upon when the adoption was finalized, this credit may be taken on a decedent's final income tax return if either of the following applies.

- The decedent adopted an eligible child and paid qualified adoption expenses.
- The decedent has a carryforward of an adoption credit from a prior year.

Also, if the decedent is survived by a spouse who meets the filing status of qualifying surviving spouse, unused adoption credit may be carried forward and used following the death of the decedent. See Form 8839, Qualified Adoption Expenses, and its instructions for more details.

General business tax credit. The general business credit available to a taxpayer is limited. Any unused credit arising in a tax year beginning after 1997 has a 1-year carryback and a 20-year carryforward period.

After the carryforward period, a deduction may be allowed for any unused business credit. If the taxpayer dies before the end of the carryforward period, the deduction is generally allowed in the year of death.

For more information on the general business credit, see Pub. 334, Tax Guide for Small Business.

Other Taxes

Taxes other than income tax that may be owed on the final return of a decedent include self-employment tax and alternative minimum tax, which are reported on Form 1040 or 1040-SR.

Self-employment tax. Self-employment tax may be owed on the final return if either of the following applied to the decedent in the year of death.

1. Net earnings from self-employment (excluding income described in (2)) were $400 or more.
2. Wages from services performed as a church employee were $108.28 or more.

Alternative minimum tax (AMT). The tax laws give special treatment to certain types of income and allow special deductions and credits for certain types of expenses. The AMT was enacted so taxpayers who benefit from these laws still pay at least a minimum amount of tax. In general, the AMT is the excess of the tentative minimum tax over the regular tax shown on the return.

Form 6251. Use Form 6251, Alternative Minimum Tax—Individuals, to determine if this tax applies to the decedent. See the form instructions for information on when you must attach Form 6251 to Form 1040 or 1040-SR.

Form 8801. If the decedent paid AMT in a previous year or had a credit carryforward, the decedent may be eligible for a minimum tax credit. See Form 8801, Credit for Prior Year Minimum Tax—Individuals, Estates, and Trusts.

Payments of Tax

The income tax withheld from the decedent's salary, wages, pensions, or annuities, and the amount paid as estimated tax are credits (advance payments of tax) that must be claimed on the final return.

Tax Forgiveness for Armed Forces Members, Victims of Terrorism, and Astronauts

Income tax liability may be forgiven for a decedent who dies due to service in a combat zone, due to military or terrorist actions, as a result of a terrorist attack, or while serving in the line of duty as an astronaut.

Combat Zone

If a member of the Armed Forces of the United States dies while in active service in a combat zone or from wounds, disease, or injury incurred in a combat zone, the decedent's income tax liability is abated (forgiven) for the entire year in which death occurred and for any prior tax year ending on or after the first day the person served in a combat zone in active service. For this purpose, a qualified hazardous duty area is treated as a combat zone.

If the tax (including interest, additions to the tax, and additional amounts) for these years has been assessed, the assessment will be forgiven. If the tax has been collected (regardless of the date of collection), that tax will be credited or refunded.

Any of the decedent's income tax for tax years before those mentioned above that remains unpaid as of the actual (or presumptive) date of death won't be assessed. If any unpaid tax (including interest, additions to the tax, and additional amounts) has been assessed, this assessment will be forgiven. Also, if any tax was collected after the date of death, that amount will be credited or refunded.

The date of death of a member of the Armed Forces reported as missing in action or as a prisoner of war is the date the member’s name is removed from missing status for military pay purposes. This is true even if death actually occurred earlier.

For other tax information for members of the Armed Forces, see Pub. 3, Armed Forces' Tax Guide.

Military or Terrorist Actions

The decedent's income tax liability is forgiven if, at death, the decedent was a military or civilian employee of the United States who died because of wounds or injury incurred:

- While a U.S. employee, and
- In a military or terrorist action.

The forgiveness applies to the tax year in which death occurred and for any earlier tax year, beginning with the year before the year in which the wounds or injury occurred.

Example. The income tax liability of a civilian employee of the United States who died in 2022 because of wounds incurred while a U.S. employee in a terrorist attack that occurred in 2016 will be forgiven for 2022 and for all prior tax years in the period 2015 through 2021. Refunds are allowed for the tax years for which the period for filing a claim for refund hasn't ended, as discussed later.

Military or terrorist action defined. A *military or terrorist action* means the following.

- Any terrorist activity that most of the evidence indicates was directed against the United States or any of its allies.
- Any military action involving the U.S. Armed Forces and resulting from violence or aggression against the United States or any of its allies, or the threat of such violence or aggression.

Terrorist activity includes criminal offenses intended to coerce, intimidate, or retaliate against the government or civilian population. Military action doesn't include training exercises. Any multinational force in which the United States is participating is treated as an ally of the United States.

Determining if a terrorist activity or military action has occurred. You may rely on published guidance from the IRS to determine if a particular event is considered a terrorist activity or military action.

Specified Terrorist Victim

The Victims of Terrorism Tax Relief Act of 2001 (the Act) provides tax relief for those injured or killed as a result of terrorist attacks, certain survivors of those killed as a result of terrorist attacks, and others who were affected by terrorist attacks. Under the Act, the federal income tax liability of those killed in the following attacks (specified terrorist victim) is forgiven for certain tax years.

- The April 19, 1995, terrorist attack on the Alfred P. Murrah Federal Building (Oklahoma City).
- The September 11, 2001, terrorist attacks.
- The terrorist attacks involving anthrax occurring after September 10, 2001, and before January 1, 2002.

The Act also exempts from federal income tax the following types of income.

- Qualified disaster relief payments made after September 10, 2001, to cover personal, family, living, or funeral expenses incurred because of a terrorist attack.
- Certain disability payments (including Social Security Disability Insurance (SSDI) payments) received in tax years ending after September 10, 2001, for injuries sustained in a terrorist attack.
- Certain death benefits paid by an employer to the survivor of an employee because the employee died as a result of a terrorist attack.
- Payments from the September 11th Victim Compensation Fund 2001.

The Act also reduces the estate tax of individuals who die as a result of a terrorist attack. See *Pub. 3920, Tax Relief for Victims of Terrorist Attacks* for more information.

Astronauts

Legislation extended the tax relief available under the Victims of Terrorism Tax Relief Act of 2001 (the Act) to astronauts who died in the line of duty after December 31, 2002. The decedent's income tax liability is forgiven for the tax year in which death occurs, and for the tax year prior to death. For information on death benefit payments and the reduction of federal estate taxes, see Pub. 3920. However, the discussions in that publication under *Death Benefits* and *Estate Tax Reduction* should be modified for astronauts (for example, by using the date of death of the astronaut instead of September 11, 2001).

For more information on the Act, see Pub. 3920.

Claim for Credit or Refund

If any of these tax-forgiveness situations applies to a prior year tax, any tax paid for which the period for filing a claim hasn't ended will be credited or refunded. If any tax is still due, it will be canceled. The normal period for filing a claim for credit or refund is 3 years after the return was filed or 2 years after the tax was paid, whichever is later.

If death occurred in a combat zone or from wounds, disease, or injury incurred in a combat zone, the period for filing the claim is extended by:

1. The amount of time served in the combat zone (including any period in which the individual was in missing status), plus
2. The period of continuous qualified hospitalization for injury from service in the combat zone, if any, plus
3. The next 180 days.

Qualified hospitalization means any hospitalization outside the United States and any hospitalization in the United States of not more than 5 years.

This extended period for filing the claim also applies to a member of the Armed Forces who was deployed outside the United States in a designated contingency operation.

Filing a claim. Use the following procedures to file a claim.

- If a U.S. individual income tax return (Form 1040 or 1040-SR) hasn't been filed, you should make a claim for refund of any withheld income tax or estimated tax payments by filing Form 1040 or 1040-SR. Form W-2 must accompany all returns.
- If a U.S. individual income tax return has been filed, you should make a claim for refund by filing Form 1040-X. You must file a separate Form 1040-X for each year in question.

You must file these returns and claims at the following address for regular mail (U.S. Postal Service).

Internal Revenue Service
333 W. Pershing, Stop 6503, P5
Kansas City, MO 64108

Identify all returns and claims for refund by writing “Iraqi Freedom—KIA,” “Enduring Freedom—KIA,” “Kosovo Operation—KIA,” “Desert Storm—KIA,” or “Former Yugoslavia—KIA” in bold letters on the top of page 1 of the return or claim. On the applicable return, write the same phrase on the line for total tax. If the individual was killed in a terrorist or military action, put “KITA” on the front of the return and on the line for total tax.

Include an attachment showing the computation of the decedent's tax liability and a computation of the amount to be forgiven. On joint returns, make an allocation of the tax as described later under *Joint returns.* If you can't make a proper allocation, attach a statement of all income and deductions allocable to each spouse and the IRS will make the proper allocation.

You must attach Form 1310 to all returns and claims for refund. However, for exceptions to filing Form 1310, see *Form 1310, Statement of Person Claiming Refund Due a Deceased Taxpayer*, under *Refund,* earlier.

You must also attach proof of death that includes a statement that the individual was a U.S. employee on the date of injury and on the date of death and died as the result of a military or terrorist action. For military and civilian employees of the Department of Defense, attach DD Form 1300, Report of Casualty. For other U.S. civilian employees killed in the United States, attach a death certificate and a certification (letter) from the federal employer. For other U.S. civilian employees killed overseas, attach a certification from the Department of State.

If you don't have enough tax information to file a timely claim for refund, you can suspend the period for filing a claim by filing Form 1040-X. Attach Form 1310, any required documentation currently available, and a statement that you will file an amended claim as soon as you have the required tax information.

Joint returns. If a joint return was filed, only the decedent's part of the income tax liability is eligible for forgiveness. Determine the decedent's tax liability as follows.

1. Figure the income tax for which the decedent would have been liable if a separate return had been filed.
2. Figure the income tax for which the spouse would have been liable if a separate return had been filed.
3. Multiply the joint tax liability by a fraction. The numerator of the fraction is the amount in (1) above. The denominator of the fraction is the total of (1) and (2).

The resulting amount from (3) above is the decedent's tax liability eligible for forgiveness. See also Worksheet B in Pub. 3920.

Filing Reminders

To minimize the time needed to process the decedent's final return and issue any refund, be sure to follow these procedures.

1. Write “DECEASED,” the decedent's name, and the date of death across the top of the tax return.
2. If a personal representative has been appointed, the personal representative must sign the return. If it is a joint return, the surviving spouse must also sign it.
3. If you are the decedent's spouse filing a joint return with the decedent and no personal representative has been appointed, write “Filing as surviving spouse” in the area where you sign the return.
4. If no personal representative has been appointed and if there is no surviving spouse, the person in charge of the decedent's property must file and sign the return as “personal representative.”
5. To claim a refund for the decedent, do the following.
   a. If you are the decedent's spouse filing a joint return with the decedent, file only the tax return to claim the refund.
   b. If you are the personal representative and the return isn't a joint return filed with the decedent's surviving spouse, file the return and attach a copy

of the certificate that shows your appointment by the court. (A power of attorney or a copy of the decedent's will isn't acceptable evidence of your appointment as the personal representative.) If you are filing an amended return, attach Form 1310 and a copy of the certificate of appointment (or, if you have already sent the certificate of appointment to the IRS, write “Certificate Previously Filed” at the bottom of Form 1310).

c. If you aren't filing a joint return as the surviving spouse and a personal representative hasn't been appointed, file the return and attach Form 1310.

Other Tax Information

Discussed below is information about the effect of an individual's death on the income tax liability of the survivors (including the surviving spouse), the beneficiaries, and the estate.

Tax Benefits for Survivors

Survivors can qualify for certain benefits when filing their own income tax returns.

Joint return by surviving spouse. A surviving spouse can file a joint return for the year of death and may qualify for special tax rates for the following 2 years, as explained under *Qualifying surviving spouse*, later.

Decedent as your dependent. If the decedent qualified as your dependent for a part of the year before death, you can claim the dependent on your tax return, regardless of when death occurred during the year.

If the decedent was your qualifying child, you may be able to claim the child tax credit or the earned income credit. To determine if you qualify for the child tax credit, see the instructions for Form 1040 and 1040-SR, line 19; or Form 1040-NR, line 19. To determine if you qualify for the earned income credit, see the instructions for Form 1040 and 1040-SR, line 27.

Qualifying surviving spouse. If your spouse died within the 2 tax years preceding the year for which your return is being filed, you may be eligible to claim the filing status of qualifying surviving spouse with dependent child and qualify to use the married-filing-jointly tax rates.

Requirements. Generally, you qualify for this special benefit if you meet all of the following requirements.

- You were entitled to file a joint return with your spouse for the year of death—whether or not you actually filed jointly.
- You didn't remarry before the end of the current tax year.
- You have a child, stepchild, or foster child who qualifies as your dependent for the tax year.
- You provide more than half the cost of maintaining your home, which is the principal residence of that child for the entire year except for temporary absences.

Example. Skyler’s spouse, Cameron, died in 2020. Skyler hasn't remarried and continued throughout 2021 and 2022 to maintain a home for self and dependent child. For 2020, Skyler was entitled to file a joint return with Cameron. For 2021 and 2022, Skyler qualifies to file as a qualifying surviving spouse with dependent child. For later years, Skyler may qualify to file as head of household.

Figuring your tax. Check the qualifying surviving spouse box on the top of your Form 1040 or 1040-SR tax return. In the Instructions for Form 1040 (and 1040-SR), use the married filing jointly column in the Tax Table.

The last year you can file jointly with your deceased spouse is the year of death.

Joint return filing rules. If you are the surviving spouse and a personal representative is handling the estate for the decedent, you should coordinate filing your return for the year of death with this personal representative. See *Joint Return* under *Final Income Tax Return for Decedent—Form 1040 or 1040-SR*, earlier.

Income in Respect of a Decedent

All income the decedent would have received had death not occurred that wasn't properly includible on the final return, discussed earlier, is income in respect of a decedent.

CAUTION *If the decedent is a specified terrorist victim (see Specified Terrorist Victim, earlier), income received after the date of death and before the end of the decedent's tax year (determined without regard to death) is excluded from the recipient's gross income. This exclusion doesn't apply to certain income. For more information, see Pub. 3920.*

How To Report

Income in respect of a decedent must be included in the income of one of the following.

- The decedent's estate, if the estate receives it.
- The beneficiary, if the right to income is passed directly to the beneficiary and the beneficiary receives it.
- Any person to whom the estate properly distributes the right to receive it.

TIP *If you have to include income in respect of a decedent in your gross income and an estate tax return (Form 706) was filed for the decedent, you may be able to claim a deduction for the estate tax paid on that income. See* Estate Tax Deduction*, later.*

Example 1. F. Johnson owned and operated an apple orchard and used the cash method of accounting. F. Johnson sold and delivered 1,000 bushels of apples to a canning factory for $2,000, but didn't receive payment before death. The proceeds from the sale are income in respect of a decedent. When the estate was settled, payment had not been made and the estate transferred the right to the payment to F. Johnson's surviving spouse. When the surviving spouse collects the $2,000, that amount must be included in the surviving spouse's return. It isn't reported on the final return of the decedent or on the return of the estate.

Example 2. Assume the same facts as in *Example 1*, except that F. Johnson used the accrual method of accounting. The amount accrued from the sale of the apples would be included on F. Johnson's final return. Neither the estate nor the surviving spouse would realize income in respect of a decedent when the money is later paid.

Example 3. On February 1, G. High, a cash method taxpayer, sold a tractor for $3,000, payable March 1 of the same year. G. High's adjusted basis in the tractor was $2,000. G. High died on February 15, before receiving payment. The gain to be reported as income in respect of a decedent is the $1,000 difference between the decedent's basis in the property and the sale proceeds. In other words, the income in respect of a decedent is the gain the decedent would have realized had the decedent lived.

Example 4. C. O'Neil was entitled to a large salary payment at the date of death. The amount was to be paid in five annual installments. The estate, after collecting two installments, distributed the right to the remaining installments to you, the beneficiary. The payments are income in respect of a decedent. None of the payments were includible on C. O'Neil's final return. The estate must include in its income the two installments it received, and you must include in your income each of the three installments as you receive them.

Example 5. Danny inherited the right to receive renewal commissions on life insurance sold by Danny's parent, Taylor, before Taylor's death. Danny inherited the right from Danny's other parent, Charlie, who acquired it by bequest from Taylor. Charlie died before receiving all the commissions Charlie had the right to receive, so Danny received the rest. The commissions are income in respect of a decedent. None of these commissions were includible in Taylor's final return. The commissions received by Charlie were included in Charlie's income. The commissions Danny received aren't includible in Charlie's income, even on Charlie's final return. Danny must include them in Danny's income.

Character of income. The character of the income you receive in respect of a decedent remains the same as it would have been to the decedent if the decedent were alive. If the income would have been a capital gain to the decedent, it will be a capital gain to you.

Transfer of right to income. If you transfer your right to income in respect of a decedent, you must include in your income the greater of:

- The amount you receive for the right, or
- The FMV of the right you transfer.

If you make a gift of such a right, you must include in your income the FMV of the right at the time of the gift.

If the right to income from an installment obligation is transferred, the amount you must include in income is reduced by the basis of the obligation. See *Installment obligations,* later.

Transfer defined. A transfer for this purpose includes a sale, exchange, or other disposition, the satisfaction of an installment obligation at other than face value, or the cancellation of an installment obligation.

Installment obligations. If the decedent sold property using the installment method and you are collecting payments on an installment obligation acquired from the decedent, use the same gross profit percentage the decedent used to figure the part of each payment that represents profit. Include in your income the same profit the decedent would have included had death not occurred. For more information, see Pub. 537, Installment Sales.

If you dispose of an installment obligation acquired from a decedent (other than by transfer to the obligor), the rules explained in Pub. 537 for figuring gain or loss on the disposition apply to you.

Transfer to obligor. A transfer of a right to income, discussed earlier, has occurred if the decedent (seller) sold property using the installment method and the installment obligation was transferred to the obligor (buyer or person legally obligated to pay the installments). A transfer also occurs if the obligation was canceled either at death or by the estate or person receiving the obligation from the decedent. An obligation that becomes unenforceable is treated as having been canceled.

If such a transfer occurs, the amount included in the income of the transferor (the estate or beneficiary) is the greater of the amount received or the FMV of the installment obligation at the time of transfer, reduced by the basis of the obligation. The basis of the obligation is the decedent's basis, adjusted for all installment payments received after the decedent's death and before the transfer.

If the decedent and obligor were related persons, the FMV of the obligation can't be less than its face value.

Specific Types of Income in Respect of a Decedent

This section explains and provides examples of some specific types of income in respect of a decedent.

Wages. The entire amount of wages or other employee compensation earned by the decedent but unpaid at the time of death is income in respect of a decedent. The income isn't reduced by any amounts withheld by the employer. If the income is $600 or more, the employer should report it in box 3 of Form 1099-MISC, Miscellaneous Income, and give the recipient a copy of the form or a similar statement.

Wages paid as income in respect of a decedent aren't subject to federal income tax withholding. However, if paid during the calendar year of death, they are subject to withholding for social security and Medicare taxes. These taxes should be included on the decedent's Form W-2 along with the taxes withheld before death. These wages aren't included in box 1 of Form W-2.

Wages paid as income in respect of a decedent after the year of death aren't generally subject to withholding for any federal taxes.

Farm income from crops, crop shares, and livestock. A farmer's growing crops and livestock at the date of death wouldn't normally give rise to income in respect of a decedent or income to be included in the final return. However, when a cash method farmer receives rent in the form of crop shares or livestock and owns the crop shares or livestock at the time of death, the rent is income in respect of a decedent and is reported in the year in which the crop shares or livestock are sold or otherwise disposed of. The same treatment applies to crop shares or livestock that the decedent had a right to receive as rent at the time of death for economic activities that occurred before death.

If the individual died during a rental period, only the net proceeds from the part of the rental period ending on the date of death are income in respect of a decedent. The proceeds from the rental period from the day after death to the end of the rental period are ordinary income to the estate. Cash rent or crop shares and livestock received as rent and reduced to cash by the decedent are includible on the final return even though the rental period didn't end until after death.

Example. A. Roberts, who used the cash method of accounting, leased part of the farm for a 1-year period beginning March 1. The rental was one-third of the crop, payable in cash when the crop share is sold at the direction of A. Roberts. A. Roberts died on June 30 and was alive during 122 days of the rental period. Seven months later, A. Roberts' personal representative ordered the crop to be sold and was paid $1,500. Of the $1,500, 122/365, or $501, is income in respect of a decedent. The balance of the $1,500 received by the estate, $999, is income to the estate.

Partnership income. If the decedent had been receiving payments representing a distributive share or guaranteed payment in liquidation of the decedent's interest in a partnership, the remaining payments made to the estate or other successor in interest are income in respect of a decedent. The estate or the successor receiving the payments must include them in income when received. Similarly, the estate or other successor in interest receives income in respect of a decedent if amounts are paid by a third person in exchange for the successor's right to the future payments.

For a discussion of partnership rules, see Pub. 541, Partnerships.

U.S. savings bonds acquired from decedent. If series EE or series I U.S. savings bonds, owned by a cash method taxpayer who reported the interest each year, or by an accrual method taxpayer, are transferred because of death, the increase in value of the bonds (interest earned) in the year of death up to the date of death must be reported on the decedent's final return. The transferee (estate or beneficiary) reports on its return only the interest earned after the date of death.

The redemption values of U.S. savings bonds are generally available from local banks, credit unions, savings and loan institutions, or your nearest Federal Reserve Bank.

You can also get information by writing to the following address.

Series EE and Series I
Treasury Retail Securities Services
P.O. Box 9150
Minneapolis, MN 55480-9150

Or go to TreasuryDirect.gov.

If the bonds transferred because of death were owned by a cash method taxpayer who chose not to report the interest each year and had purchased the bonds entirely with personal funds, interest earned before death must be reported in one of the following ways.

1. The person (executor, administrator, etc.) who is required to file the decedent's final income tax return can elect to include all of the interest earned on the bonds before the decedent's death on the return. The transferee (estate or beneficiary) then includes only the interest earned after the date of death on its return.
2. If the election in (1) above wasn't made, the interest earned to the date of death is income in respect of the decedent and isn't included on the decedent's final return. In this case, all of the interest earned before and after the decedent's death is income to the transferee (estate or beneficiary). A transferee who uses the cash method of accounting and who has chosen not to report the interest annually may defer reporting any of it as income until the bonds are either cashed or reach the date of maturity, whichever is earlier. In the year the interest is reported, the transferee may claim a deduction for any federal estate tax paid that arose because of the part of interest (if any) included in the decedent's estate.

Example 1. Your relative, Drew, a cash method taxpayer, died and left you a $1,000 series EE bond. Drew bought the bond for $500 and had not chosen to report the increase in value each year. At the date of death, interest of $94 had accrued on the bond, and its value of $594 at date of death was included in Drew's estate. Drew's personal representative didn't choose to include the $94 accrued interest on the decedent's final income tax return. You are a cash method taxpayer and don't choose to report the increase in value each year as it is earned. Assuming you cash it when it reaches maturity value of $1,000, you would report $500 interest income (the difference between maturity value of $1,000 and the original cost of $500) in that year. You are also entitled to claim, in that year, a deduction for any federal estate tax resulting from the inclusion in Drew's estate of the $94 increase in value.

Example 2. If, in *Example 1*, the personal representative had chosen to include the $94 interest earned on the bond before death in the final income tax return for Drew, you would report $406 ($500 – $94) as interest when you cashed the bond at maturity. This $406 represents the interest earned after Drew's death and wasn't included in Drew's estate, so no deduction for federal estate tax is allowable for this amount.

Example 3. Drew died owning series HH bonds Drew acquired in exchange for series EE bonds. You were the beneficiary of these bonds. Drew used the cash method of accounting and had not chosen to report the increase in redemption price of the series EE bonds each year as it accrued. Drew's personal representative made no election to include any interest earned before death on the decedent's final return. Your income in respect of the decedent is the sum of the unreported increase in value of the series EE bonds, which constituted part of the amount paid for the series HH bonds, and the interest, if any, payable on the series HH bonds but not received as of the date of the decedent's death.

Specific dollar amount legacy satisfied by transfer of bonds. If a beneficiary receives series EE or series I bonds from an estate in satisfaction of a specific dollar amount legacy and the decedent was a cash method taxpayer who didn't elect to report interest each year, only the interest earned after receipt of the bonds is income to the beneficiary. The interest earned to the date of death plus any further interest earned to the date of distribution is income to (and reportable by) the estate.

Cashing U.S. savings bonds. When you cash a U.S. savings bond that you acquired from a decedent, the bank or other payer that redeems it must give you a Form 1099-INT if the interest part of the payment you receive is $10 or more. Your Form 1099-INT should show the difference between the amount received and the cost of the bond. The interest shown on your Form 1099-INT won't be reduced by any interest reported by the decedent before death, or, if elected, by the personal representative on the final income tax return of the decedent, or by the estate on the estate's income tax return. Your Form 1099-INT may show more interest than you must include in your income.

You must make an adjustment on your tax return to report the correct amount of interest. Report the total interest shown on Form 1099-INT on your Schedule B (Form 1040). Enter a subtotal of the interest shown on Forms 1099, and the interest reportable from other sources for which you didn't receive Forms 1099. Show the total interest that was previously reported and subtract it from the subtotal. Identify this adjustment as “U.S. Savings Bond Interest Previously Reported.”

Interest accrued on U.S. Treasury bonds. The interest accrued on U.S. Treasury bonds owned by a cash method taxpayer and redeemable for the payment of federal estate taxes that wasn't received as of the date of the individual's death is income in respect of a decedent. This interest isn't included in the decedent's final income tax return. The estate will treat such interest as taxable income in the tax year received if it chooses to redeem the U.S. Treasury bonds to pay federal estate taxes. If the person entitled to the bonds (by bequest, devise, or inheritance, or because of the death of the individual) receives them, that person will treat the accrued interest as taxable income in the year the interest is received. Interest that accrues on the U.S. Treasury bonds after the owner's death doesn't represent income in respect of a decedent. The interest, however, is taxable income and must be included in the income of the respective recipients.

Interest accrued on savings certificates. The interest accrued on savings certificates (redeemable after death without forfeiture of interest) for the period from the date of the last interest payment and ending with the date of the decedent's death, but not received as of that date, is income in respect of a decedent. Interest accrued after the decedent's death that becomes payable on the certificates after death isn't income in respect of a decedent, but is taxable income includible in the income of the respective recipients.

Inherited individual retirement arrangements (IRAs). If a beneficiary receives a lump-sum distribution from a traditional IRA the beneficiary inherited, all or some of it may be taxable. The distribution is taxable in the year received as income in respect of a decedent up to the decedent's taxable balance. This is the decedent's balance at the time of death, including unrealized appreciation and income accrued to date of death, minus any basis (nondeductible contributions). Amounts distributed that are more than the decedent's entire IRA balance (includes taxable and nontaxable amounts) at the time of death are the income of the beneficiary.

If the beneficiary of a traditional IRA is the decedent's surviving spouse who properly rolls over the distribution into another traditional IRA, the distribution isn't currently taxed. A surviving spouse can also roll over tax free the taxable part of the distribution into a qualified plan, section 403 annuity, or section 457 plan.

For more information on inherited IRAs, see Pub. 590-B, Distributions from Individual Retirement Arrangements (IRAs).

Roth IRAs. Qualified distributions from a Roth IRA aren't subject to tax. A distribution made to a beneficiary or to the Roth IRA owner's estate on or after the date of death is a qualified distribution if it is made after the 5-tax-year period beginning with the first tax year in which a contribution was made to any Roth IRA of the owner.

Generally, the entire interest in the Roth IRA must be distributed by the end of the fifth calendar year after the year of the owner's death unless the interest is payable to a designated beneficiary over the beneficiary's life or life expectancy. If paid as an annuity, the distributions must begin before the end of the calendar year following the year of death. If the sole beneficiary is the decedent's spouse, the spouse can delay the distributions until the decedent would have reached age $70\frac{1}{2}$ or can treat the Roth IRA as the spouse’s own Roth IRA.

The part of any distribution made to a beneficiary that isn't a qualified distribution may be includible in the beneficiary's income. Generally, the part includible is the earnings in the Roth IRA. Earnings attributable to the period ending with the decedent's date of death are income in respect of a decedent. Additional earnings are the income of the beneficiary.

For more information on Roth IRAs, see Pub. 590-A, Contributions to Individual Retirement Arrangements (IRAs), and Pub. 590-B.

Coverdell ESA. Generally, the balance in a Coverdell ESA must be distributed within 30 days after the individual for whom the account was established reaches age 30 or dies, whichever is earlier. The treatment of the Coverdell ESA at the death of an individual under age 30 depends on who acquires the interest in the account. If the decedent's estate acquires the interest, see the discussion under *Final Income Tax Return for Decedent—Form 1040 or 1040-SR,* earlier.

The age 30 limitation doesn't apply if the individual for whom the account was established or the beneficiary that acquires the account is an individual with special needs. This includes an individual who, because of a physical, mental, or emotional condition (including a learning disability), requires additional time to complete the individual’s education.

If the decedent's spouse or other family member is the designated beneficiary of the decedent's account, the Coverdell ESA becomes that person's Coverdell ESA. It is subject to the rules discussed in Pub. 970.

Any other beneficiary (including a spouse or family member who isn't the designated beneficiary) must include in income the earnings portion of the distribution. Any balance remaining at the close of the 30-day period is deemed to be distributed at that time. The amount included in income is reduced by any qualified education expenses of the decedent that are paid by the beneficiary within 1 year after the decedent's date of death. An estate tax deduction, discussed later, applies to the amount included in income by a beneficiary other than the decedent's spouse or family member.

HSA, Archer MSA, or Medicare Advantage MSA. The treatment of an HSA, an Archer MSA, or a Medicare Advantage MSA at the death of the account holder depends on who acquires the interest in the account. If the decedent's estate acquired the interest, see the discussion under *Final Income Tax Return for Decedent—Form 1040 or 1040-SR*, earlier.

If the decedent's spouse is the designated beneficiary of the account, the account becomes that spouse's Archer MSA. It is subject to the rules discussed in Pub. 969.

Any other beneficiary (including a spouse that isn't the designated beneficiary) must include in income the FMV of the assets in the account on the decedent's date of death. This amount must be reported for the beneficiary's tax year that includes the decedent's date of death. The amount included in income is reduced by any qualified medical expenses for the decedent paid by the beneficiary within 1 year after the decedent's date of death. An estate tax deduction, discussed later, applies to the amount included in income by a beneficiary other than the decedent's spouse.

Deductions in Respect of a Decedent

Items such as business expenses, income-producing expenses, interest, and taxes, for which the decedent was liable but that aren't properly allowable as deductions on the decedent's final income tax return will be allowed as a deduction to one of the following when paid.

- The estate.
- The person who acquired an interest in the decedent's property (subject to such obligations) because of the decedent's death, if the estate wasn't liable for the obligation.

Note. Similar treatment is given to the foreign tax credit. A beneficiary who must pay a foreign tax on income in respect of a decedent will be entitled to claim the foreign tax credit.

Depletion. The deduction for percentage depletion is allowable only to the person (estate or beneficiary) who receives income in respect of a decedent to which the deduction relates, whether or not that person receives the property from which the income is derived. An heir who (because of the decedent's death) receives income as a result of the sale of units of mineral by the decedent (who used the cash method) will be entitled to the depletion allowance for that income. If the decedent had not figured the deduction on the basis of percentage depletion, any depletion deduction to which the decedent was entitled at the time of death is allowable on the decedent's final return, and no depletion deduction in respect of a decedent is allowed to anyone else.

For more information about depletion, see chapter 9 in Pub. 535, Business Expenses.

Estate Tax Deduction

Income that the decedent had a right to receive is included in the decedent's gross estate and is subject to estate tax. This income in respect of a decedent is also taxed when received by the recipient (estate or beneficiary). However, an income tax deduction is allowed to the recipient for the estate tax paid on the income.

The deduction for estate tax paid can only be claimed for the same tax year in which the income in respect of a decedent must be included in the recipient's income. (This is also true for income in respect of a prior decedent.)

Individuals can claim this deduction only as an itemized deduction on line 16 of Schedule A (Form 1040). Estates can claim the deduction on line 19 of Form 1041.

If income in respect of a decedent is capital gain income, you must reduce the gain, but not below zero, by any deduction for estate tax paid on such gain. This applies in figuring the following.

- The maximum tax on net capital gain (including qualified dividends).
- The exclusion for gain on small business stock under section 1202.
- The limitation on capital losses.

Computation

To figure a recipient's estate tax deduction, determine:

- The estate tax that qualifies for the deduction, and
- The recipient's part of the deductible tax.

Deductible estate tax. The estate tax is the tax on the taxable estate, reduced by any credits allowed. The estate tax qualifying for the deduction is the part of the net value of all the items in the estate that represent income in respect of a decedent. Net value is the excess of the items of income in respect of a decedent over the items of expenses in respect of a decedent. The deductible estate tax is the difference between the actual estate tax and the estate tax determined without including net value.

Example 1. J. Sage used the cash method of accounting. At the time of death, J. Sage was entitled to receive $12,000 from clients for services provided and had accrued bond interest of $8,000, for total income in respect of a decedent of $20,000. J. Sage also owed $5,000 for business expenses for which the estate is liable. The income and expenses are reported on J. Sage's estate tax return.

The tax on J. Sage's estate is $9,460, after credits. The net value of the items included as income in respect of the decedent is $15,000 ($20,000 – $5,000). The estate tax determined without including the $15,000 in the taxable estate is $4,840, after credits. The estate tax that qualifies for the deduction is $4,620 ($9,460 – $4,840).

Recipient's deductible part. Figure the recipient's part of the deductible estate tax by dividing the estate tax value of the items of income in respect of a decedent included in the recipient's income (the numerator) by the total value of all items included in the estate that represent income in respect of a decedent (the denominator). If the amount included in the recipient's income is less than the estate tax value of the item, use the lesser amount in the numerator.

Example 2. As the beneficiary of J. Sage's estate (*Example 1*), you collect the $12,000 accounts receivable from J. Sage’s clients. You will include the $12,000 in your income in the tax year you receive it. If you itemize your deductions in that tax year, you can claim an estate tax deduction of $2,772 figured as follows:

$$\frac{\text{Value included in your income}}{\text{Total value of income in respect of decedent}} \times \text{Estate tax qualifying for deduction}$$

$$\frac{\$12{,}000}{\$20{,}000} \times \$4{,}620 = \$2{,}772$$

If the amount you collected for the accounts receivable was more than $12,000, you would still claim $2,772 as an estate tax deduction because only the $12,000 actually reported on the estate tax return can be used in the above computation. However, if you collected less than the $12,000 reported on the estate tax return, use the smaller amount to figure the estate tax deduction.

Estates. The estate tax deduction allowed to an estate is figured in the same manner discussed earlier. However, any income in respect of a decedent received by the estate during the tax year is reduced by any such income properly paid, credited, or required to be distributed by the estate to a beneficiary. The beneficiary would include such distributed income in respect of a decedent for figuring the beneficiary's estate tax deduction.

Surviving annuitants. For the estate tax deduction, an annuity received by a surviving annuitant under a joint and survivor annuity contract is considered income in respect of a decedent. The deceased annuitant must have died after the annuity starting date. You must make a special computation to figure the estate tax deduction for the surviving annuitant. See Regulations section 1.691(d)-1.

Gifts, Insurance, and Inheritances

Property received as a gift, bequest, or inheritance isn't included in your income. However, if property you receive in this manner later produces income, such as interest, dividends, or rents, that income is taxable to you. The income from property donated to a trust that is paid, credited, or distributed to you is taxable income to you. If the gift, bequest, or inheritance is the income from property, that income is taxable to you.

If you receive property from a decedent's estate in satisfaction of your right to the income of the estate, it is treated as a bequest or inheritance of income from property. See *Distributions to Beneficiaries*, later.

Insurance

The proceeds from a decedent's life insurance policy paid by reason of the decedent’s death are generally excluded from income. The exclusion applies to any beneficiary, whether a family member or other individual, a corporation, or a partnership.

Veterans' insurance proceeds. Veterans' insurance proceeds and dividends aren't taxable either to the veteran or to the beneficiaries.

Interest on dividends left on deposit with the Department of Veterans Affairs isn't taxable.

Life insurance proceeds. Life insurance proceeds paid to a beneficiary because of the death of the insured (or because the insured is a member of the U.S. uniformed services who is missing in action) aren't taxable unless the policy was turned over to the recipient for a price. This is true even if the proceeds are paid under an accident or health insurance policy or an endowment contract. If the proceeds are received in installments, see the discussion under *Insurance received in installments*, later.

Accelerated death benefits. A beneficiary can exclude from income accelerated death benefits received on the life of an insured individual if certain requirements are met. Accelerated death benefits are amounts received under a life insurance contract before the death of the insured. These benefits also include amounts received on the sale or assignment of the contract to a viatical settlement provider. This exclusion applies only if the insured was a terminally ill individual or a chronically ill individual. This exclusion doesn't apply if the insured is a director, officer, or employee, or has a financial interest in any trade or business carried on by the beneficiary.

Terminally ill individual. A *terminally ill individual* is one who has been certified by a physician as having an illness or physical condition that can reasonably be expected to result in death in 24 months or less from the date of certification.

Chronically ill individual. A *chronically ill individual* is one who has been certified as one of the following.

- An individual who, for at least 90 days, is unable to perform at least two activities of daily living without substantial assistance due to a loss of functional capacity.
- An individual who requires substantial supervision to be protected from threats to health and safety due to severe cognitive impairment.

A certification must have been made by a licensed health care practitioner within the previous 12 months.

Exclusion limited. If the insured was a chronically ill individual, exclusion of accelerated death benefits is limited to the cost incurred in providing qualified long-term care services for the insured. In determining the cost incurred, don't include amounts paid or reimbursed by insurance or otherwise. Subject to certain limits, exclude payments received on a periodic basis without regard to costs.

Interest option on insurance. If an insurance company pays interest only on proceeds from life insurance left on deposit, the interest is taxable.

Insurance received in installments. If a beneficiary receives life insurance proceeds in installments, the beneficiary can exclude part of each installment from income.

To determine the part excluded, divide the amount held by the insurance company (generally the total lump sum payable at the death of the insured person) by the number of installments to be paid. Include anything over this excluded part in income as interest.

Specified number of installments. If a beneficiary will receive a specified number of installments under the insurance contract, figure the part of each installment the beneficiary can exclude by dividing the amount held by the insurance company by the number of installments to which the beneficiary is entitled. In case the beneficiary dies before receiving all the installments, a secondary beneficiary is entitled to the same exclusion.

Example. As beneficiary, you choose to receive $100,000 of life insurance proceeds in 10 annual installments of $11,000. Each year, you can exclude from your income $10,000 ($100,000 ÷ 10) as a return of principal. The balance of the installment, $1,000, is taxable as interest income.

Specified amount payable. If each installment received under the insurance contract is a specific amount based on a guaranteed rate of interest, but the number of installments that will be received is uncertain, the part of each installment excluded from income is the amount held by the insurance company divided by the number of installments necessary to use up the principal and guaranteed interest in the contract.

Example. The face amount of the policy is $200,000, and as beneficiary you choose to receive annual installments of $12,000. The insurer's settlement option guarantees you this amount for 20 years based on a guaranteed rate of interest. It also provides that extra interest may be credited to the principal balance according to the insurer's earnings. The excludable part of each guaranteed installment is $10,000 ($200,000 ÷ 20 years). The balance of each guaranteed installment, $2,000, is interest income to you. The full amount of any additional payment for interest is income to you.

Installments for life. If the beneficiary under an insurance contract is entitled to receive the proceeds in installments for the rest of the beneficiary's life without a refund or period-certain guarantee, the excluded part of each installment can be determined by dividing the amount held by the insurance company by the beneficiary's life expectancy. If there is a refund or period-certain guarantee, the amount held by the insurance company for this purpose is reduced by the actuarial value of the guarantee.

Example. As beneficiary, you choose to receive the $50,000 proceeds from a life insurance contract under a life-income-with-cash-refund option. You are guaranteed $2,700 a year for the rest of your life (which is estimated by use of mortality tables to be 25 years from the insured's death). The actuarial value of the refund feature is $9,000. The amount held by the insurance company, reduced by the value of the guarantee, is $41,000 ($50,000 – $9,000) and the excludable part of each installment representing a return of principal is $1,640 ($41,000 ÷ 25). The remaining $1,060 ($2,700 – $1,640) is interest income to you. If you should die before receiving the entire $50,000, the refund payable to the refund beneficiary isn't taxable.

Flexible premium contracts. A life insurance contract (including any qualified additional benefits) qualifies as a flexible premium life insurance contract if it provides for the payment of one or more premiums that aren't fixed by the insurer as to both timing and amount. For a flexible premium contract issued before January 1, 1985, the proceeds paid under the contract because of the death of the insured will be excluded from the recipient's income only if the contract meets the requirements explained under section 101(f).

Basis of Inherited Property

The basis of property inherited from a decedent is generally one of the following.

- The FMV of the property on the date of the individual's death.
- The FMV on the alternate valuation date (discussed in the Instructions for Form 706) if elected by the personal representative.
- The value under the special-use valuation method for real property used in farming or other closely held business (see *Special-use valuation*, later), if elected by the personal representative.
- The decedent's adjusted basis in land to the extent of the value excluded from the decedent's taxable estate as a qualified conservation easement (discussed in the Instructions for Form 706).

Exception for appreciated property. If you or your spouse gave appreciated property to an individual during the 1-year period ending on the date of that individual's death and you (or your spouse) later acquired the same property from the decedent, your basis in the property is the same as the decedent's adjusted basis immediately before death.

Appreciated property. Appreciated property is property that had an FMV greater than its adjusted basis on the day it was transferred to the decedent.

Special-use valuation. If you are a qualified heir and you receive a farm or other closely held business real property from the estate for which the personal representative elected special-use valuation, the property is valued on the basis of its actual use rather than its FMV.

If you are a qualified heir and you buy special-use valuation property from the estate, your basis is equal to the estate's basis (determined under the special-use valuation method) immediately before your purchase plus any gain recognized by the estate.

You are a qualified heir if you are an ancestor (parent, grandparent, etc.), the spouse, or a lineal descendant (child, grandchild, etc.) of the decedent, a lineal descendant of the decedent's parent or spouse, or the spouse of any of these lineal descendants.

For more information on special-use valuation, see the Instructions for Form 706.

Increased basis for special-use valuation property. Under certain conditions, some or all of the estate tax benefits obtained by using the special-use valuation will be subject to recapture. Generally, an additional estate tax must be paid by the qualified heir if the property is disposed of, or is no longer used for a qualifying purpose within 10 years of the decedent's death.

If you must pay any additional estate (recapture) tax, you can elect to increase your basis in the special-use valuation property to its FMV on the date of the decedent's death (or on the alternate valuation date, if it was elected by the personal representative). If you elect to increase your basis, you must pay interest on the recapture tax for the period beginning 9 months after the decedent's death until the date you pay the recapture tax.

For more information on the recapture tax, see the Instructions for Form 706-A, United States Additional Estate Tax Return.

S corporation stock. The basis of inherited S corporation stock must be reduced if there is income in respect of a decedent attributable to that stock.

Joint interest. Figure the surviving tenant's new basis of jointly owned property (joint tenancy or tenancy by the entirety) by adding the surviving tenant's original basis in the property to the value of the part of the property included in the decedent's estate, discussed earlier. Subtract from the sum any deductions for wear and tear, such as depreciation or depletion, allowed to the surviving tenant on that property.

Example. F. Maple and sibling A. Maple owned, as joint tenants with right of survivorship, rental property they purchased for $60,000. A. Maple paid $15,000 of the purchase price and F. Maple paid $45,000. Under local law, each had a half interest in the income from the property. When F. Maple died, the FMV of the property was $100,000. Depreciation deductions allowed before F. Maple's death were $20,000. A. Maple's basis in the property is $80,000 figured as follows:

A. Maple's original basis	$15,000	
Interest acquired from F. Maple ($3/4$ of $100,000)	75,000	$90,000
Minus: $1/2$ of $20,000 depreciation		10,000
A. Maple's basis		**$80,000**

Qualified joint interest. One-half of the value of property owned by a decedent and spouse as tenants by the entirety, or as joint tenants with right of survivorship if the decedent and spouse are the only joint tenants, is included in the decedent's gross estate. This is true regardless of how much each contributed toward the purchase price.

Figure the basis for a surviving spouse by adding one-half of the property's cost basis to the value included in the gross estate. Subtract from this sum any deductions for wear and tear, such as depreciation or depletion, allowed on that property to the surviving spouse.

Example. D. Gilbert and J. Gilbert owned, as tenants by the entirety, rental property they purchased for $60,000. D. Gilbert paid $15,000 of the purchase price and J. Gilbert paid $45,000. Under local law, each had a half interest in the income from the property. When J. Gilbert died, the FMV of the property was $100,000. Depreciation deductions allowed before J. Gilbert's death were $20,000. D. Gilbert's basis in the property is $70,000 figured as follows:

One-half of cost basis (1/2 of $60,000)	$30,000	
Interest acquired from J. Gilbert (1/2 of $100,000)	50,000	$80,000
Minus: 1/2 of $20,000 depreciation		10,000
D. Gilbert's basis		**$70,000**

See Pub. 551, Basis of Assets, for more information on basis. If the decedent and their spouse lived in a community property state, see the discussion in that publication about figuring the basis of community property after a spouse's death.

Depreciation. If a beneficiary can depreciate inherited property, the Modified Accelerated Cost Recovery System (MACRS) must be used to determine depreciation.

For joint interests and qualified joint interests, use the following computations to figure depreciation.

- The first computation is for the original basis in the property.
- The second computation is for the inherited part of the property.

Continue depreciating the original basis under the same method used in previous years. Depreciate the inherited part using MACRS.

MACRS consists of two depreciation systems, the General Depreciation System (GDS) and the Alternative Depreciation System (ADS). For more information on MACRS, see Pub. 946, How To Depreciate Property.

Valuation misstatements. If the value or adjusted basis of any property claimed on an income tax return is 150% or more of the amount determined to be the correct amount, there is a substantial valuation misstatement. If the value or adjusted basis is 200% or more of the amount determined to be the correct amount, there is a gross valuation misstatement.

Understatements. A substantial estate or gift tax valuation misstatement occurs when the value of property reported is 65% or less of the actual value of the property. A gross valuation misstatement occurs if any property on a return is valued at 40% or less of the value determined to be correct.

Penalty. If a misstatement results in an underpayment of tax of more than $5,000, an addition to tax of 20% of the underpayment can apply. The penalty increases to 40% if the value or adjusted basis reported is a gross valuation misstatement.

The IRS may waive all or part of the 20% addition to tax (for substantial valuation overstatement) if the following apply.

- The claimed value of the property was based on a qualified appraisal made by a qualified appraiser.
- In addition to obtaining such appraisal, the taxpayer made a good faith investigation of the value of the contributed property.

No waiver is available for the 40% addition to tax (for gross valuation overstatement).

For transitional guidance on the definitions of "qualified appraisal" and "qualified appraiser," see Notice 2006-96, 2006-46 I.R.B. 902, available at IRS.gov/irb/2006-46_IRB/ar13.html.

The definitions apply to appraisals prepared for the following.

- Donated property for which a deduction of more than $5,000 is claimed.
- Returns filed after August 17, 2006.

Holding period. If you sell or dispose of inherited property that is a capital asset, the gain or loss is considered long term, regardless of how long you held the property.

Property distributed in kind. Your basis in property distributed in kind by a decedent's estate is the same as the estate's basis immediately before the distribution plus any gain, or minus any loss, recognized by the estate. Property is distributed in kind if it satisfies your right to receive another property or amount, such as the income of the estate or a specific dollar amount. Property distributed in kind generally includes any noncash property you receive from the estate other than the following.

- A specific bequest (unless it must be distributed in more than three installments).
- Real property, the title to which passes directly to you under local law.

For information on an estate's recognized gain or loss on distributions in kind, see *Income To Include* under *Income Tax Return of an Estate—Form 1041,* later.

Other Items of Income

Some other items of income that a survivor or beneficiary may receive are discussed below. Lump-sum payments received by the surviving spouse or beneficiary of a deceased employee may represent the following.

- Accrued salary payments.
- Distributions from employee profit-sharing, pension, annuity, and stock bonus plans.
- Other items that should be treated separately for tax purposes.

The treatment of these lump-sum payments depends on what the payments represent.

Public safety officers. Special rules apply to certain amounts received due to the death of a public safety officer (a law enforcement officer, fire fighter, chaplain, or member of an ambulance crew or rescue squad).

CAUTION *The provisions for public safety officers apply to a chaplain killed in the line of duty after September 10, 2001, if the chaplain was responding to a fire, rescue, or police emergency as a member or employee of a fire or police department.*

Death benefits. The death benefit payable to eligible survivors of public safety officers who die as a result of traumatic injuries sustained in the line of duty isn't included in either the beneficiaries' income or the decedent's gross estate. This benefit is administered through the Bureau of Justice Assistance (BJA).

The BJA can pay the eligible survivors an emergency interim benefit up to $3,000 if it determines that a public safety officer's death is one for which a death benefit will probably be paid. If there is no final payment, the recipient of the interim benefit is liable for repayment. However, the BJA may waive all or part of the repayment if it will cause a hardship. Any repayment waived isn't included in income.

Survivor benefits. Generally, a survivor annuity received by the spouse, former spouse, or child of a public safety officer killed in the line of duty is excluded from the recipient's income. The annuity must be provided under a government plan and is excludable to the extent that it is attributable to the officer's service as a public safety officer.

The exclusion doesn't apply if the recipient's actions were responsible for the officer's death. It also doesn't apply in the following circumstances.

- The death was caused by the intentional misconduct of the officer or by the officer's intention to cause such death.
- The officer was voluntarily intoxicated at the time of death.
- The officer was performing officer duties in a grossly negligent manner at the time of death.

Salary or wages. Salary or wages paid after the employee's death are usually taxable income to the beneficiary. See Wages, earlier, under *Specific Types of Income in Respect of a Decedent.*

CAUTION

If the decedent is a specified terrorist victim (see Specified Terrorist Victim, earlier), certain income received by the beneficiary or the estate isn't taxable. For more information, see Pub. 3920.

Rollover distributions. An employee's surviving spouse who receives an eligible rollover distribution may roll it over tax free into an IRA, a qualified plan, a section 403 annuity, or a section 457 plan. For more information, see Pub. 575, Pension and Annuity Income; and Form 4972, Tax on Lump-Sum Distributions.

Rollovers by nonspouse beneficiary. A beneficiary other than the employee's surviving spouse may be able to roll over all or part of a distribution from an eligible retirement plan of a deceased employee. The nonspouse beneficiary must be the designated beneficiary of the employee. The distribution must be a direct trustee-to-trustee transfer to the beneficiary's IRA set up to receive the distribution. The transfer will be treated as an eligible rollover distribution and the receiving plan will be treated as an inherited IRA. For more information on inherited IRAs, see Pubs. 590-A and 590-B.

Pensions and annuities. For beneficiaries who receive pensions and annuities, see Pub. 575. For beneficiaries of federal civil service employees or retirees, see Pub. 721, Tax Guide to U.S. Civil Service Retirement Benefits.

Inherited IRAs. If a person other than the decedent's spouse inherits the decedent's traditional IRA or Roth IRA, that person can't treat the IRA as one established on the person's behalf. If a distribution from a traditional IRA is from contributions that were deducted or from earnings and gains in the IRA, it is fully taxable income. If there were nondeductible contributions, an allocation between taxable and nontaxable income must be made. For information on distributions from a Roth IRA, see the discussion earlier under *Income in Respect of a Decedent*. The inherited IRA can't be rolled over into, or receive a rollover from, another IRA. No deduction is allowed for amounts paid into that inherited IRA. For more information about IRAs, see Pubs. 590-A and 590-B.

Estate income. Estates may have to pay federal income tax. Beneficiaries may have to pay tax on their share of estate income. However, there is never a double tax. See *Distributions to Beneficiaries,* later.

Income Tax Return of an Estate—Form 1041

An estate is a taxable entity separate from the decedent and comes into being with the death of the individual. It exists until the final distribution of its assets to the heirs and other beneficiaries. The income earned by the assets during this period must be reported by the estate under the conditions described in this publication. The tax is generally figured in the same manner and on the same basis as for individuals, with certain differences in the computation of deductions and credits, as explained later.

The estate's income, like an individual's income, must be reported annually on either a calendar or fiscal year basis. The personal representative chooses the estate's accounting period upon filing the first Form 1041. The estate's first tax year can be any period that ends on the last day of a month and doesn't exceed 12 months.

Generally, once chosen, the tax year can't be changed without IRS approval. Also, on the first income tax return, the personal representative must choose the accounting method (cash, accrual, or other) to report the estate's income. Once a method is used, it ordinarily can't be changed without IRS approval. For a more complete discussion of accounting periods and methods, see Pub. 538.

Filing Requirements

Every domestic estate with gross income of $600 or more during a tax year must file a Form 1041. If one or more of the beneficiaries of the domestic estate are nonresident aliens, the personal representative must file Form 1041, even if the gross income of the estate is less than $600.

A fiduciary for a nonresident alien estate with U.S.-source income, including any income that is effectively connected with the conduct of a trade or business in the United States, must file Form 1040-NR as the income tax return of the estate.

A nonresident alien who was a resident of Puerto Rico, Guam, American Samoa, or the Commonwealth of the Northern Mariana Islands for the entire tax year will, for this purpose, be treated as a resident alien of the United States.

Schedule K-1 (Form 1041)

The personal representative must file a separate Schedule K-1 (Form 1041), Beneficiary's Share of Income, Deductions, Credits, etc., or an acceptable substitute (described below), for each beneficiary. File these schedules with Form 1041.

The personal representative must ask each beneficiary to provide a TIN, which must be reported on the Schedule K-1 (Form 1041). A $50 penalty is charged for each failure to provide the identifying number of each beneficiary unless reasonable cause is established. A nonresident alien beneficiary with a withholding certificate must generally provide a TIN (see Pub. 515). A TIN isn't required for an executor or administrator of the estate unless that person is also a beneficiary.

The personal representative must also give a Schedule K-1 (Form 1041), or a substitute, to each beneficiary by the date on which the Form 1041 is filed. Failure to provide this payee statement can result in a penalty of $290 for each failure. This penalty also applies if information is omitted or incorrect information is included on the payee statement. If it is shown that such failure is due to intentional disregard of the filing requirement, the penalty amount increases.

No prior approval is needed for a substitute Schedule K-1 (Form 1041) that is an exact copy of the official schedule or that follows the specifications in Pub. 1167, General Rules and Specifications for Substitute Forms and Schedules. Prior approval is required for any other substitute Schedule K-1 (Form 1041).

Beneficiaries. The personal representative has a fiduciary responsibility to the ultimate recipients of the income and the property of the estate. While the courts use a number of names to designate specific types of beneficiaries or the recipients of various types of property, this publication refers to all of them as “beneficiaries.”

Liability of the beneficiary. The income tax liability of an estate attaches to the assets of the estate. If the income is distributed or must be distributed during the current tax year, the income is reportable by each beneficiary on the beneficiary’s individual income tax return. If the income doesn't have to be distributed, and isn't distributed but is retained by the estate, the income tax on the income is payable by the estate. If the income is distributed later without the payment of the taxes due, the beneficiary can be liable for tax due and unpaid to the extent of the value of the estate assets received.

Income of the estate is taxed to either the estate or the beneficiary, but not to both.

Nonresident alien beneficiary. In addition to filing Form 1041, the personal representative may need to file Form 1040-NR and pay the tax due, if any, if there is a nonresident alien beneficiary. There are a number of factors which determine whether a Form 1040-NR is required. For information on who must file Form 1040-NR, see Pub. 519, U.S. Tax Guide for Aliens.

If a nonresident alien has an appointed agent in the United States, the personal representative isn't responsible for filing Form 1040-NR and paying any tax due. However, a copy of the document appointing the agent must be attached to the estate's Form 1041.

The personal representative must also file Form 1042, Annual Withholding Tax Return for U.S. Source Income of Foreign Persons, and Form 1042-S, Foreign Person's U.S. Source Income Subject to Withholding, to report and transmit withheld tax on distributable net income (discussed later) actually distributed. This applies to the extent the distribution consists of an amount subject to withholding. For more information, see Pub. 515.

Amended Return

If an amended Form 1041 must be filed, use a copy of the form for the appropriate year and check the “Amended return” box. Complete the entire return, correct the appropriate lines with the new information, and refigure the tax liability. On an attached sheet, explain the reason for the changes and identify the lines and amounts changed.

Note. If the amended return results from an NOL loss carryback, check the "Net operating loss carryback" box. For more information, see the Instructions for Form 1041.

If the amended return results in a change to income, or a change in distribution of any income or other information provided to a beneficiary, an amended Schedule K-1 (Form 1041) must be filed with Form 1041 and a copy given to each beneficiary. Check the “Amended K-1” box at the top of Schedule K-1 (Form 1041).

Information Returns

Even though the personal representative may not have to file an income tax return for the estate, Form 1099-DIV, Form 1099-INT, Form 1099-MISC, or Form 1099-NEC may need to be filed if the estate received income as a nominee or middleman for another person. For more information on filing information returns, see the General Instructions for Certain Information Returns.

The personal representative will **not** have to file information returns for the estate if the estate is the owner of record, Form 1041 is filed for the estate (reporting the name, address, and identifying number of each actual owner), and a completed Schedule K-1 (Form 1041) is provided to each actual owner.

Penalty. A penalty of up to $290 can be charged for each failure to file or failure to include correct information on an information return. (Failure to include correct information includes failure to include all the information required.) If it is shown that such failure is due to intentional disregard of the filing requirement, the penalty amount increases.

See the General Instructions for Certain Information Returns for more information.

Copy of the Will

The personal representative does **not** have to include a copy of the decedent's will with Form 1041. If the will is later requested, attach a statement to it indicating the provisions that determine how much of the estate's income is taxable to the estate or to the beneficiaries. A statement signed by the personal representative under penalties of perjury that the will is a true and complete copy should also be attached.

Income To Include

The estate's taxable income is generally figured the same way as an individual's income, except as explained in the following discussions.

CAUTION *If the decedent is a specified terrorist victim (see Specified Terrorist Victim, earlier), certain income received by the estate isn't taxable. See Pub. 3920.*

Gross income of an estate consists of all items of income received or accrued during the tax year. It includes dividends, interest, rents, royalties, gain from the sale of property, and income from business, partnerships, trusts, and any other sources. For a discussion of income from dividends, interest, and other investment income, as well as gains and losses from the sale of investment property, see Pub. 550, Investment Income and Expenses. For a discussion of gains and losses from the sale of other property, including business property, see Pub. 544, Sales and Other Dispositions of Assets.

If the personal representative's duties include the operation of the decedent's business, see Pub. 334. That publication provides general information about the tax laws that apply to a sole proprietorship.

Income in respect of a decedent. The personal representative of the estate may receive income the decedent would have reported had death not occurred. For an explanation of this income, see *Income in Respect of a Decedent* under *Other Tax Information,* earlier. An estate may qualify to claim a deduction for estate taxes if the estate must include in gross income for any tax year an amount of income in respect of a decedent. See *Estate Tax Deduction* under *Other Tax Information,* earlier.

Gain (or loss) from sale of property. During the administration of the estate, the personal representative may find it necessary or desirable to sell all or part of the estate's assets to pay debts and expenses of administration, or to make proper distributions of the assets to the beneficiaries. While the personal representative may have the legal authority to dispose of the property, title to it may be vested (given a legal interest in the property) in one or more of the beneficiaries. This is usually true of real property. To determine whether any gain or loss must be reported by the estate or by the beneficiaries, consult local law to determine the legal owner.

Redemption of stock to pay death taxes. Under certain conditions, a distribution to a shareholder (including the estate) in redemption of stock included in the decedent's gross estate may be allowed capital gain (or loss) treatment.

Character of asset. The character of an asset in the hands of an estate determines whether gain or loss on its sale or other disposition is capital or ordinary. The asset's character depends on how the estate holds or uses it. If it was a capital asset to the decedent, it will generally be a capital asset to the estate. If it was land or depreciable property used in the decedent's business and the estate continues the business, it will generally have the same character to the estate that it had in the decedent's hands. If it was held by the decedent for sale to customers, it will generally be considered to be held for sale to customers by the estate if the decedent's business continues to operate during the administration of the estate.

CAUTION *The gain from a sale of depreciable property between an estate and a beneficiary of that estate will be treated as ordinary income, unless the sale or exchange was made to satisfy a pecuniary (cash) bequest.*

Sale of decedent's residence. If the estate is the legal owner of a decedent's residence and the personal representative sells it in the course of administration, the tax treatment of gain or loss depends on how the estate holds or uses the former residence. For example, if, as the personal representative, you intend to realize the value of the house through sale, the residence is a capital asset held for investment and gain or loss is capital gain or loss (which may be deductible). This is the case even though it was the decedent's personal residence and even if you didn't rent it out. If, however, the house isn't held for business or investment use (for example, if you intend to permit a beneficiary to live in the residence rent free and then distribute it to the beneficiary to live in), and you later decide to sell the residence without first converting it to business or investment use, any gain is capital gain, but a loss isn't deductible.

Holding period. An estate (or other recipient) that acquires property from a decedent and sells or otherwise disposes of it is considered to have held that property for more than 1 year, no matter how long the estate and the decedent actually held the property.

Basis of property. The basis used to figure gain or loss for property the estate receives from the decedent is usually its FMV at the date of death. See *Basis of Inherited Property* under *Other Tax Information,* earlier, for other basis in inherited property.

If the estate purchases property after the decedent's death, the basis will generally be its cost.

The basis of certain appreciated property the estate receives from the decedent will be the decedent's adjusted basis in the property immediately before death. This applies if the property was acquired by the decedent as a gift during the 1-year period before death, the property's FMV on the date of the gift was greater than the donor's adjusted basis, and the proceeds of the sale of the property are distributed to the donor (or the donor's spouse).

Schedule D (Form 1041) and Form 8949. Use Form 8949, Sales and Other Dispositions of Capital Assets, to report most sales and exchanges of capital assets. Use Schedule D (Form 1041), Capital Gains and Losses, to report the overall capital gains and losses from transactions reported on Form 8949, certain transactions that don't have to be reported on Form 8949, and certain other capital gains and losses. For additional information, see the Instructions for Form 8949 and the Instructions for Schedule D (Form 1041).

Installment obligations. If an installment obligation owned by the decedent is transferred by the estate to the obligor (buyer or person obligated to pay) or is canceled at death, include the income from that event in the gross income of the estate. See Installment obligations under *Income in Respect of a Decedent,* earlier. See Pub. 537 for information about installment sales.

Gain from sale of special-use valuation property. If the personal representative elected special-use valuation for farm or other closely held business real property and that property is sold to a qualified heir, the estate will recognize gain on the sale if the FMV on the date of the sale exceeds the FMV on the date of the decedent's death (or on the alternate valuation date if it was elected).

Qualified heirs. Qualified heirs include the decedent's ancestors (parents, grandparents, etc.) and spouse, the decedent's lineal descendants (children, grandchildren, etc.) and their spouses, and lineal descendants (and their spouses) of the decedent's parents or spouse.

For more information about special-use valuation, see Form 706 and its instructions.

Gain from transfer of property to a political organization. Appreciated property transferred to a political organization is treated as sold by the estate. Appreciated property is property that has an FMV (on the date of the transfer) greater than the estate's basis. The gain recognized is the difference between the estate's basis and the FMV on the date transferred.

A political organization is any party, committee, association, fund, or other organization formed and operated to accept contributions or make expenditures for influencing the nomination, election, or appointment of an individual to any federal, state, or local public office.

Gain or loss on distributions in kind. An estate recognizes gain or loss on a distribution of property in kind to a beneficiary only in the following situations.

1. The distribution satisfies the beneficiary's right to receive either of the following.
   a. A specific dollar amount (whether payable in cash, in unspecified property, or in both).
   b. A specific property other than the property distributed.
2. An election is made to recognize the gain or loss on the estate's income tax return (section 643(e)(3) election).

The gain or loss is usually the difference between the FMV of the property when distributed and the estate's basis in the property. However, see Gain from sale of special-use valuation property, earlier, for a limit on the gain recognized on a transfer of such property to a qualified heir.

If you elect to recognize gain or loss, the election applies to all noncash distributions during the tax year except charitable distributions and specific bequests. To make the election, report the transaction on Form 8949 and/or Schedule D (Form 1041), as applicable, and check the box on Form 1041, Other Information, line 7. The election must be made by the due date (including extensions) of the estate's income tax return for the year of distribution. However, if the return is timely filed without making the election, the election can be made by filing an amended return within 6 months of the due date of the return (excluding extensions). Attach Form 8949 and/or Schedule D (Form 1041), as applicable, to the amended return and enter "Filed pursuant to section 301.9100-2" on the form. File the amended return at the same address you filed the original return. IRS consent is required to revoke the election.

For more information, see Property distributed in kind under *Income Distribution Deduction,* later.

CAUTION *Under the related persons rules, a loss can't be claimed for property distributed to a beneficiary unless the distribution is in discharge of a pecuniary bequest. Also, any gain on the distribution of depreciable property is ordinary income.*

Exemption and Deductions

In figuring taxable income, an estate is generally allowed the same deductions as an individual. Special rules, however, apply to some deductions for an estate. This section includes discussions of those deductions affected by the special rules.

Exemption Deduction

An estate is allowed an exemption deduction of $600 in figuring its taxable income. No exemption for dependents is allowed to an estate. Even though the first return of an estate may be for a period of less than 12 months, the exemption is $600. If, however, the estate was given permission to change its accounting period, the exemption is $50 for each month of the short year.

Charitable Contributions

An estate qualifies for a deduction for gross income paid or permanently set aside for qualified charitable organizations. The AGI limits for individuals don't apply. However, to be deductible by an estate, the contribution must be specifically provided for in the decedent's will. If there is no will, or if the will makes no provision for the payment to a charitable organization, then a deduction won't be allowed even though all beneficiaries may agree to the gift.

You can't deduct any contribution from income not included in the estate's gross income. If the will specifically provides that the contributions are to be paid out of the estate's gross income, the contributions are fully deductible. However, if the will contains no specific provisions, the contributions are considered to have been paid and are deductible in the same proportion as the gross income bears to the total of all classes (taxable and nontaxable) of income.

You can't deduct a qualified conservation easement granted after the date of death and before the due date of the estate tax return. A contribution deduction is allowed to the estate for estate tax purposes.

For more information about contributions, see Pub. 526, Charitable Contributions and Pub. 561, Determining the Value of Donated Property.

Losses

Generally, an estate can claim a deduction for a loss it sustains on the sale of property. This includes a loss from the sale of property (other than stock) to a personal representative of the estate, unless that person is a beneficiary of the estate.

For a discussion of an estate's recognized loss on a distribution of property in kind to a beneficiary, see Income To Include, earlier.

CAUTION *An estate and a beneficiary of that estate are generally treated as related persons for purposes of the disallowance of a loss on the sale of an asset between related persons. The disallowance doesn't apply to a sale or exchange made to satisfy a pecuniary bequest.*

Net operating loss deduction. An estate can claim a net operating loss (NOL) deduction, figured in the same way as an individual's, except that it can't take the income distribution deduction (discussed later) or the deduction for charitable contributions in figuring the loss or the loss carryover. For a discussion of the carryover of an unused NOL to a beneficiary upon termination of the estate, see *Termination of Estate*, later.

For information on NOLs, see Pub. 536.

Casualty and theft losses. Losses incurred from casualties and thefts during the administration of the estate can be deducted only if they haven't been claimed on the federal estate tax return (Form 706). The personal representative must file a statement with the estate's income tax return waiving the deduction for estate tax purposes. See *Administration Expenses,* later.

The same rules that apply to individuals apply to the estate, except that in figuring the AGI of the estate used to figure the deductible loss, you deduct any administration expenses claimed. Use Form 4684, Casualties and Thefts, and its instructions to figure any loss deduction.

Carryover losses. Carryover losses resulting from NOLs or capital losses sustained by the decedent before death can't be deducted on the estate's income tax return.

Administration Expenses

Expenses of administering an estate can be deducted either from the gross estate in figuring the federal estate tax on Form 706 or from the estate's gross income in figuring the estate's income tax on Form 1041. However, these expenses can't be claimed for both estate tax and income tax purposes. In most cases, this rule also applies to expenses incurred in the sale of property by an estate (not as a dealer).

To prevent a double deduction, amounts otherwise allowable in figuring the decedent's taxable estate for federal estate tax on Form 706 won't be allowed as a deduction in figuring the income tax of the estate or of any other person unless the personal representative files a statement, in duplicate, that the items of expense, as listed in the statement, haven't been claimed as deductions for federal estate tax purposes and that all rights to claim such deductions are waived. One deduction or part of a deduction can be claimed for income tax purposes if the appropriate statement is filed, while another deduction or part is claimed for estate tax purposes. Claiming a deduction in figuring the estate income tax isn't prevented when the same deduction is claimed on the estate tax return so long as the estate tax deduction isn't finally allowed and the preceding statement is filed. The statement can be filed with the income tax return or at any time before the expiration of the statute of limitations that applies to the tax year for which the deduction is sought. This waiver procedure also applies to casualty losses incurred during administration of the estate.

Accrued expenses. The rules preventing double deductions don't apply to deductions for taxes, interest, business expenses, and other items accrued at the date of death. These expenses are allowable as a deduction for estate tax purposes as claims against the estate and are also allowable as deductions in respect of a decedent for income tax purposes. Deductions for interest, business expenses, and other items not accrued at the date of the decedent's death are allowable only as a deduction for administration expenses for both estate and income tax purposes and don't qualify for a double deduction.

Expenses allocable to tax-exempt income. When figuring the estate's taxable income on Form 1041, you can't deduct administration expenses allocable to any of the estate's tax-exempt income. However, you can deduct these administration expenses when figuring the taxable estate for federal estate tax purposes on Form 706.

Interest on estate tax. Interest paid on installment payments of estate tax isn't deductible for income or estate tax purposes.

Depreciation and Depletion

The allowable deductions for depreciation and depletion that accrue after the decedent's death must be apportioned between the estate and the beneficiaries, depending on the income of the estate allocable to each.

CAUTION *An estate can't elect to treat the cost of certain depreciable business assets as an expense under section 179.*

Example. In 2022, the decedent's estate realized $3,000 of business income during the administration of the estate. The personal representative distributed $1,000 of the income to the decedent's child, Alex, and $2,000 to the second child, Jo. The allowable depreciation on the business property is $300. Alex can take a deduction of $100 [($1,000 ÷ $3,000) × $300], and Jo can take a deduction of $200 [($2,000 ÷ $3,000) × $300].

Income Distribution Deduction

An estate is allowed a deduction for the tax year for any income that must be distributed currently and for other amounts that are properly paid, credited, or required to be distributed to beneficiaries. This deduction is limited to the distributable net income of the estate.

For special rules about distributions that apply in figuring the estate's income distribution deduction, see *Bequest* under *Distributions to Beneficiaries,* later.

Distributable net income. Distributable net income (figured on Form 1041, Schedule B) is the estate's taxable income, excluding the income distribution deduction, with the following additional modifications.

Tax-exempt interest. Tax-exempt interest, including exempt-interest dividends, is included in the distributable net income but is reduced by the following items.

- Expenses not allowed in computing the estate's taxable income because they were attributable to tax-exempt interest (see *Expenses allocable to tax-exempt income* under *Administration Expenses,* earlier).
- The portion of tax-exempt interest deemed to have been used to make a charitable contribution. See *Charitable Contributions*, earlier.

The total tax-exempt interest earned by an estate must be shown on Form 1041, Other Information, line 1. The beneficiary's portion of the tax-exempt interest is shown on Schedule K-1 (Form 1041).

Exemption deduction. The exemption deduction isn't allowed.

Capital gains. Capital gains aren't automatically included in distributable net income. However, they can be included in distributable net income if any of the following apply.

- The gain is allocated to income in the accounts of the estate or by notice to the beneficiaries under the terms of the will or by local law.
- The gain is allocated to the corpus or principal of the estate and is actually distributed to the beneficiaries during the tax year.
- The gain is used, under either the terms of the will or the practice of the personal representative, to determine the amount that is distributed or must be distributed.
- Charitable contributions are made out of capital gains.

Generally, when you determine capital gains to be included in distributable net income, the exclusion for gain from the sale or exchange of qualified small business stock isn't taken into account.

Capital losses. Capital losses are excluded in figuring distributable net income unless they enter into the computation of any capital gain that is distributed or must be distributed during the year.

Separate shares rule. The separate shares rule must be used if both of the following are true.

- The estate has more than one beneficiary.
- The economic interest of a beneficiary doesn't affect and isn't affected by the economic interest of another beneficiary.

A bequest of a specific sum of money or of property isn't a separate share (see *Bequest,* later).

If the separate shares rule applies, the separate shares are treated as separate estates for the sole purpose of determining the distributable net income allocable to a share. Each share's distributable net income is based on that share's portion of gross income and any applicable deductions or losses. The personal representative must use a reasonable and equitable method to make the allocations.

Generally, gross income is allocated among the separate shares based on the income each share is entitled to under the will or applicable local law. This includes gross income not received in cash, such as a distributive share of partnership tax items.

If a beneficiary isn't entitled to any of the estate's income, the distributable net income for that beneficiary is zero. The estate can't deduct any distribution made to that beneficiary and the beneficiary doesn't have to include the distribution in its gross income. However, see *Income in respect of a decedent,* later in this discussion.

Example. Pat's will directs you, the executor, to distribute ABC Corporation stock and all dividends from that stock to Pat's child, Eli, and the residue of the estate to Pat's second child, Morgan. The estate has two separate shares consisting of the dividends on the stock left to Eli and the residue of the estate left to Morgan. The distribution of the ABC Corporation stock qualifies as a bequest, so it isn't a separate share.

If any distributions, other than the ABC Corporation stock, are made during the year to either Eli or Morgan, you must determine the distributable net income for each separate share. The distributable net income for Eli's separate share includes only the dividends attributable to the ABC Corporation stock. The distributable net income for Morgan's separate share includes all other income.

Income in respect of a decedent. This income is allocated among the separate shares that could potentially be funded with these amounts, even if the share isn't entitled to receive any income under the will or applicable local law. This allocation is based on the relative value of each share that could potentially be funded with these amounts.

Example 1. Frankie's will directs you, the executor, to divide the residue of the estate (valued at $900,000) equally between Frankie's two children, Jamie and Ash. Under the will, you must fund Jamie's share first with the proceeds of Frankie's traditional IRA. The $90,000 balance in the IRA was distributed to the estate during the year. This amount is included in the estate's gross income as income in respect of a decedent and is allocated to the corpus of the estate. The estate has two separate shares, one for the benefit of Jamie and one for the benefit of Ash. If any distributions are made to either Jamie or Ash during the year, then, for purposes of determining the distributable net income for each separate share, the $90,000 of income in respect of a decedent must be allocated only to Jamie's share.

Example 2. Assume the same facts as in *Example 1*, except that you must fund Jamie's share first with DEF Corporation stock valued at $300,000, instead of the IRA proceeds. To determine the distributable net income for each separate share, the $90,000 of income in respect of a decedent must be allocated between the two shares to the extent they could potentially be funded with that income. The maximum amount of Jamie's share that could be funded with that income is $150,000 ($450,000 value of share less $300,000 funded with stock). The maximum amount of Ash's share that could be funded is $450,000. Based on the relative values, Jamie's distributable net income includes $22,500 ($150,000/$600,000 x $90,000) of the income in respect of a decedent and Ash's distributable net income includes $67,500 ($450,000/$600,000 x $90,000).

Income required to be distributed currently. The income distribution deduction includes any income that, under the terms of the decedent's will or by reason of local law, must be distributed currently. This includes an amount that may be paid out of income or corpus (such as an annuity) to the extent it is paid out of income for the tax year. The deduction is allowed to the estate even if the personal representative doesn't make the distribution until a later year or makes no distribution until the final settlement and termination of the estate.

Any other amount paid, credited, or required to be distributed. Any other amount paid, credited, or required to be distributed is included in the income distribution deduction of the estate only in the year actually paid, credited, or distributed. If there is no specific requirement by local law or by the terms of the will that income earned by the estate during administration be distributed currently, a deduction for distributions to the beneficiaries will be allowed to the estate, but only for the actual distributions during the tax year.

If the personal representative has discretion as to when the income is distributed, the deduction is allowed only in the year of distribution.

The personal representative can elect to treat distributions paid or credited within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year. The election is made by completing Form 1041, Other Information, line 6. If a tax return isn't required, the election is made on a statement filed with the IRS office where the return would have been filed. The election is irrevocable for the tax year and is only effective for the year of the election.

Interest in real estate. The value of an interest in real estate owned by a decedent, title to which passes directly to the beneficiaries under local law, isn't included as any other amount paid, credited, or required to be distributed.

Property distributed in kind. If an estate distributes property in kind, the estate's deduction is ordinarily the lesser of its basis in the property or the property's FMV when distributed. However, the deduction is the property's FMV if the estate recognizes gain on the distribution. See *Gain or loss on distributions in kind* under *Income To Include*, earlier.

Property is distributed in kind if it satisfies the beneficiary's right to receive another property or amount, such as the income of the estate or a specific dollar amount. It generally includes any noncash distribution other than the following.

- A specific bequest (unless it must be distributed in more than three installments).
- Real property, the title to which passes directly to the beneficiary under local law.

Tax-exempt income not deductible. The estate can't take an income distribution deduction for any item of distributable net income not included in the estate's gross income.

Example. An estate has distributable net income of $2,000, consisting of $1,000 of dividends and $1,000 of tax-exempt interest. Distributions to the beneficiary total $1,500. Except for this rule, the income distribution deduction would be $1,500 ($750 of dividends and $750 of tax-exempt interest). However, as the result of this rule, the income distribution deduction is limited to $750, because no deduction is allowed for the tax-exempt interest distributed.

Denial of double deduction. A deduction can't be claimed twice. If an amount is considered to have been distributed to a beneficiary of an estate in a preceding tax year, it can't again be included in figuring the deduction for the year of the actual distribution.

Example. The decedent's will provides that the estate must distribute currently all of its income to a beneficiary. For administrative convenience, the personal representative didn't make a distribution of part of the income for the tax year until the first month of the next tax year. The amount must be deducted by the estate in the first tax year, and must be included in the income of the beneficiary in that year. This amount can't be deducted again by the estate in the following year when it is paid to the beneficiary, nor must the beneficiary again include the amount in income in that year.

Charitable contribution. Any amount allowed as a charitable deduction by the estate in figuring the estate's taxable income can't be claimed again as a deduction for a distribution to a beneficiary.

Funeral and Medical Expenses

No deduction can be taken for funeral expenses or medical and dental expenses on the estate's Form 1041.

Funeral expenses. Funeral expenses paid by the estate aren't deductible in figuring the estate's taxable income on Form 1041. They are deductible only for determining the taxable estate for federal estate tax purposes on Form 706.

Medical and dental expenses of a decedent. The medical and dental expenses of a decedent paid by the estate aren't deductible in figuring the estate's taxable income on Form 1041. You can deduct them in figuring the taxable estate for federal estate tax purposes on Form 706. If these expenses are paid within the 1-year period beginning with the day after the decedent's death, you can elect to deduct them on the decedent's income tax return (Form 1040 or 1040-SR) for the year in which they were incurred. See Medical Expenses under *Final Income Tax Return for Decedent—Form 1040 or 1040-SR,* earlier.

Credits, Tax, and Payments

This section includes brief discussions of some of the tax credits, types of taxes that may be owed, and estimated tax payments reported on the estate's Form 1041.

Credits

Estates are generally allowed some of the same tax credits that are allowed to individuals. The credits are generally allocated between the estate and the beneficiaries. However, estates aren't allowed the credit for the elderly or the disabled, the child tax credit, or the earned income credit discussed earlier under Final Income Tax Return for Decedent—Form 1040 or 1040-SR.

Foreign tax credit. The foreign tax credit is discussed in Pub. 514, Foreign Tax Credit for Individuals.

General business credit. The general business credit is available to an estate involved in a business. For more information, see Pub. 334.

Tax

You can't use the Tax Table for individuals to figure the estate tax. You must use the tax rate schedule in the Instructions for Form 1041 to figure the estate tax.

Alternative minimum tax (AMT). An estate may be liable for the AMT. To figure the AMT, use Schedule I (Form 1041), Alternative Minimum Tax—Estates and Trusts. Certain credits may be limited by any tentative minimum tax figured on Schedule I (Form 1041), Part III, line 52, even if there is no AMT liability.

If the estate takes a deduction for distributions to beneficiaries, complete Parts I and II of Schedule I (Form 1041) even if the estate doesn't owe AMT. Allocate the income distribution deduction figured on a minimum tax basis among the beneficiaries and report each beneficiary's share on Schedule K-1 (Form 1041). Also, show each beneficiary's share of any adjustments or tax preference items for depreciation, depletion, and amortization.

For more information, see the Instructions for Schedule I (Form 1041).

Payments

The estate's income tax liability must be paid in full when the return is filed. You may have to pay estimated tax, however, as explained below.

Estimated tax. Estates with tax years ending 2 or more years after the date of the decedent's death must pay estimated tax in the same manner as individuals.

If you must make estimated tax payments for 2023, use Form 1041-ES, Estimated Income Tax for Estates and Trusts, to determine the estimated tax to be paid.

Generally, you must pay estimated tax if the estate is expected to owe, after subtracting any withholding and credits, at least $1,000 in tax for 2023. You won't, however, have to pay estimated tax if you expect the withholding and credits to be at least:

1. 90% of the tax to be shown on the 2023 return, or
2. 100% of the tax shown on the 2022 return (assuming the return covered all 12 months).

The percentage in (2) above is 110% if the estate's 2022 AGI was more than $150,000 (and less than 2/3 of gross income for 2022 and 2023 is from farming or fishing). To figure the estate's AGI, see the Instructions for Form 1041.

The general rule is that the first estimated tax payment must be made by the 15th day of the 4th month of the tax year (whether calendar or fiscal). The estimated tax may be paid in full at that time or paid in four equal installments on the 15th day of the 4th, 6th, and 9th months of the tax year, and the 1st month of the following tax year. If any of these dates fall on a Saturday, Sunday, or legal holiday, the payment must be made by the next business day. For 2023, a calendar year taxpayer's estimated tax payments are due on April 15, 2023; June 15, 2023; September 15, 2023; and January 15, 2024.

For exceptions to the general rule, see the Instructions for Form 1041-ES and Pub. 505, Tax Withholding and Estimated Tax.

A penalty may be charged for not paying enough estimated tax or for not making the payment on time in the required amount (even if there is an overpayment on the tax return). Use Form 2210, Underpayment of Estimated Tax by Individuals, Estates, and Trusts, to figure any penalty, or let the IRS figure the penalty.

For more information, see the Instructions for Form 1041-ES and Pub. 505. Also, see *Transfer of Credit for Estimated Tax Payments,* later, for information regarding the transfer of the estate's estimated tax payments to the beneficiary(ies).

Name, Address, and Signature

In the top space of the name and address area of Form 1041, enter the exact name of the estate used to apply for the estate's EIN. In the remaining spaces, enter the name and address of the personal representative of the estate.

Signature. The personal representative (or its authorized officer if the personal representative isn't an individual) must sign the return. An individual who prepares the return for pay must sign the return as preparer. You can check a box in the signature area that authorizes the IRS to contact that paid preparer for certain information. See the Instructions for Form 1041 for more information.

When and Where To File

When Form 1041 (or Form 1040-NR if it applies) is filed depends on whether the personal representative chooses a calendar year or a fiscal year as the estate's accounting period. Where Form 1041 is filed depends on where the personal representative lives or has their principal business office.

When to file. If the calendar year is the estate's accounting period, the 2022 Form 1041 is due by April 15, 2023 (June 15, 2023, in the case of Form 1040-NR for a nonresident alien estate that doesn't have an office in the United States). If the personal representative chooses a fiscal year, Form 1041 is due by the 15th day of the 4th month (6th month for a Form 1040-NR) after the end of the tax year. If the due date is a Saturday, Sunday, or legal holiday, the form must be filed by the next business day.

Extension of time to file. An automatic $5\frac{1}{2}$-month extension of time to file Form 1041 can be requested by filing Form 7004, Application for Automatic Extension of Time To File Certain Business Income Tax, Information, and Other Returns. The extension is automatic, so no signature or reason for the request is required. File Form 7004 on or before the regular due date of Form 1041. Form 7004 can be electronically filed. For additional information, see the Instructions for Form 7004.

An extension of time to file a return doesn't extend the time for payment of tax due. The total income tax estimated to be due on Form 1041 must be paid in full by the regular due date of the return. For additional information, see the Instructions for Form 7004.

Where to file. The personal representative of an estate files the estate's income tax return (Form 1041) with the Internal Revenue Service Center assigned to the state where the personal representative lives or has their principal place of business. A list of the states and assigned Service Centers is in the Instructions for Form 1041.

Form 1040-NR must be filed at the following address:

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

If enclosing a payment, mail Form 1040-NR to:

Internal Revenue Service
P.O. Box 1303
Charlotte, NC 28201-1303 USA

Electronic filing. Form 1041 can be filed electronically. See the instructions for more information.

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.

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

Distributions to Beneficiaries

If you are the beneficiary of an estate that is required to distribute all its income currently, you must report your share of the distributable net income, whether or not you have actually received the distribution.

If you are a beneficiary of an estate that isn't required to distribute all its income currently, you must report all income that is required to be distributed to you currently (whether or not actually distributed), plus all other amounts paid, credited, or required to be distributed to you, up to your share of distributable net income. As explained earlier under Income Distribution Deduction, for an amount to be income required to be distributed currently, there must be a specific requirement for current distribution either under local law or the terms of the decedent's will. If there is no such requirement, the income is reportable only when distributed.

If the estate has more than one beneficiary, the separate shares rule discussed earlier under *Income Distribution Deduction* may have to be used to determine the distributable net income allocable to each beneficiary. The beneficiaries in the examples shown next don't meet the requirements of the separate shares rule.

Income That Must Be Distributed Currently

Beneficiaries entitled to receive currently distributable income must generally include in gross income the entire amount due them. However, if the income required to be distributed currently is more than the estate's distributable net income figured without deducting charitable contributions, each beneficiary must include in gross income a ratable part of the distributable net income.

Example. Under the terms of the will of G. Peters, $5,000 a year is to be paid to the surviving spouse and $2,500 a year is to be paid to G. Peter's child, Cameron, out of the estate's income during the period of administration. There are no charitable contributions. For the year, the estate's distributable net income is only $6,000. The distributable net income is less than the currently distributable income, so only $4,000 [($5,000 ÷ $7,500) × $6,000] must be reported in the surviving spouse's gross income, and only $2,000 [($2,500 ÷ $7,500) × $6,000] must be reported in Cameron's gross income.

Annuity payable out of income or corpus. Income that is required to be distributed currently includes any amount that must be paid out of income or corpus (principal of the estate) to the extent the amount is satisfied out of income for the tax year. An annuity that must be paid in all events (either out of income or corpus) would qualify as income that is required to be distributed currently to the extent there is income of the estate not paid, credited, or required to be distributed to other beneficiaries for the tax year.

Example 1. H. Frank's will provides that $500 be paid to the local Community Chest out of income each year. It also provides that $2,000 a year is currently distributable out of income to H. Frank's sibling, Charlie, and an annuity of $3,000 is to be paid to H. Frank's other sibling, Jessie, out of income or corpus. Capital gains are allocable to corpus, but all expenses are to be charged against income. Last year, the estate had income of $6,000 and expenses of $3,000. The personal representative paid $500 to the Community Chest and made the distributions to Charlie and Jessie as required by the will.

The estate's distributable net income (figured before the charitable contribution) is $3,000. The currently distributable income totals $2,500 ($2,000 to Charlie and $500 to Jessie). The income available for Jessie's annuity is only $500 because the will requires that the charitable contribution be paid out of current income. The $2,500 treated as distributed currently is less than the $3,000 distributable net income (before the contribution), so $2,000 must be included in Charlie's gross income and $500 must be included in Jessie's gross income.

Example 2. Assume the same facts as in *Example 1*, except the estate has an additional $1,000 of administration expenses, commissions, etc., chargeable to corpus. The estate's distributable net income (figured before the charitable contribution) is now $2,000 ($3,000 − $1,000 additional expense). The amount treated as currently distributable income is still $2,500 ($2,000 to Charlie and $500 to Jessie). The $2,500 treated as distributed currently is more than the $2,000 distributable net income, so $1,600 [($2,000 ÷ $2,500) × $2,000] must be included in Charlie's gross income and $400 [($500 ÷ $2,500) × $2,000] must be included in Jessie's gross income. Charlie and Jessie are beneficiaries of amounts that must be distributed currently, so they don't benefit from the reduction of distributable net income by the charitable contribution deduction.

Other Amounts Distributed

Any other amount paid, credited, or required to be distributed to the beneficiary for the tax year must also be included in the beneficiary's gross income. Such an amount is in addition to those amounts that are required to be distributed currently, as discussed earlier. It doesn't include gifts or bequests of specific sums of money or specific property if such sums are paid in three or fewer installments. However, amounts that can be paid only out of income aren't excluded under this rule. If the sum of the income that must be distributed currently and other amounts paid, credited, or required to be distributed exceeds distributable net income, these other amounts are included in the beneficiary's gross income only to the extent distributable net income exceeds the income that must be distributed currently. If there is more than one beneficiary, each will include in gross income only a pro rata share of such amounts.

The personal representative can elect to treat distributions paid or credited by the estate within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year.

The following are examples of other amounts distributed.

- Distributions made at the discretion of the personal representative.
- Distributions required by the terms of the will when a specific event occurs.
- Annuities that must be paid in any event, but only out of corpus (principal).
- Distributions of property in kind as defined earlier under *Income Distribution Deduction*, under *Income Tax Return of an Estate—Form 1041.*
- Distributions required for the support of the decedent's surviving spouse or other dependent for a limited period, but only out of corpus (principal).

If an estate distributes property in kind, the amount of the distribution is ordinarily the lesser of the estate's basis in the property or the property's FMV when distributed. However, the amount of the distribution is the property's FMV if the estate recognizes gain on the distribution. See Gain or loss on distributions in kind in the discussion *Income To Include*, earlier.

Example. The terms of M. Scott's will require the distribution of $2,500 of income annually to M. Scott's spouse, Reese. If any income remains, it may be accumulated or distributed to M. Scott's two children, Joe and Alex, in amounts at the discretion of the personal representative. The personal representative may also invade the corpus (principal) for the benefit of M. Scott's spouse and children.

Last year, the estate had income of $6,000 after deduction of all expenses. Its distributable net income is also $6,000. The personal representative distributed the required $2,500 of income to Reese. In addition, the personal representative distributed $1,500 each to Joe and Alex and an additional $2,000 to Reese.

Reese includes $2,500 of currently distributable income in gross income. The other amounts distributed totaled $5,000 ($1,500 + $1,500 + $2,000) and are includible in the incomes of Reese, Joe, and Alex to the extent of $3,500 (distributable net income of $6,000 minus currently distributable income to Reese of $2,500). Reese will include an additional $1,400 [($2,000 ÷ $5,000) × $3,500] in gross income. Joe and Alex each will include $1,050 [($1,500 ÷ $5,000) × $3,500] in their gross incomes.

Discharge of a Legal Obligation

If an estate, under the terms of a will, discharges a legal obligation of a beneficiary, the discharge is included in that beneficiary's income as either currently distributable income or other amount paid. This doesn't apply to the discharge of a beneficiary's obligation to pay alimony or separate maintenance.

The beneficiary's legal obligations include a legal obligation of support, for example, of a minor child. Local law determines a legal obligation of support.

Character of Distributions

An amount distributed to a beneficiary for inclusion in gross income retains the same character for the beneficiary that it had for the estate.

No charitable contribution made. If no charitable contribution is made during the tax year, treat the distributions as consisting of the same proportion of each class of items entering into the computation of distributable net income as the total of each class bears to the total distributable net income. Distributable net income was defined earlier under Income Distribution Deduction, under *Income Tax Return of an Estate—Form 1041.* However, if the will or local law specifically provides or requires a different allocation, use that allocation.

Example 1. An estate has distributable net income of $3,000, consisting of $1,800 in rents and $1,200 in taxable interest. There is no provision in the will or local law for the allocation of income. The personal representative distributes $1,500 each to Harper and Drew, beneficiaries in their parent's will. Each will be treated as having received $900 in rents and $600 of taxable interest.

Example 2. Assume in *Example 1* that the will provides for the payment of the taxable interest to Harper and the rental income to Drew and that the personal representative distributed the income under those provisions. Harper is treated as having received $1,200 in taxable interest and Drew is treated as having received $1,800 of rental income.

Charitable contribution made. If a charitable contribution is made by an estate and the terms of the will or local law provide for the contribution to be paid from specified sources, that provision governs. If no provision or requirement exists, the charitable contribution deduction must be allocated among the classes of income entering into the computation of the income of the estate before allocation of other deductions among the items of distributable net income. In allocating items of income and deductions to beneficiaries to whom income must be distributed currently, the charitable contribution deduction isn't taken into account to the extent that it exceeds income for the year reduced by currently distributable income.

Example. The will of H. Thomas requires a current distribution from income of $3,000 a year to H. Thomas's spouse, Kai, during the administration of the estate. The will also provides that the personal representative, using discretion, may distribute the balance of the current earnings either to H. Thomas's child, Avery, or to one or more designated charities. Last year, the estate's income consisted of $4,000 of taxable interest and $1,000 of tax-exempt interest. There were no deductible expenses. The personal representative distributed the $3,000 to Kai, made a contribution of $2,500 to the local heart association, and paid $1,500 to Avery.

The distributable net income for determining the character of the distribution to Kai is $3,000. The charitable contribution deduction to be taken into account for this computation is $2,000 (the estate's income ($5,000) minus the currently distributable income ($3,000)). The $2,000 charitable contribution deduction must be allocated: $1,600 [($4,000 ÷ $5,000) × $2,000] to taxable interest and $400 [($1,000 ÷ $5,000) × $2,000] to tax-exempt interest. Kai is considered to have received $2,400 ($4,000 − $1,600) of taxable interest and $600 ($1,000 − $400) of tax-exempt interest. Kai must include the $2,400 in gross income and must report the $600 of tax-exempt interest, but it isn't taxable.

To determine the amount to be included in Avery's gross income, however, take into account the entire charitable contribution deduction. The currently distributable income is greater than the estate's income after taking into account the charitable contribution deduction, so none of the amount paid to Avery must be included in Avery's gross income for the year.

How and When To Report

How income from the estate is reported depends on the character of the income in the hands of the estate. When the income is reported depends on whether it represents amounts credited or required to be distributed to beneficiaries or other amounts.

How to report estate income. Each item of income keeps the same character in the hands of a beneficiary as it had in the hands of the estate. If the items of income distributed or considered to be distributed include dividends, tax-exempt interest, or capital gains, they will keep the same character in the beneficiary's hands for purposes of the tax treatment given those items. Generally, a beneficiary reports dividends on Form 1040 or 1040-SR, line 3b, and capital gains on Schedule D (Form 1040). The tax-exempt interest, while not included in taxable income, must be shown on Form 1040 or 1040-SR, line 2a. Report business and other nonpassive income in Part III of Schedule E (Form 1040), Supplemental Income and Loss.

The estate's personal representative must provide the beneficiary with the classification of the various items that make up the beneficiary's share of the estate income and the credits the beneficiary takes into consideration to properly prepare the beneficiary's individual income tax return. See *Schedule K-1 (Form 1041),* later.

When to report estate income. If income from the estate is credited or must be distributed to a beneficiary for a tax year, the beneficiary reports that income (even if not distributed) on the return for that year. The personal representative can elect to treat distributions paid or credited within 65 days after the close of the estate's tax year as having been paid or credited on the last day of that tax year. If this election is made, the beneficiary must report that distribution on the beneficiary's return for that year.

Other income from the estate is reported on the beneficiary's return for the year in which it was received. If the beneficiary's tax year is different from the estate's tax year, see *Different tax years* next.

Different tax years. Each beneficiary must include their share of the estate income in the beneficiary's return for the tax year in which the last day of the estate's tax year falls. If the tax year of the estate is a fiscal year ending on June 30, 2022, and the beneficiary's tax year is the calendar year, the beneficiary will include in gross income for the tax year ending December 31, 2022, their share of the estate's distributable net income distributed or required to be distributed during the fiscal year ending the previous June 30.

Death of individual beneficiary. If an individual beneficiary dies, the beneficiary's share of the estate's distributable net income may be distributed or be considered distributed by the estate for its tax year that doesn't end with or within the last tax year of the beneficiary. In this case, the estate income that must be included in the gross income on the beneficiary's final return is based on the amounts distributed or considered distributed during the tax year of the estate in which the beneficiary's last tax year ended. However, for a cash basis beneficiary, the gross income of the last tax year includes only the amounts actually distributed before death. Income that must be distributed to the beneficiary but, in fact, is distributed to the beneficiary's estate after death is included in the gross income of the beneficiary's estate as income in respect of a decedent.

Termination of nonindividual beneficiary. If a beneficiary that isn't an individual, for example, a trust or a corporation, ceases to exist, the amount included in its gross income for its last tax year is determined as if the beneficiary were a deceased individual. However, income that must be distributed before termination, but which is actually distributed to the beneficiary's successor in interest, is included in the gross income of the nonindividual beneficiary for its last tax year.

Schedule K-1 (Form 1041). The personal representative of the estate must provide the beneficiary with a copy of Schedule K-1 (Form 1041) or a substitute Schedule K-1. The beneficiary shouldn't file Schedule K-1 (Form 1041) with the beneficiary's Form 1040 or 1040-SR, but should keep it for their personal records.

Each beneficiary (or nominee of a beneficiary) who receives a distribution from the estate for the tax year or to whom any item is allocated must receive a Schedule K-1 (Form 1041) or substitute. The personal representative must furnish the form to each beneficiary or nominee by the date on which the Form 1041 is filed.

Nominees. A person who holds an interest in an estate as a nominee for a beneficiary must provide the estate with the name and address of the beneficiary, and any other required information. The nominee must provide the beneficiary with the information received from the estate.

Penalty. A personal representative (or nominee) who fails to provide the correct information may be subject to a $290 penalty for each failure. If it is shown that such failure is due to intentional disregard of the filing requirement, the penalty amount increases.

Consistent treatment of items. Beneficiaries must treat estate items the same way on their individual returns as those items are treated on the estate's income tax return. If their treatment is different from the estate's treatment, the beneficiary must file Form 8082, Notice of Inconsistent Treatment or Administrative Adjustment Request (AAR), with the beneficiary's return to identify the difference. If the beneficiary doesn't file Form 8082 and the estate has filed a return, the IRS can immediately assess and collect any tax and penalties that result from adjusting the item to make it consistent with the estate's treatment.

Bequest

A bequest is the act of giving or leaving property to another through the last will and testament. Generally, any distribution of income (or property in kind) to a beneficiary is an allowable deduction to the estate and is includible in the beneficiary's gross income to the extent of the estate's distributable net income. However, a distribution won't be an allowable deduction to the estate and won't be includible in the beneficiary's gross income if the distribution meets all the following requirements.

- It is required by the terms of the will.
- It is a gift or bequest of a specific sum of money or property.
- It is paid out in three or fewer installments under the terms of the will.

Specific sum of money or property. To meet this test, the amount of money or the identity of the specific property must be determinable under the decedent's will as of the date of death. To qualify as specific property, the property must be identifiable both as to its kind and its amount.

Example 1. D. Rogers' will provided that D. Roger's child, Taylor, receive D. Rogers' interest in the Rogers-Jones partnership. D. Rogers' other child, Angel, would receive a sum of money equal to the value of the partnership interest given to Taylor. The bequest to Taylor is a gift of a specific property ascertainable at the date of D. Rogers' death. The bequest of a specific sum of money to Angel is determinable on the same date.

Example 2. M. Jenkins' will provided that the surviving spouse, Riley, would receive money or property to be selected by the personal representative equal in value to half of M. Jenkins' adjusted gross estate. The identity of the property and the money in the bequest are dependent on the personal representative's discretion and the payment of administration expenses and other charges, which aren't determinable at the date of M. Jenkins' death. As a result, the provision isn't a bequest of a specific sum of money or of specific property, and any distribution under that provision is a deduction for the estate and income to the beneficiary (to the extent of the estate's distributable net income). The fact that the bequest will be specific sometime before distribution is immaterial. It isn't ascertainable by the terms of the will as of the date of death.

Distributions not treated as bequests. The following distributions aren't bequests that meet all the requirements listed earlier that allow a distribution to be excluded from the beneficiary's income and don't allow it as a deduction to the estate.

Paid only from income. An amount that can be paid only from current or prior income of the estate doesn't qualify even if it is specific in amount and there is no provision for installment payments.

Annuity. An annuity or a payment of money or of specific property in lieu of, or having the effect of, an annuity isn't the payment of specific property or a sum of money.

Residuary estate. If the will provides for the payment of the balance or residue of the estate to a beneficiary of the estate after all expenses and other specific legacies or bequests, that residuary bequest isn't a payment of specific property or a sum of money.

Gifts made in installments. Even if the gift or bequest is made in a lump sum or in three or fewer installments, it won't qualify as specific property or a sum of money if the will provides that the amount must be paid in more than three installments.

Conditional bequests. A bequest of specific property or a sum of money that may otherwise be excluded from the beneficiary's gross income won't lose the exclusion solely because the payment is subject to a condition.

Installment payments. Certain rules apply in determining whether a bequest of specific property or a sum of money has to be paid or credited to a beneficiary in more than three installments.

Personal items. Don't take into account bequests of articles for personal use, such as personal and household effects and automobiles.

Real property. Don't take into account specifically designated real property, the title to which passes under local law directly to the beneficiary.

Other property. All other bequests under the decedent's will for which no time of payment or crediting is specified and that are to be paid or credited in the ordinary course of administration of the estate are considered as required to be paid or credited in a single installment. Also, all bequests payable at any one specified time under the terms of the will are treated as a single installment.

Testamentary trust. In determining the number of installments that must be paid or credited to a beneficiary, the decedent's estate and a testamentary trust created by the decedent's will are treated as separate entities. Amounts paid or credited by the estate and by the trust are counted separately.

Termination of Estate

The termination of an estate is generally marked by the end of the period of administration and by the distribution of the assets to the beneficiaries under the terms of the will or under the laws of succession of the state if there is no will. These beneficiaries may or may not be the same persons as the beneficiaries of the estate's income.

Period of Administration

The period of administration is the time actually required by the personal representative to assemble all the decedent's assets, pay all the expenses and obligations, and distribute the assets to the beneficiaries. This may be longer or shorter than the time provided by local law for the administration of estates.

Ends if all assets distributed. If all assets are distributed except a reasonable amount set aside, in good faith, for the payment of unascertained or contingent liabilities and expenses (but not including a claim by a beneficiary, as a beneficiary), the estate will be considered terminated.

Ends if period unreasonably long. If settlement is prolonged unreasonably, the estate will be treated as terminated for federal income tax purposes. From that point on, the income, deductions, and credits of the estate are considered those of the person or persons succeeding to the property of the estate.

Transfer of Unused Deductions to Beneficiaries

If the estate has unused loss carryovers or excess deductions for its last tax year, they are allowed to those beneficiaries who succeed to the estate's property. See *Successor beneficiary,* later.

Note. See Notice 2018-61 and Regulations section 1.67-4 for more information about allowable beneficiary deductions.

Unused loss carryovers. An unused NOL carryover or capital loss carryover existing upon termination of the estate is allowed to the beneficiaries succeeding to the property of the estate. That is, these deductions will be claimed on the beneficiary's tax return. This treatment occurs only if a carryover would have been allowed to the estate in a later tax year if the estate had not been terminated.

Both types of carryovers generally keep their same character for the beneficiary as they had for the estate. However, if the beneficiary of a capital loss carryover is a corporation, the corporation will treat the carryover as a short-term capital loss regardless of its status in the estate. The NOL carryover and the capital loss carryover are used in figuring the beneficiary's AGI and taxable income. The beneficiary may have to adjust any NOL carryover in figuring the AMT.

The first tax year to which the loss is carried is the beneficiary's tax year in which the estate terminates. If the loss can be carried to more than 1 tax year, the estate's last tax year (whether or not a short tax year) and the beneficiary's first tax year to which the loss is carried each constitute a tax year for figuring the number of years to which a loss may be carried. A capital loss carryover from an estate to a corporate beneficiary will be treated as though it resulted from a loss incurred in the estate's last tax year (whether or not a short tax year), regardless of when the estate actually incurred the loss.

If the last tax year of the estate is the last tax year to which an NOL may be carried, see *No double deductions*, later. For a general discussion of NOLs, see Pub. 536. For a discussion of capital losses and capital loss carryovers, see Pub. 550.

Excess deductions. If the deductions in the estate's last tax year (other than the exemption deduction or the charitable contributions deduction) are more than gross income for that year, the beneficiaries succeeding to the estate's property can claim the excess as a deduction in figuring taxable income. To establish these deductions for the beneficiaries, a return must be filed for the estate along with a schedule showing the computation of each kind of deduction and the allocation of each to the beneficiaries.

Under *Final Regulations - TD9918*, each excess deduction on termination of an estate or trust retains its separate character as an amount allowed in arriving at AGI, a non-miscellaneous itemized deduction, or a miscellaneous itemized deduction. For more information, see the Instructions for Form 1041.

No double deductions. An NOL deduction allowable to a successor beneficiary can't be considered in figuring the excess deductions on termination. However, if the estate's last tax year is the last year in which a deduction for an NOL can be taken, the deduction, to the extent not absorbed in the last return of the estate, is treated as an excess deduction on termination. Any item of income or deduction, or any part thereof, taken into account in figuring an NOL or a capital loss carryover of the estate for its last tax year can't be used again to figure the excess deduction on termination.

Successor beneficiary. A beneficiary entitled to an unused loss carryover or an excess deduction is the beneficiary who, upon the estate's termination, bears the burden of any loss for which a carryover is allowed or of any deductions more than gross income.

If decedent had no will. If the decedent had no will, the beneficiaries are those heirs or next of kin to whom the estate is distributed. If the estate is insolvent, the beneficiaries are those to whom the estate would have been distributed had it not been insolvent. If the decedent's spouse is entitled to a specified dollar amount of property before any distributions to other heirs and the estate is less than that amount, the spouse is the beneficiary to the extent of the deficiency.

If decedent had a will. If the decedent had a will, a beneficiary normally means the residuary beneficiaries (including residuary trusts). Those beneficiaries who receive specific property or a specific amount of money aren't ordinarily considered residuary beneficiaries, except to the extent the specific amount isn't paid in full.

Also, a beneficiary who isn't strictly a residuary beneficiary, but whose devise or bequest is determined by the value of the estate as reduced by the loss or deduction, is entitled to the carryover or the deduction. This includes the following beneficiaries.

- A beneficiary of a fraction of the decedent's net estate after payment of debts, expenses, and specific bequests.
- A nonresiduary beneficiary, when the estate is unable to satisfy the bequest in full.
- A surviving spouse receiving a fractional share of the estate in fee under a statutory right of election when the losses or deductions are taken into account in determining the share. However, such a beneficiary doesn't include a recipient of a dower or curtesy, or a beneficiary who receives any income from the estate

from which the loss or excess deduction is carried over.

Allocation among beneficiaries. The total of the unused loss carryovers or the excess deductions on termination that may be deducted by the successor beneficiaries is to be divided according to the share of each in the burden of the loss or deduction.

Example. Under the parent's will, Ash is to receive $20,000. The remainder of the estate is to be divided equally between Ash's siblings, Danny and Robin. After all expenses are paid, the estate has sufficient funds to pay Ash only $15,000, with nothing to Danny and Robin. In the estate's last tax year, there are excess deductions of $5,000 and $10,000 of unused loss carryovers. The total of the excess deductions and unused loss carryovers is $15,000 and Ash is considered a successor beneficiary to the extent of $5,000, so Ash is entitled to one-third of the unused loss carryover and one-third of the excess deductions. Ash's siblings may divide the other two-thirds of the excess deductions and the unused loss carryovers between them.

Transfer of Credit for Estimated Tax Payments

When an estate terminates, the personal representative can elect to transfer to the beneficiaries the credit for all or part of the estate's estimated tax payments for the last tax year. To make this election, the personal representative must complete Form 1041-T, Allocation of Estimated Tax Payments to Beneficiaries, and file it either separately or with the estate's final Form 1041. The Form 1041-T must be filed by the 65th day after the close of the estate's tax year.

CAUTION *Filing Form 1041-T with Form 1041 doesn't change the due date for filing Form 1041-T. The IRS will reject a late-filed election. If Form 1041-T is rejected and Form 1041 was filed based on a successful election, then the personal representative must file an amended Form 1041, including amended Schedule(s) K-1.*

The estimated tax allocated to each beneficiary is treated as paid or credited to the beneficiary on the last day of the estate's final tax year and must be reported in box 13 of Schedule K-1 (Form 1041), using code A. If the estate terminated in 2022, this amount is treated as a payment of 2022 estimated tax made by the beneficiary on January 15, 2023.

Estate and Gift Taxes

CAUTION *This publication doesn't contain all the rules and exceptions for federal estate, gift, or generation-skipping transfer (GST) taxes, nor does it contain all the rules that apply to nonresident noncitizens. If you need more information, see Form 709; Form 706; Form 706-NA, United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States; and the related instructions. This publication also doesn't contain any information about state or local taxes. That information should be available from your state and local taxing authority.*

The discussion below is to give you a general understanding of when estate, gift, and GST taxes apply and when they don't. It explains how much money or property can be given away during life or left to heirs at death before any tax will be owed. If the decedent gave someone money or property during the decedent's life, the personal representative may have to pay the federal gift tax on behalf of the decedent if it wasn't previously paid. The money and property owned by the decedent at death is the estate and may be subject to federal estate tax. This is in addition to any federal income tax that is owed on the gross income of the estate.

Most gifts aren't subject to the gift tax and most estates aren't subject to the estate tax. For example, there is usually no tax if a gift is given to a spouse or charity or if the estate goes to the decedent's spouse or charity at death. If gifts are made to someone else, the gift tax usually doesn't apply until the value exceeds the annual exclusion for the year. See *Annual exclusion* under *Gift Tax*, later. Even if the gift or estate tax applies, it may be eliminated by the applicable credit amount, discussed later.

Person receiving the gift or bequest. Generally, the person who receives a gift or bequest of property from an estate won't have to pay any federal gift tax or estate tax. Also, that person won't have to pay income tax on the value of the gift or inheritance received.

Note. Gifts or bequests received from covered expatriates after June 16, 2008, may be subject to a tax which must be paid by the recipient. Consult a qualified tax professional for more information.

No income tax deduction. Making a gift or leaving property from an estate to heirs doesn't ordinarily affect federal income tax liability. The value of gifts made (other than gifts that are charitable contributions) or any federal gift tax resulting from making those gifts can't be deducted from income tax liability. The value of any bequests made or estate tax resulting from making bequests is also not deductible from income tax liability.

Filing requirements. For estate tax purposes, the personal representative may be required to file Form 706. If death occurred in 2022, Form 706 must be filed if the gross estate of the decedent, plus any adjusted taxable gifts and specific gift tax exemption, is valued at more than $12,060,000. Form 706 must also be timely filed if the estate elects to transfer any DSUE to a surviving spouse (this is also known as the portability election), regardless of the size of the gross estate.

If Form 706 is required, the return and payment of any tax is due within 9 months after the date of the decedent's death. To apply for an extension of time to file the return and/or pay the tax due, use Form 4768, Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes, to apply for an automatic 6-month extension of time to file.

An executor can only elect to transfer the DSUE amount to the surviving spouse if the Form 706 is filed timely; that is, within 9 months of the decedent's date of death or, if you have received an extension of time to file, before the 6-month extension period ends.

Note. Executors who did not have a filing requirement under section 6018(a) but failed to timely file Form 706 to make the portability election may be eligible for an extension under Rev. Proc. 2022-32, 2022-30 I.R.B. 101 (superseding Rev. Proc. 2017-34, 2017-26 I.R.B. 1282). Executors filing to elect portability may now file Form 706 on or before the fifth anniversary of the decedent's death.

The federal gift tax return, Form 709, is filed for every year in which a gift is made. However, a gift tax return isn't generally required unless money or property worth more than the annual exclusion for that year is given to someone other than the decedent's spouse or the gift given isn't subject to the annual exclusion. The annual gift exclusion is $16,000 for 2022. See *Annual exclusion*, later, for more information.

Generally, you must file Form 709 by April 15 of the year after the gift was made. An extension of time to file the return is available by filing Form 8892, Application for Automatic Extension of Time To File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax.

Note. Any extension of time granted for filing an individual tax return will also automatically extend the time to file your gift tax return. An income tax return extension is made on Form 4868, Application for Automatic Extension of Time To File U.S. Individual Income Tax Return.

Basic exclusion amount. The basic exclusion amount for decedents who died in 2022 is $12,060,000.

Beginning in 2011, a predeceased spouse's unused exclusion, the DSUE amount, may be added to the basic exclusion amount to determine the applicable exclusion amount. The DSUE amount is only available if an election is made on the Form 706 filed by the predeceased spouse's estate.

The total of the basic exclusion amount and any DSUE amount received from the estate of a predeceased spouse is the applicable exclusion amount. This amount may be applied against tax due on lifetime gifts and/or transfers at death.

Applicable credit amount. A credit is an amount that reduces or eliminates tax. The applicable credit applies to both the gift tax and the estate tax and it equals the tax on the applicable exclusion amount. The applicable credit must be subtracted from any gift or estate tax owed. Any applicable credit used against gift tax in 1 year reduces the amount of credit that can be used against gift or estate taxes in a later year.

In 2022, the credit on the basic exclusion amount is $4,769,800 (exempting $12,060,000 from tax). The total amount of applicable credit available to a person will equal the tax on the basic exclusion amount plus the tax on any DSUE amount.

For examples of how the credit works, see *Applying the applicable credit to gift tax* and *Applying the applicable credit to estate tax*, later.

Restored exclusion and GST exemption amounts. If a decedent made a taxable gift during the decedent's lifetime to the decedent's same-sex spouse and that transfer resulted in a reduction of the decedent's available applicable exclusion amount, there is a new procedure allowing the decedent to restore the exclusion that was utilized in the transfer. If a decedent made a taxable gift during the decedent's lifetime to a skip person whose generation assignment is changed as a result of Notice 2017-15, any GST exemption amount allocated to the gift will be deemed void. For more information, see the Instructions for Form 706 and Notice 2017-15, 2017-06 I.R.B. 783.

Gift Tax

The gift tax applies to lifetime transfers of property from one person (the donor) to another person (the donee). A gift is made if tangible or intangible property (including money), the use of property, or the right to receive income from property is given without expecting to receive something of at least equal value in return. If something is sold for less than its full value or if a loan is made without interest or with reduced (less than market rate) interest, a gift may have been made.

The general rule is that any gift is a taxable gift. However, there are many exceptions to this rule.

Generally, the following gifts aren't taxable gifts.

- Gifts, excluding gifts of future interests, that aren't more than the annual exclusion for the calendar year.
- Tuition or medical expenses paid directly to an educational or medical institution for someone else.
- Gifts to your spouse, if your spouse is a U. S. citizen.
- Gifts to a political organization for its use.
- Gifts to certain exempt organizations described in section 501(c)(4), 501(c)(5), and 501(c)(6).
- Gifts to charities.

Annual exclusion. A separate annual exclusion applies to each person to whom a gift is made. The gift tax annual exclusion is subject to cost-of-living increases.

Gift Tax Annual Exclusion

Year(s)	Annual Exclusion
2002 – 2005	$11,000
2006 – 2008	$12,000
2009 – 2012	$13,000
2013 – 2017	$14,000
2018 – 2021	$15,000
2022	$16,000

In 2022, generally, gifts valued up to $16,000 per person could have been given to any number of people, and none of the gifts will be taxable. If the decedent's spouse is not a U. S. citizen, the annual exclusion for gifts made to the decedent's spouse in 2022 is $164,000. However, gifts of future interests can't be excluded under the annual exclusion. A gift of a future interest is a gift that is limited so that its use, possession, or enjoyment will begin at some point in the future. If the decedent was married, both the decedent and spouse could have separately given gifts valued up to $16,000 to the same person without making a taxable gift. If one spouse gave a gift valued at more than the $16,000 exclusion, see Gift splitting, later.

Example 1. The decedent gave Madison, a relative, a cash gift of $8,000. It is the decedent's only gift to Madison in 2022. The gift isn't a taxable gift because it isn't more than the $16,000 annual exclusion.

Example 2. The decedent paid the $16,000 college tuition of a friend directly to the friend's college. Because the payment qualifies for the educational exclusion, the gift isn't a taxable gift.

Example 3. The decedent gave $26,000 to the decedent's 25-year-old child. The first $16,000 of the gift isn't subject to the gift tax because of the annual exclusion. The remaining $10,000 is a taxable gift. As explained later under *Applying the applicable credit to gift tax*, the estate may not have to pay the gift tax on the remaining $10,000. However, a gift tax return must be filed.

More information. See Form 709 and its instructions for more information about taxable gifts.

Gift splitting. If the decedent or the decedent's spouse made a gift to a third party, the gift can be considered as made one-half by the decedent and one-half by the decedent's spouse. This is known as gift splitting. Both spouses must be U. S. citizens or residents, must agree to split the gift, and, in the case of a deceased spouse, the personal representative will act on behalf of the decedent. If there is consent to split the gift, both spouses can apply the annual exclusion to one-half of the gift. For gifts made in 2022, gift splitting allows married couples to give up to $32,000 to a person without making a taxable gift. If a gift is split, both spouses must file a gift tax return to show an agreement to use gift splitting. Form 709 must be filed even if half of the split gift is less than the annual exclusion.

Example. Jaden and Jaden's spouse, Sammy, agreed to split the gifts that they made during 2022. Jaden's sibling's child, Morgan, received $21,000 from Jaden. Sammy's sibling's child, Jo, received $18,000 from Sammy. Although each gift is more than the annual exclusion ($16,000), by gift splitting, they made these gifts without making a taxable gift. Jaden's gift to Morgan is treated as one-half ($10,500) from Jaden and one-half ($10,500) from Sammy. Sammy's gift to Jo is also treated as one-half ($9,000) from Sammy and one-half ($9,000) from Jaden. In each case, because one-half of the split gift isn't more than the annual exclusion, it isn't a taxable gift. However, each of them must file a gift tax return.

Applying the applicable credit to gift tax. After you determine which gifts are taxable, figure the amount of gift tax on the total taxable gifts and apply the applicable credit for the year.

Example. In 2022, the decedent gave the following gifts and amounts to the following people.

- Morgan, a relative, a cash gift of $8,000. It is the decedent's only gift to Morgan this year.
- Danny, a friend, the decedent paid the $16,000 college tuition.
- Avery, 25-year-old child, $26,000.
- Kai, 27-year-old child, $26,000.

The decedent never gave a taxable gift before and doesn't have any DSUE. Apply the exceptions to the gift tax and the applicable credit as follows.

1. Apply the educational exclusion. Payment of tuition expenses isn't subject to the gift tax. Therefore, the gift to Danny isn't a taxable gift.
2. Apply the annual exclusion. The first $16,000 given isn't a taxable gift. Therefore, the $8,000 gift to Morgan, the first $16,000 of the gift to Avery, and the first $16,000 of the gift to Kai aren't taxable gifts.
3. Apply the applicable credit. The gift tax on $20,000 ($10,000 remaining from the gift to Avery plus $10,000 remaining from the gift to Kai) is $3,800. Subtract the $3,800 from the applicable credit of $4,769,800 for 2022. The applicable credit that can be used against the gift or estate tax in a later year is $4,766,000.

As the personal representative of the decedent's estate, you don't have to pay any gift tax for 2022. However, you do have to file Form 709.

For more information, see the Table for Computing Gift Tax in the Instructions for Form 709.

Filing a gift tax return. Generally, a gift tax return must be filed if any of the following apply.

- Gifts were given to at least one person (other than the decedent's spouse) that are more than the annual exclusion for the year.
- The decedent and the decedent's spouse split a gift.

- The decedent gave someone (other than decedent's spouse) a gift of a future interest that the recipient can't actually possess, enjoy, or receive income from until some time in the future.
- The decedent gave the decedent's spouse an interest in property that will be ended by some future event.

A gift tax return doesn't have to be filed to report gifts to (or for the use of) political organizations or gifts made by paying someone's tuition or medical expenses.

The following deductible gifts made to charities also don't need to be reported.

- An entire interest in property, if no other interest has been transferred for less than adequate consideration or for other than a charitable use.
- A qualified conservation contribution that is a perpetual restriction on the use of real property.

More information. If you think you need to file a gift tax return, see Form 709 and its instructions for more information. You can get publications and forms at *IRS.gov/Forms*. You may want to speak with a qualified tax professional to receive help with gift tax questions.

Estate Tax

Estate tax may apply to the decedent's taxable estate at death. The taxable estate is the gross estate less allowable deductions.

Gross estate. The gross estate includes the value of all property the decedent owns partially or in full at the time of death. Your gross estate also includes the following.

- Life insurance proceeds payable to the estate or, if the decedent owned the policy, to the decedent's heirs.
- The value of certain annuities payable to the estate or the decedent's heirs.
- The value of certain property the decedent transferred within 3 years before death.

Taxable estate. The allowable deductions used in determining the taxable estate include:

- Funeral expenses paid out of the estate,
- Debts the decedent owed at the time of death,
- The marital deduction (generally, the value of the property that passes from the estate to the surviving spouse),
- The charitable deduction (generally, the value of the property that passes from the decedent's estate to the United States, any state, a political subdivision of a state, the District of Columbia, or to a qualifying charity for exclusively charitable purposes), and
- The state death tax deduction (generally, any estate, inheritance, legacy, or succession taxes paid as the result of the decedent's death to any state or the District of Columbia).

More information. For more information on what is included in the gross estate and the allowable deductions, see Form 706 and Form 706-NA and their instructions.

Applying the applicable credit to estate tax. Basically, any applicable credit not used to eliminate gift tax can be used to eliminate or reduce estate tax. However, to determine the applicable credit available for use against the estate tax, you must complete Form 706.

Filing an estate tax return. An estate tax return must be filed if the gross estate, plus any adjusted taxable gifts and specific gift tax exemption, is more than the basic exclusion amount. The basic exclusion amount is generally equal to the filing requirement. For 2022, the basic exclusion amount is $12,060,000.

Note. The federal estate tax return doesn't generally need to be filed unless the total value of lifetime transfers and the estate is worth more than the basic exclusion amount for the year of death. However, a complete and timely filed return is required if a deceased spouse's estate elects portability of any unused exclusion amount for use by the surviving spouse.

Adjusted taxable gifts is the total of the taxable gifts made by the decedent after 1976 that aren't included in the gross estate.

Note. The *specific gift tax exemption* applies only to gifts made after September 8, 1976, and before January 1, 1977.

The *applicable exclusion amount* is the total amount exempted from gift and/or estate tax. For estates of decedents dying after December 31, 2010, the applicable exclusion amount equals the basic exclusion amount plus any DSUE amount. The DSUE amount is the remaining applicable exclusion amount from the estate of a predeceased spouse who died after December 31, 2010. The DSUE amount is only available where an election was made on the Form 706 filed by the deceased spouse's estate.

Filing requirement. The following table lists the filing requirements for estates of decedents dying after 2011.

Basic Exclusion Amount

Year of Death	File return if estate's value is more than:
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
* See IRS.gov for inflation adjusted amount.	

More information. If you think the decedent will have an estate on which tax must be paid, or if the estate will have to file an estate tax return even if no tax will be due, see Form 706, Form 706-NA, and the forms' instructions for more information. You can get publications and forms at IRS.gov/Forms. The estate's personal representative may want to speak with a qualified tax professional to receive help with estate tax questions.

Consistent Basis Reporting Requirement

Certain executors are required to report the estate tax value of property passing from a decedent to the IRS and to the recipient of the property (*beneficiary*). The purpose of the requirement is to ensure that the appropriate value (or *basis*) is used to calculate the tax due from the sale or disposal of property received from an estate.

An executor of an estate (or other person) required to file an estate tax return after July 31, 2015, must provide a Form 8971 with attached Schedules A to the IRS, and a copy of the beneficiary's Schedule A to each beneficiary who receives or is to receive property from the estate. The Schedule A must show the final estate tax value of the property received or to be received by the beneficiary. An executor (or other person) who files an estate tax return only to make an election regarding the GST tax or portability of the DSUE is not required to provide Form 8971 and Schedule A. The executor is required to file Form 8971 and all Schedules A with the IRS and provide the beneficiary with their Schedule A within 30 days of the earlier of the due date (including extensions) or filing of Form 706.

If Form 8971, Schedule A, Part 2, column C, received by the beneficiary indicates that the property increases the estate tax liability, the beneficiary must use a basis consistent with the final estate tax value of the property to determine the beneficiary's basis in that property. Calculate a basis consistent with the final estate tax value by starting with the reported value and then making any allowed adjustments.

For more information, see sections 1014(f) and 6035, the Instructions for Form 8971 and Schedule A, and *Column (e)—Cost or Other Basis* in the Instructions for Form 8949. Also, see the 2022 Instructions for Schedule D (Form 1041).

Generation-Skipping Transfer Tax

The generation-skipping transfer (GST) tax may apply to gifts during the decedent's life or transfers occurring at the decedent's death, called *bequests*, made to skip persons. A *skip person* is a person who belongs to a generation that is two or more generations below the generation of the donor. For instance, the decedent's grandchild will generally be a skip person to the decedent and the decedent's spouse. The GST tax is figured on the amount of the gift or bequest transferred to a skip person, after subtracting any GST exemption allocated to the gift or bequest at the maximum gift and estate tax rates. Each individual has a GST exemption equal to the basic exclusion amount, as indexed for inflation, for the year the gift or bequest was made. GSTs have three forms: direct skip, taxable distribution, and taxable termination.

- A *direct skip* is a transfer made during the decedent's life or occurring at death that is:
  1. Subject to the gift or estate tax,
  2. Of an interest in property, and
  3. Made to a skip person.
- A *taxable distribution* is any distribution from a trust to a skip person which isn't a direct skip or a taxable termination.
- A *taxable termination* is the end of a trust's interest in property where the property interest will be transferred to a skip person.

More information. If you think the decedent has made a gift or bequest on which GST tax must be paid, see Form 709, Form 706, Form 706-NA, and the forms' instructions for more information. You can get publications and forms at IRS.gov/Forms. The estate's personal representative may want to speak with a qualified tax professional to receive help with GST questions.

Example

The following is an example of a typical situation.

On April 9, 2022, your father, Jo Smith, died at the age of 72. Your father had not resided in a community property state and the will named you to serve as executor (personal representative). Except for specific bequests to your mother, Angel, of your parents' home and your father's automobile, and a bequest of $5,000 to the church your father attended, your father's will named your mother and brother, Jamie, as beneficiaries.

After the court has approved your appointment as the executor, you should obtain an EIN for the estate. (See *Duties* under *Personal Representatives*, earlier.) Next, you use Form 56 to notify the IRS that you have been appointed executor of your father's estate.

Assets of the estate. Your father had the following assets when your father died.

- Checking account balance was $2,550 and savings account balance was $53,650.
- Your father inherited the home from your grandparents on March 5, 1980. At that time, it was worth $100,000, but was appraised at the time of your father's death at $500,000. The home was free of existing debts (or mortgages) at the time of your father's death.
- Your father owned 500 shares of ABC Company stock that cost $10.20 a share in 1984. The stock had a mean selling price (midpoint between highest and lowest selling price) of $25 a share on the date of death. Your father also owned 500 shares of XYZ Company stock that cost $30 a share in 1989. The stock had a mean selling price on the date of death of $22.
- The appraiser valued your father's automobile at $6,300 and the household effects at $18,500.
- Your father's employer sent a check to your mother for $11,082 ($12,000 – $918 for social security and Medicare taxes), representing unpaid salary and payment for accrued vacation time. The statement that came with the check indicated that no amount was withheld for income tax. The check was made out to the estate, so your mother gave you the check.
- The Easy Life Insurance Company gave your mother a check for $275,000 because your mother was the beneficiary of your father's life insurance policy.
- Your father was the owner of several series EE U.S. savings bonds on which your father named your mother as co-owner. Your father purchased the bonds during the past several years. The cost of these bonds totaled $2,500. After referring to the appropriate table of redemption values (see *U.S. savings bonds acquired from decedent*, earlier), you determine that interest of $840 had accrued on the bonds at the date of your father's death. You must include the redemption value of these bonds at date of death, $3,340, in your father's gross estate.
- On July 1, 1996, your parents purchased a house for $90,000. They have held the property for rental purposes continuously since its purchase. Your mother paid one-third of the purchase price, or $30,000, and your father paid $60,000. They owned the property, however, as joint tenants with right of survivorship. An appraiser valued the property at $120,000. You include $60,000, one-half the value, in your father's gross estate because your parents owned the property as joint tenants with right of survivorship and they were the only joint tenants.

Your mother also gave you a Form W-2 that your father's employer had sent. In examining it, you discover that your father had been paid $20,000 in salary between January 1, 2022, and April 9, 2022 (the date of death). The Form W-2 showed wages of $20,000 in box 1 and $845 as federal income tax withheld in box 2. The Form W-2 also indicated social security and Medicare wages of $20,000 in boxes 3 and 5. The estate received a Form 1099-MISC from the employer showing $12,000 in box 3. The estate received a Form 1099-INT showing your father was paid $1,900 interest on the savings account at the First S&L of Juneville in 2022, before the date of death.

Final Return for Decedent—Form 1040 or 1040-SR

From the papers in your father's files, you determine that the $20,000 paid to your father by the employer (as shown in box 1 of the Form W-2), rental income, and interest are the only items of income received between January 1 and the date of your father's death. You will have to file an income tax return for the period during which your father lived. (You determine that your father timely filed the 2021 income tax return before your father died.) The final return isn't due until April 15, 2023, the same date it would have been due had your father lived during all of 2022.

The check representing unpaid salary and earned but unused vacation time wasn't paid to your father before the date of death, so the $12,000 isn't reported as income on the final return. It is reported on the income tax return for the estate (Form 1041) for 2022. The only taxable income to be reported for your father will be the $20,000 salary (as shown in box 1 of the Form W-2), the $1,900 interest, and your father's portion of the rental income that was received in 2022.

Your father was a cash basis taxpayer and didn't report the interest accrued on the series EE U.S. savings bonds on prior tax returns that were filed jointly with your mother. As the personal representative of your father's estate, you choose to report the interest earned on these bonds before your father's death ($840) on the final income tax return.

The rental property was leased the entire year of 2022 for $1,000 per month. This is a net lease through the date of sale. The rental does not rise to the level of a section 162 trade or business. Thus, it doesn't qualify for the section 199A deduction. Under local law, your parents (as joint tenants) each had a half interest in the income from the property. Your father's will, however, stipulates that the entire rental income is to be paid directly to your mother. None of the rental income will be reported on the income tax return for the estate. Instead, your mother will report all the rental income and expenses on Form 1040 or 1040-SR.

Checking the records and prior tax returns of your parents, you find that they previously elected to use the ADS with the mid-month convention. Under ADS, the rental house is depreciated using the straight line method over a 40-year recovery period. They allocated $15,000 of the cost to the land (which is never depreciable) and $75,000 to the rental house. Salvage value was disregarded for the depreciation computation. Before 2022, $23,359 had been allowed as depreciation. (For information on ADS, see Pub. 946.)

Deductions. During the year, you received a bill from the hospital for $945 and bills from your father's doctors totaling $685. You paid these bills as they were presented. In addition, you find other bills from your father's doctors totaling $5,302 that your father paid in 2022 and receipts for prescribed drugs purchased totaling $1,724. The funeral home presented you a bill for $6,890 for the expenses of your father's funeral, which you paid.

The medical expenses you paid from the estate's funds ($945 and $685) were for your father's care and were paid within 1 year after the date of death. They won't be used to figure the taxable estate, so you can treat them as having been paid by your father when medical services were received. See *Medical Expenses* under *Final Income Tax Return for Decedent—Form 1040 or 1040-SR*, earlier. However, you can't deduct the funeral expenses either on your father's final return or on the estate's income tax return. They are deductible only on the federal estate tax return (Form 706).

In addition, after going over other receipts and canceled checks for the tax year with your mother, you determine that the following items are deductible on your parents' 2022 income tax return.

Health insurance	$4,250
State income tax paid	$1,491
Real estate tax on home	$7,500
Contributions to church	$4,830

Rental expenses included real estate taxes of $700 and mortgage interest of $410. In addition, insurance premiums of $260 and painting and repair expenses for $350 were paid. These rental expenses totaled $1,720 and are reflected on Schedule E (Form 1040).

Your mother and father owned the property as joint tenants with right of survivorship and they were the only joint tenants, so your mother's basis in this property upon your father's death is $93,047. This is figured by adding the $60,000 value of the half interest included in your father's gross estate to your mother's $45,000 share of the cost basis and subtracting your mother's $11,953 share of depreciation (including 2022 depreciation for the period before your father's death), as explained next.

For 2022, you must make the following computations to figure the depreciation deduction.

1. For the period before your father's death, depreciate the property using the same method, basis, and life used by your parents in previous years. They used the mid-month convention, so the amount deductible for 3$^1/_2$ months is $547. (This brings the total depreciation to $23,906 ($23,359 + $547) at the time of your father's death.)
2. For the period after your father's death, you must make two computations.
   a. Your mother's cost basis ($45,000) minus one-half of the amount allocated to the land ($7,500) is your mother's depreciable basis ($37,500) for half of the property. She continues to use the same life and depreciation method as was originally used for the property. The amount deductible for the remaining 8$^1/_2$ months is $664.
   b. The other half of the property must be depreciated using a depreciation method that is acceptable for property placed in service in 2022. You chose to use ADS with the mid-month convention. The value included in the estate ($60,000) less the value allocable to the land ($10,000) is the depreciable basis ($50,000) for this half of the property. The amount deductible for this half of the property is $886 ($50,000 × 0.01771). See chapter 4 and Table A-13 in Pub. 946.

Show the total of the amounts in (1) and (2a) above on line 17 of Form 4562, Depreciation and Amortization. Show the amount in (2b) on line 20d. The total depreciation deduction allowed for the year is $2,097.

Filing status. After December 31, 2022, when your mother determines the amount of your mother's income, you and your mother must decide whether you will file a joint return or separate returns for your parents for 2022. Your mother has rental income and $400 of interest income from the savings account at the Mayflower Bank of Juneville, so it appears to be to your mother's advantage to file a joint return.

Tax computation. The refund of tax due is $152. The computation is as follows:

Income:		
Salary (per Form W-2)	$20,000	
Interest income	3,140	
Net rental income	8,183	
Adjusted gross income		$31,323
Minus: Itemized deductions		24,378
Balance		$6,945
Taxable income		6,945
Income tax from tax table		$693
Minus: Tax withheld		$845
Refund of taxes		**$152**

Income Tax Return of an Estate—Form 1041

2022 income tax return. Having determined the tax liability for your father's final return, you now figure the estate's taxable income. You decide to use the calendar year and the cash method of accounting to report the estate's income. This return is also due by April 15, 2023.

In addition to the amount you received from your father's employer for unpaid salary and for vacation pay ($12,000) entered on line 8, you received a dividend check from the XYZ Company on June 16, 2022. The check was for $750 and you enter it on line 2a. The amount is a qualified dividend and you show the allocation to the beneficiaries and the estate on line 2b. The amount allocated to the beneficiary ($179) is based on the distributable dividend income before any deductions. The estate received a Form 1099-INT showing $2,250 interest paid by the bank on the savings account in 2022 after your father died. Show this amount on line 1.

Deductions. In November 2022, you received a bill for the real estate taxes on your parents' home. The bill was for $2,250, which you paid. Include real estate taxes on line 11.

You paid $1,325 for attorney's fees in connection with administration of the estate. This is an expense of administration and is deducted on line 14. If an estate tax return is filed on Form 706, you must, however, file with the return a statement in duplicate that such expense hasn't been claimed as a deduction from the gross estate for figuring the federal estate tax on Form 706, and that all rights to claim that deduction on Form 706 are waived.

Distributions. You made a distribution of $2,000 to your father's brother, Jamie. The distribution was made from current income of the estate under the terms of the will.

The income distribution deduction ($2,000) is figured on Schedule B of Form 1041 and deducted on line 18.

You characterized the $2,000 that is included in income and reported it on Schedule K-1 (Form 1041) as follows:

Step 1 — Allocation of Income & Deductions

Type of Income	Amount	Deductions	Distributable Net Income
Interest (15%)	$ 2,250	($536)	$ 1,714
Dividends (5%)	750	(179)	571
Other Income (80%)	12,000	(2,860)	9,140
Total	**$15,000**	**($3,575)**	**$11,425**

Step 2 — Allocation of Distribution (Report on the Schedule K-1 for Jamie)

Line 1—Interest	
$2,000 × (1,714 ÷ 11,425)	$300
Line 2b—Total dividends	
$2,000 × (571 ÷ 11,425)	100
Line 5—Other income	
$2,000 × (9,140 ÷ 11,425)	1,600
Total Distribution	**$2,000**

The estate took an income distribution deduction, so you must prepare Schedule I (Form 1041), regardless of whether the estate is liable for the AMT.

The other distribution you made from the assets of the estate in 2022 was the transfer of the automobile to your mother on July 1. This is included in the bequest of property, so it isn't included in computing the distributions of income to the beneficiary. The life insurance proceeds of $275,000 paid directly to your mother by the insurance company aren't an asset of the estate.

Tax computation. The taxable income of the estate for 2022 is $8,825, figured as follows:

Gross income:		
Income in respect of a decedent		$12,000
Dividends		750
Interest		2,250
		$15,000
Minus: Deductions and income distribution		
Real estate taxes	$2,250	
Attorney's fees	1,325	
Exemption	600	
Distribution	2,000	6,175
Taxable income		**$8,825**

The estate had taxable income of $8,825 which included $571 of qualified dividends for the year, which leaves the estate with a tax due of $1,682 for 2022. To figure the amount due, see the Qualified Dividends Tax Worksheet—Schedule G, line 1a, in the *Instructions for Form 1041*.

2022 income tax return for estate. On January 7, 2023, you receive a dividend check from the XYZ Company for $500. You also have interest posted to the savings account in January totaling $350. On January 28, 2023, you make a final accounting to the court and obtain permission to close the estate. In the accounting, you list $1,650 as the balance of the expense of administering the estate.

You advise the court that you plan to pay $5,000 to Hometown Church under the provisions of the will, and that you will distribute the balance of the property to your mother, the remaining beneficiary.

Gross income. After making the distributions already described, you can wind up the affairs of the estate. The gross income of the estate for 2023 is more than $600, so you must file a final income tax return, Form 1041, for 2023 (not shown). The estate's gross income for 2023 is $850 (dividends of $500 and interest of $350).

Deductions. After making the following computations, you determine that none of the distributions made to your mother must be included in your mother's taxable income for 2023.

Gross income for 2023:	
Dividends	$500
Interest	350
	$850
Less deductions:	
Administration expense	$1,650
Loss	**($800)**

Note that because the contribution of $5,000 to Hometown Church wasn't required under the terms of the will to be paid out of the gross income of the estate, it isn't deductible and wasn't included in the computation.

The estate had no distributable net income in 2023, so none of the distributions made to your mother have to be included in your mother's gross income.

Table A. Checklist of Forms and Due Dates for Executor, Administrator, or Personal Representative

Form No.	Title	Due Date**
SS-4	Application for Employer Identification Number	As soon as possible. The identification number must be included in returns, statements, and other documents.
56	Notice Concerning Fiduciary Relationship	As soon as all necessary information is available.*
706	United States Estate (and Generation-Skipping Transfer) Tax Return	9 months after date of decedent's death.
706-A	United States Additional Estate Tax Return	6 months after cessation or disposition of special-use valuation property.
706-GS(D)	Generation-Skipping Transfer Tax Return for Distributions	Generally, April 15th of the year after the distribution.
706-GS(D-1)	Notification of Distribution From a Generation-Skipping Trust	Generally, April 15th of the year after the distribution.
706-GS(T)	Generation-Skipping Transfer Tax Return for Terminations	Generally, April 15th of the year after the taxable termination.
706-NA	United States Estate (and Generation-Skipping Transfer) Tax Return, Estate of nonresident not a citizen of the United States	9 months after date of decedent's death.
709	United States Gift (and Generation-Skipping Transfer) Tax Return	April 15th of the year after the gift was made.
712	Life Insurance Statement	Part I to be filed with estate tax return.
1040	U.S. Individual Income Tax Return	Generally, April 15th of the year after death.**
1040–SR	U.S. Tax Return for Seniors	Generally, April 15th of the year after death.**
1040-NR	U.S. Nonresident Alien Income Tax Return	See form instructions.
1041	U.S. Income Tax Return for Estates and Trusts	15th day of 4th month after end of estate's tax year.**
1041-T	Allocation of Estimated Tax Payments to Beneficiaries	65th day after end of estate's tax year.
1041-ES	Estimated Income Tax for Estates and Trusts	Generally, April 15th, June 15th, Sept. 15th, and Jan. 15th for calendar-year filers.**
1042	Annual Withholding Tax Return for U.S. Source Income of Foreign Persons	March 15th.**
1042-S	Foreign Person's U.S. Source Income Subject to Withholding	March 15th.**
4768	Application for Extension of Time To File a Return and/or Pay U.S. Estate (and Generation-Skipping Transfer) Taxes	See form instructions.
4810	Request for Prompt Assessment Under Internal Revenue Code Section 6501(d)	As soon as possible after filing Form 1040 or Form 1041.
4868	Application for Automatic Extension of Time To File U.S. Individual Income Tax Return	April 15th.**
5495	Request for Discharge From Personal Liability Under Internal Revenue Code Section 2204 or 6905	See form instructions.
7004	Application for Automatic Extension of Time to File Certain Business Income Tax, Information, and Other Returns	15th day of 4th month after end of estate's tax year.**
8300	Report of Cash Payments Over $10,000 Received in a Trade or Business	15th day after the date of the transaction.
8822	Change of Address	As soon as the address is changed.
8822-B	Change of Address or Responsible Party — Business	As soon as the address is changed.
8892	Application for Automatic Extension of Time To File Form 709 and/or Payment of Gift/Generation-Skipping Transfer Tax	April 15th.**

* A personal representative must report the termination of the estate, in writing, to the IRS. Form 56 can be used for this purpose.
** If the due date falls on a Saturday, Sunday, or legal holiday, file on the next business day.

Table B. Worksheet To Reconcile Amounts Reported in Name of Decedent on Information Returns (Forms W-2, 1099-INT, 1099-DIV, etc.)

Keep for Your Records

Name of Decedent	Date of Death	Decedent's Social Security Number		
Name of Personal Representative, Executor, or Administrator		**Estate's Employer Identification Number (If Any)**		
Source (list each payer)	**A. Enter total amount shown on information return**	**B. Enter part of amount in column A reportable on decedent's final return**	**C. Amount reportable on estate's or beneficiary's income tax return (column A minus column B)**	**D. Part of column C that is *income in respect of a decedent***
1. Wages				
2. Interest income				
3. Dividends				
4. State income tax refund				
5. Capital gains				
6. Pension income				
7. Rents, royalties				
8. Taxes withheld*				
9. Other items, such as social security, business and farm income or loss, unemployment compensation, etc.				

* List each withholding agent (employer, etc.).

How To Get Tax Help

If you have questions about a tax issue; need help preparing your tax return; or want to download free publications, forms, or instructions, go to *IRS.gov* to find resources that can help you right away.

Preparing and filing your tax return. After receiving all your wage and earnings statements (Forms W-2, W-2G, 1099-R, 1099-MISC, 1099-NEC, etc.); unemployment compensation statements (by mail or in a digital format) or other government payment statements (Form 1099-G); and interest, dividend, and retirement statements from banks and investment firms (Forms 1099), you have several options to choose from to prepare and file your tax return. You can prepare the tax return yourself, see if you qualify for free tax preparation, or hire a tax professional to prepare your return.

Free options for tax preparation. Go to *IRS.gov* to see your options for preparing and filing your return online or in your local community, if you qualify, which include the following.

- **Free File.** This program lets you prepare and file your federal individual income tax return for free using brand-name tax-preparation-and-filing software or Free File fillable forms. However, state tax preparation may not be available through Free File. Go to *IRS.gov/FreeFile* to see if you qualify for free online federal tax preparation, e-filing, and direct deposit or payment options.
- **VITA.** The Volunteer Income Tax Assistance (VITA) program offers free tax help to people with low-to-moderate incomes, persons with disabilities, and limited-English-speaking taxpayers who need help preparing their own tax returns. Go to *IRS.gov/VITA*, download the free IRS2Go app, or call 800-906-9887 for information on free tax return preparation.
- **TCE.** The Tax Counseling for the Elderly (TCE) program offers free tax help for all taxpayers, particularly those who are 60 years of age and older. TCE volunteers specialize in answering questions about pensions and retirement-related issues unique to seniors. Go to *IRS.gov/TCE*, download the free IRS2Go app, or call 888-227-7669 for information on free tax return preparation.
- **MilTax.** Members of the U.S. Armed Forces and qualified veterans may use MilTax, a free tax service offered by the Department of Defense through Military OneSource. For more information go to *MilitaryOneSource (MilitaryOneSourceMil/Tax)*.

  Also, the IRS offers Free Fillable Forms, which can be completed online and then filed electronically regardless of income.

Using online tools to help prepare your return. Go to *IRS.gov/Tools* for the following.

- The *Earned Income Tax Credit Assistant* (*IRS.gov/EITCAssistant*) determines if you're eligible for the earned income credit (EIC).
- The *Online EIN Application* (*IRS.gov/EIN*) helps you get an employer identification number (EIN), at no cost.
- The *Tax Withholding Estimator* (*IRS.gov/W4app*) makes it easier for you to estimate the federal income tax you want your employer to withhold from your paycheck. This is tax withholding. See how your withholding affects your refund, take-home pay, or tax due.
- The *First-Time Homebuyer Credit Account Look-up* (*IRS.gov/HomeBuyer*) tool provides information on your repayments and account balance.
- The *Sales Tax Deduction Calculator* (*IRS.gov/SalesTax*) figures the amount you can claim if you itemize deductions on Schedule A (Form 1040).

Getting answers to your tax questions. On IRS.gov, you can get up-to-date information on current events and changes in tax law.

- *IRS.gov/Help*: A variety of tools to help you get answers to some of the most common tax questions.
- *IRS.gov/ITA*: The Interactive Tax Assistant, a tool that will ask you questions and, based on your input, provide answers on a number of tax law topics.
- *IRS.gov/Forms*: Find forms, instructions, and publications. You will find details on the most recent tax changes and hundreds of interactive links to help you find answers to your questions.
- You may also be able to access tax law information in your electronic filing software.

Need someone to prepare your tax return? There are various types of tax return preparers, including enrolled agents, certified public accountants (CPAs), accountants, and many others who don't have professional credentials. If you choose to have someone prepare your tax return, choose that preparer wisely. A paid tax preparer is:

- Primarily responsible for the overall substantive accuracy of your return,
- Required to sign the return, and
- Required to include their preparer tax identification number (PTIN).

Although the tax preparer always signs the return, you're ultimately responsible for providing all the information required for the preparer to accurately prepare your return. Anyone paid to prepare tax returns for others should have a thorough understanding of tax matters. For more information on how to choose a tax preparer, go to *Tips for Choosing a Tax Preparer* on IRS.gov.

Coronavirus. Go to *IRS.gov/Coronavirus* for links to information on the impact of the coronavirus, as well as tax relief available for individuals and families, small and large businesses, and tax-exempt organizations.

Employers can register to use Business Services Online. The Social Security Administration (SSA) offers online service at *SSA.gov/employer* for fast, free, and secure online W-2 filing options to CPAs, accountants, enrolled agents, and individuals who process Form W-2, Wage and Tax Statement, and Form W-2c, Corrected Wage and Tax Statement.

IRS Social Media. Go to *IRS.gov/Social/Media* to see the various social media tools the IRS uses to share the latest information on tax changes, scam alerts, initiatives, products, and services. At the IRS, privacy and security are our highest priority. We use these tools to share public information with you. **Don't** post your social security number (SSN) or other confidential information on social media sites. Always protect your identity when using any social network site.

The following IRS YouTube channels provide short, informative videos on various tax-related topics in English, Spanish, and ASL:

- *www.Youtube.com/irsvideos*.
- *www.Youtube.com/irsvideosmultilingual*.
- *www.Youtube.com/irsvideosASL*.

Watching IRS videos. The IRS Video portal *IRSVideos.gov* contains video and audio presentations for individuals, small businesses, and tax professionals.

Online tax information in other languages. You can find information on *IRS.gov/MyLanguage* if English isn't your native language.

Free Over-the-Phone Interpreter (OPI) Service. The IRS is committed to serving our multilingual customers by offering OPI services. The OPI service is a federally funded program and is available at Taxpayer Assistance Centers (TACs), other IRS offices, and every VITA/TCE return site. OPI service is accessible in more than 350 languages.

Accessibility Helpline available for taxpayers with disabilities. Taxpayers who need information about accessibility services can call 833-690-0598. The Accessibility Helpline can answer questions related to current and future accessibility products and services available in alternative media formats (for example, braille, large print, audio, etc.). The Accessibility Helpline does not have access to your IRS account. For help with tax law, refunds, or account-related issues, go to *IRS.gov/LetUsHelpYou*.

Note. Form 9000, Alternative Media Preference, or Form 9000(SP) allows you to elect to receive certain types of written correspondence in the following formats.

- Standard print.
- Large print.
- Braille.
- Audio (MP3).
- Plain Text File (TXT).
- Braille Ready File (BRF).

Disasters. Go to *Disaster Assistance and Emergency Relief for Individuals and Businesses* to review the available disaster tax relief.

Getting tax forms and publications. Go to *IRS.gov/Forms* to view, download, or print all of the forms, instructions, and publications you may need. Or, you can go to *IRS.gov/OrderForms* to place an order.

Getting tax publications and instructions in eBook format. You can also download and view popular tax publications and instructions (including the Instructions for Form 1040) on mobile devices as eBooks at *IRS.gov/eBooks*.

Note. IRS eBooks have been tested using Apple's iBooks for iPad. Our eBooks haven't been tested on other dedicated eBook readers, and eBook functionality may not operate as intended.

Access your online account (individual taxpayers only). Go to *IRS.gov/Account* to securely access information about your federal tax account.

- View the amount you owe and a breakdown by tax year.
- See payment plan details or apply for a new payment plan.
- Make a payment or view 5 years of payment history and any pending or scheduled payments.
- Access your tax records, including key data from your most recent tax return, and transcripts.
- View digital copies of select notices from the IRS.
- Approve or reject authorization requests from tax professionals.
- View your address on file or manage your communication preferences.

Tax Pro Account. This tool lets your tax professional submit an authorization request to access your individual taxpayer *IRS online account*. For more information, go to *IRS.gov/TaxProAccount*.

Using direct deposit. The fastest way to receive a tax refund is to file electronically and choose direct deposit, which securely and electronically transfers your refund directly into your financial account. Direct deposit also avoids the possibility that your check could be lost, stolen, destroyed, or returned undeliverable to the IRS. Eight in 10 taxpayers use direct deposit to receive their refunds. If you don't have a bank account, go to *IRS.gov/DirectDeposit* for more information on where to find a bank or credit union that can open an account online.

Getting a transcript of your return. The quickest way to get a copy of your tax transcript is to go to *IRS.gov/Transcripts*. Click on either "Get Transcript Online" or "Get Transcript by Mail" to order a free copy of your transcript.

If you prefer, you can order your transcript by calling 800-908-9946.

Reporting and resolving your tax-related identity theft issues.

- Tax-related identity theft happens when someone steals your personal information to commit tax fraud. Your taxes can be affected if your SSN is used to file a fraudulent return or to claim a refund credit.
- The IRS doesn't initiate contact with taxpayers by email, text message (including shortened links), telephone calls, or social media channels to request or verify personal or financial information. This includes requests for personal identification numbers (PINs), passwords, or similar information for credit cards, banks, or other financial accounts.
- Go to *IRS.gov/IdentityTheft*, the IRS Identity Theft Central webpage, for information on identity theft and data security protection for taxpayers, tax professionals, and businesses. If your SSN has been lost or stolen or you suspect you're a victim of tax-related identity theft, you can learn what steps you should take.
- Get an Identity Protection PIN (IP PIN). IP PINs are six-digit numbers assigned to taxpayers to help prevent the misuse of their SSNs on fraudulent federal income tax returns. When you have an IP PIN, it prevents someone else from filing a tax return with your SSN. To learn more, go to *IRS.gov/IPPIN*.

Ways to check on the status of your refund.

- Go to *IRS.gov/Refunds*.
- Download the official IRS2Go app to your mobile device to check your refund status.
- Call the automated refund hotline at 800-829-1954.

Note. The IRS can't issue refunds before mid-February for returns that claimed the EIC or the additional child tax credit (ACTC). This applies to the entire refund, not just the portion associated with these credits.

Making a tax payment. Go to *IRS.gov/Payments* for information on how to make a payment using any of the following options.

- *IRS Direct Pay*: Pay your individual tax bill or estimated tax payment directly from your checking or savings account at no cost to you.
- *Debit or Credit Card*: Choose an approved payment processor to pay online or by phone.
- *Electronic Funds Withdrawal*: Schedule a payment when filing your federal taxes using tax preparation software or through a tax professional.
- *Electronic Federal Tax Payment System*: Best option for businesses. Enrollment is required.
- *Check or Money Order*: Mail your payment to the address listed on the notice or instructions.
- *Cash*: You may be able to pay your taxes with cash at a participating retail store.
- *Same-Day Wire*: You may be able to do same-day wire from your financial institution. Contact your financial institution for availability, cost, and time frames.

Note. The IRS uses the latest encryption technology to ensure that the electronic payments you make online, by phone, or from a mobile device using the IRS2Go app are safe and secure. Paying electronically is quick, easy, and faster than mailing in a check or money order.

What if I can't pay now? Go to *IRS.gov/Payments* for more information about your options.

- Apply for an *online payment agreement (IRS.gov/OPA)* to meet your tax obligation in monthly installments if you can't pay your taxes in full today. Once you complete the online process, you will receive immediate notification of whether your agreement has been approved.
- Use the *Offer in Compromise Pre-Qualifier* to see if you can settle your tax debt for less than the full amount you owe. For more information on the Offer in Compromise program, go to *IRS.gov/OIC*.

Filing an amended return. Go to *IRS.gov/Form1040X* for information and updates.

Checking the status of your amended return. Go to *IRS.gov/WMAR* to track the status of Form 1040-X amended returns.

Note. It can take up to 3 weeks from the date you filed your amended return for it to show up in our system, and processing it can take up to 16 weeks.

Understanding an IRS notice or letter you've received. Go to *IRS.gov/Notices* to find additional information about responding to an IRS notice or letter.

Note. You can use Schedule LEP (Form 1040), Request for Change in Language Preference, to state a preference to receive notices, letters, or other written communications from the IRS in an alternative language. You may not immediately receive written communications in the requested language. The IRS's commitment to LEP taxpayers is part of a multi-year timeline that is scheduled to begin providing translations in 2023. You will continue to receive communications, including notices and letters in English until they are translated to your preferred language.

Contacting your local IRS office. Keep in mind, many questions can be answered on IRS.gov without visiting an IRS TAC. Go to *IRS.gov/LetUsHelp* for the topics people ask about most. If you still need help, IRS TACs provide tax help when a tax issue can't be handled online or by phone. All TACs now provide service by appointment, so you'll know in advance that you can get the service you need without long wait times. Before you visit, go to *IRS.gov/TACLocator* to find the nearest TAC and to check hours, available services, and appointment options. Or, on the IRS2Go app, under the Stay Connected tab, choose the Contact Us option and click on “Local Offices.”

The Taxpayer Advocate Service (TAS) Is Here To Help You

What is TAS?

TAS is an ***independent*** organization within the IRS that helps taxpayers and protects taxpayer rights. Their job is to ensure that every taxpayer is treated fairly and that you know and understand your rights under the *Taxpayer Bill of Rights*.

How Can You Learn About Your Taxpayer Rights?

The Taxpayer Bill of Rights describes 10 basic rights that all taxpayers have when dealing with the IRS. Go to *TaxpayerAdvocate.IRS.gov* to help you understand what these rights means to you and how they apply. These are ***your*** rights. Know them. Use them.

What Can TAS Do for You?

TAS can help you resolve problems that you can't resolve with the IRS. And their service is free. If you qualify for their assistance, you will be assigned to one advocate who will work with you throughout the process and will do everything possible to resolve your issue. TAS can help you if:

- Your problem is causing financial difficulty for you, your family, or your business;
- You face (or your business is facing) an immediate threat of adverse action; or
- You've tried repeatedly to contact the IRS but no one has responded, or the IRS hasn't responded by the date promised.

How Can You Reach TAS?

TAS has offices *in every state, the District of Columbia, and Puerto Rico*. Your local advocate's number is in your local directory and at *TaxpayerAdvocate.IRS.gov/Contact-Us*. You can also call us at 877-777-4778.

How Else Does TAS Help Taxpayers?

TAS works to resolve large-scale problems that affect many taxpayers. If you know of one of these broad issues, report it to them at *IRS.gov/SAMS*.

TAS for Tax Professionals

TAS can provide a variety of information for tax professionals, including tax law updates and guidance, TAS programs, and ways to let TAS know about systemic problems you've seen in your practice.

Low Income Taxpayer Clinics (LITCs)

LITCs are independent from the IRS. LITCs represent individuals whose income is below a certain level and need to resolve tax problems with the IRS, such as audits, appeals, and tax collection disputes. In addition, LITCs can provide information about taxpayer rights and responsibilities in different languages for individuals who speak English as a second language. Services are offered for free or a small fee for eligible taxpayers. To find an LITC near you, go to *TaxpayerAdvocate.IRS.gov/about-us/Low-Income-Taxpayer-Clinics-LITC* or see IRS Pub. 4134, *Low Income Taxpayer Clinic List* .

Index

To help us develop a more useful index, please let us know if you have ideas for index entries. See “Comments and Suggestions” in the “Introduction” for the ways you can reach us.