

Federal Estate & Gift Taxes

**Code & Regulations
Including
Related Income
Tax Provisions**

As of April 18, 1997



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CCH INCORPORATED
Chicago

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Foreword

This 1997 edition of *Federal Estate & Gift Taxes—Code & Regulations* reproduces, in Code section order, the full text of the estate, gift, and generation-skipping transfer tax provisions of the Internal Revenue Code and the corresponding official regulations. In addition to reproducing the Code and regulation sections of Subchapter J (governing the income taxation of estates, trusts, beneficiaries, and decedents), this 1997 edition provides coverage of income tax Code and regulation sections that closely relate to estate and gift taxes. Selected procedural Code sections and corresponding regulations are also reproduced.

Specifically, this edition fully reproduces the official texts of the estate and trust income tax provisions (Subtitle A, Chapter 1, Subchapter J, of Title 26 of the U.S. Code) and the official texts of the estate, gift, and generation-skipping transfer tax provisions (Subtitle B, Chapters 11–13, of Title 26 of the U.S. Code). Also included is the official text of Subtitle B, Chapter 14, the special valuation provisions of the Code.

Final and temporary regulations appear in Code section order. The income tax regulations relating to estates and trusts are designated as Part 1 of Title 26 of the Code of Federal Regulations; the estate tax regulations are designated as Part 20, the gift tax regulations as Part 25, and the generation-skipping transfer tax regulations as Part 26. The proposed regulations complete the regulatory coverage and are preceded by a Table of Contents to aid the user in locating a particular proposal.

The unified transfer tax rates and the income tax rates applicable to estates and trusts are presented in tabular form for quick reference. The method of computing estate and gift taxes under the unified estate and gift tax system is illustrated. Combined Code and regulation Topical Indexes make it possible to approach the contents by subject.

This publication is compiled from CCH 1997 STANDARD FEDERAL TAX REPORTS®, 1997 FEDERAL TAX GUIDE REPORTS®, and the CCH FEDERAL ESTATE AND GIFT TAX REPORTER, as of April 18, 1997.

April 1997

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UNIFIED TRANSFER TAX ● UNIFIED CREDIT

TAX TABLES: UNIFIED RATES AND CREDITS

ESTATES OF U.S. CITIZENS AND RESIDENTS DYING AFTER 1976, AND GIFTS MADE AFTER 1976

● Estate and gift tax rates are combined in a single rate schedule effective for the estates of decedents dying, and for gifts made, after December 31, 1976. For transfers occurring after 1993, the maximum tax rate is 55 percent, applicable to transfers in excess of \$3,000,000. Lifetime transfers and transfers made at death are cumulated for estate tax purposes.

● The benefits of the graduated rates and the unified credit under the unified transfer tax system are phased out beginning with cumulative transfers above \$10,000,000. This is accomplished by adding five percent of the excess of any transfer over \$10,000,000 to the tentative tax computed in determining the ultimate transfer tax liability. For estates of decedents dying, and gifts made, after 1987, the tax is levied on transfers above \$10,000,000 but not exceeding \$21,040,000.

● The estate tax liability is determined by applying the unified rate schedule to the cumulated transfers, calculating a tentative tax, and subtracting the gift taxes payable. The cumulated transfers to which the tentative tax applies is the sum of (1) the amount of the taxable estate and (2) the amount of the taxable gifts made by the decedent after 1976, other than gifts includible in the gross estate. Gift taxes to be subtracted in computing the estate tax include the aggregate gift tax payable on gifts made after December 31, 1976. For this purpose, the amount of gift taxes paid by a decedent after 1976 is to be determined as if the rate schedule in effect in the year of death was in effect the year of the gift. Gift taxes payable on pre-1977 gifts are not subtracted from the estate tax.

● Gift tax liability for any calendar quarter (for gifts made after 1970 and before 1982) or year (for gifts made before 1971 and after 1981) is determined by applying the unified rate schedule to cumulative lifetime taxable transfers and subtracting the taxes payable for prior taxable periods. Preceding calendar periods are: (1) calendar year 1932 (after June 6) and 1970 and all intervening calendar years, (2) the first calendar quarter of 1971 and all quarters between that quarter and the first quarter of 1982, and, (3) all calendar years after 1981 and before the year for which the tax is being computed. In computing cumulative taxable gifts for prior taxable periods, the donor's pre-1977 taxable gifts are to be taken into account, with the reduction for taxes previously paid to be based upon the unified rate schedule.

● The generation-skipping transfer tax is applied at a flat rate derived from the maximum estate tax rate to direct skips, taxable distributions, and taxable terminations. The method for computing the taxable amount depends on whether a taxable distribution, a taxable termination, or a direct skip is involved. For a taxable distribution as well as a direct skip, the amount received by the transferee is subject to the tax. In the case of a taxable termination, the tax is applied to the value of the property in which the interest terminates. Two exemptions from the tax have been provided: (1) a \$1 million per transferor exemption that can be allocated among several generation-skipping transfers; and (2) an exemption for transfers to grandchildren of a grantor when the grandchild's parent, who is a lineal descendant of the grantor, is deceased.

Unified Transfer Tax Rate Schedule ¹

If the amount is:	The tentative tax is:
Not over \$10,000	18 percent of such amount.
Over \$10,000 but not over \$20,000	\$1,800, plus 20 percent of the excess of such amount over \$10,000.
Over \$20,000 but not over \$40,000	\$3,800, plus 22 percent of the excess of such amount over \$20,000.
Over \$40,000 but not over \$60,000	\$8,200, plus 24 percent of the excess of such amount over \$40,000.
Over \$60,000 but not over \$80,000	\$13,000, plus 26 percent of the excess of such amount over \$60,000.
Over \$80,000 but not over \$100,000	\$18,200, plus 28 percent of the excess of such amount over \$80,000.
Over \$100,000 but not over \$150,000	\$23,800, plus 30 percent of the excess of such amount over \$100,000.
Over \$150,000 but not over \$250,000	\$38,800, plus 32 percent of the excess of such amount over \$150,000.
Over \$250,000 but not over \$500,000	\$70,800, plus 34 percent of the excess of such amount over \$250,000.

If the amount is:	The tentative tax is:
Over \$500,000 but not over \$750,000	\$155,800, plus 37 percent of the excess of such amount over \$500,000.
Over \$750,000 but not over \$1,000,000	\$248,300, plus 39 percent of the excess of such amount over \$750,000.
Over \$1,000,000 but not over \$1,250,000	\$345,800, plus 41 percent of the excess of such amount over \$1,000,000.
Over \$1,250,000 but not over \$1,500,000	\$448,300, plus 43 percent of the excess of such amount over \$1,250,000.
Over \$1,500,000 but not over \$2,000,000	\$555,800, plus 45 percent of the excess of such amount over \$1,500,000.
Over \$2,000,000 but not over \$2,500,000	\$780,800, plus 49 percent of the excess of such amount over \$2,000,000.
Over \$2,500,000 but not over \$3,000,000	\$1,025,800 plus 53% of the excess over \$2,500,000
Over \$3,000,000	\$1,290,800 plus 55% of the excess over \$3,000,000

¹ For estates of decedents dying and gifts made *after 1976 but before 1982*, the top tax rate was 70 percent and was applied to transfers in excess of \$5,000,000. A 53-percent rate applied to transfers in the \$2,500,000—\$3,000,000 range; a 57-percent rate applied to transfers in the \$3,000,000—\$3,500,000 range; a 61-percent rate applied to transfers in the \$3,500,000—\$4,000,000 range; a 65-percent rate applied to transfers in the \$4,000,000—\$4,500,000 range and a 69-percent rate applied to transfers in the \$4,500,000—\$5,000,000 range.

For estates of decedents dying, and gifts made, in 1982, the top tax rate was 65 percent and was applied to transfers in excess of \$4,000,000. A 61-percent rate applied to transfers in the \$3,500,000—\$4,000,000 range; a 57-percent rate applied to transfers in the \$3,000,000—\$3,500,000 range and a 53-percent rate applied to transfers in the \$2,500,000—\$3,000,000 range.

For estates of decedents dying, and gifts made, in 1983, the top tax rate was 60 percent and was applied to transfers in excess of \$3,500,000. A 57-percent rate applied to transfers in the \$3,000,000—\$3,500,000 range and a 53-percent rate applied to transfers in the \$2,500,000—\$3,000,000 range.

UNIFIED CREDIT

● Both the \$60,000 estate tax exemption and the \$30,000 lifetime gift tax exemption are replaced by a single unified credit which is subtracted after determining the taxpayer's estate or gift tax liability. In effect, the amount of the unified credit available at death will be reduced to the extent that any portion of the credit is used to offset gift taxes on lifetime transfers. Amounts allowed as lifetime exemptions on gifts made after September 8, 1976, but before January 1, 1977, reduce the unified credit allowable by 20 percent of the exemption used, to a maximum of \$6,000.

● For estates of decedents dying in 1977 and thereafter, the credit was phased in as follows (except that only \$6,000 of the credit otherwise applicable to gifts made during the first six months of 1977 may actually be applied):

Year	Amount of Credit	Amount of Exemption Equivalent
1977	\$ 30,000	\$120,667
1978	34,000	134,000
1979	38,000	147,333
1980	42,500	161,563
1981	47,000	175,625
1982	62,800	225,000
1983	79,300	275,000
1984	96,300	325,000
1985	121,800	400,000
1986	155,800	500,000
1987 and thereafter	192,800	600,000

ESTATES OF NONRESIDENTS NOT CITIZENS DYING AFTER 1976

● For the estates of decedents dying after November 10, 1988, gift and estate tax rates presently applicable to U.S. citizens are applicable to the estate of a nonresident alien. The additional five percent rate imposed on decedents dying and on gifts made before 1993 (see page 7) is adjusted to reflect the fact that the estate of a nonresident noncitizen generally does not receive the \$192,800 unified credit available to U.S. citizens. Accordingly, the additional five percent rate applies to the taxable transfers of nonresident noncitizens in excess of \$10 million only to the extent necessary to phase out the benefit of the graduated rates and unified credit actually allowed by statute or treaty.

● A separate estate tax rate schedule applies to nonresidents not citizens dying after 1976 and before November 11, 1988. The amount of estate tax is determined by applying the rate schedule to the cumulative lifetime and deathtime transfers subject to U.S. transfer taxes and then subtracting gift taxes payable on post-1976 lifetime transfers. Gift tax for nonresident aliens should be computed in accordance with the rate schedule set forth in Code Sec. 2001(c).

If the amount is:	The tentative tax is:
Not over \$100,000	6% of the taxable estate.
Over \$100,000 but not over \$500,000	\$6,000, plus 12% of excess over \$100,000.
Over \$500,000 but not over \$1,000,000	\$54,000, plus 18% of excess over \$500,000.
Over \$1,000,000 but not over \$2,000,000	\$144,000, plus 24% of excess over \$1,000,000.
Over \$2,000,000	\$384,000, plus 30% of excess over \$2,000,000.

CREDIT

● Where permitted by treaty, the estate of a nonresident alien dying after November 10, 1988, is allowed the unified credit available to a U.S. citizen multiplied by the proportion of the total gross estate situated in the United States. In other cases, a unified credit of \$13,000 is allowed.

● The estate of a resident of a U.S. possession is entitled to a unified credit equal to the greater of (1) \$13,000 or (2) \$46,800 multiplied by the proportion of the decedent's gross estate situated in the United States.

● For nonresidents not citizens dying after 1976 and before November 11, 1988, a \$3,600 credit is allowed against the estate tax. In the case of residents of a possession of the United States, who are not considered citizens, the credit allowable is the greater of \$3,600 or that proportion of \$15,075 that the value of that part of the decedent's property situated in the United States bears to the value of the entire gross estate wherever situated. "Expatriates" are allowed a \$13,000 credit against the estate tax.

STATE DEATH TAX CREDIT ¹*Estates of Decedents Dying After 1976*

Adjusted Taxable Estate ("Adjusted Taxable Estate" is the decedent's taxable estate less \$60,000)				
<i>From</i>	<i>To</i>	<i>Credit =</i>	<i>+ %</i>	<i>Of Excess Over</i>
0	\$ 40,000	0	0	0
\$ 40,000	90,000	0	.8	\$ 40,000
90,000	140,000	\$ 400	1.6	90,000
140,000	240,000	1,200	2.4	140,000
240,000	440,000	3,600	3.2	240,000
440,000	640,000	10,000	4	440,000
640,000	840,000	18,000	4.8	640,000
840,000	1,040,000	27,600	5.6	840,000
1,040,000	1,540,000	38,800	6.4	1,040,000
1,540,000	2,040,000	70,800	7.2	1,540,000
2,040,000	2,540,000	106,800	8	2,040,000
2,540,000	3,040,000	146,800	8.8	2,540,000
3,040,000	3,540,000	190,800	9.6	3,040,000
3,540,000	4,040,000	238,800	10.4	3,540,000
4,040,000	5,040,000	290,800	11.2	4,040,000
5,040,000	6,040,000	402,800	12	5,040,000
6,040,000	7,040,000	522,800	12.8	6,040,000
7,040,000	8,040,000	650,800	13.6	7,040,000
8,040,000	9,040,000	786,800	14.4	8,040,000
9,040,000	10,040,000	930,800	15.2	9,040,000
10,040,000	...	1,082,800	16	10,040,000

¹ The above table may not be used in computing taxes on estates of certain servicemen.

EXAMPLE OF APPLICATION OF UNIFIED TRANSFER TAX

The following Example illustrates application of the unified transfer tax.

Example: Nora Brown made the following taxable gifts to her son Carl.

1984	\$300,000
1987	\$200,000
1989	\$600,000
1990	\$700,000

In 1996, she died with a taxable estate of \$1,000,000.

The total transfer taxes payable by Nora are calculated as follows:

1984

1. Taxable gift	\$300,000
2. Prior taxable gifts	\$ 0
3. Total taxable gifts	\$300,000
4. Tentative tax on line 3 amount	\$ 87,800
5. Less: Tentative tax on prior gifts	\$ 0
6. Balance	\$ 87,800
7. Maximum unified credit	\$192,800
8. Less: Unified credit used in prior periods	\$ 0
9. Available unified credit	\$192,800
10. Unified credit used to reduce tax	(\$ 87,800)
11. Gift tax payable (line 6 minus line 10)	\$ 0

1987

1. Taxable gift	\$200,000
2. Prior taxable gifts	\$300,000
3. Total taxable gifts	\$500,000
4. Tentative tax on line 3	\$155,800
5. Less: Tentative tax on prior taxable gifts	(\$ 87,800)
6. Balance	\$ 68,000
7. Maximum unified credit	\$192,800
8. Less: Unified credit used in prior periods	\$ 87,800
9. Available unified credit	\$105,000
10. Unified credit used to reduce tax	\$ 68,000
11. Gift tax payable (line 6 minus line 10)	\$ 0

1989

1. Taxable gift	\$ 600,000
2. Prior taxable gifts	\$ 500,000
3. Total taxable gifts	\$1,100,000
4. Tentative tax on line 3	\$ 386,800
5. Less: Tentative tax on prior taxable gifts	(\$ 155,800)
6. Balance	\$ 231,000
7. Maximum unified credit	\$ 192,800
8. Less: Unified credit used in prior periods	(\$ 155,800)
9. Available unified credit	\$ 37,000
10. Unified credit used to reduce tax	\$ 37,000
11. Gift tax payable (line 6 minus line 10)	\$ 194,000

1990

1. Taxable gift	\$ 700,000
2. Prior taxable gifts	\$1,100,000
3. Total taxable gifts	\$1,800,000
4. Tentative tax on line 3	\$ 690,800

Estate and Gift Tax

5. Less: Tentative tax on prior taxable gifts	(\$ 386,800)
6. Balance	\$ 304,800
7. Maximum unified credit	\$ 192,800
8. Less: Unified credit used in prior periods	\$ 192,800
9. Available unified credit	\$ 0
10. Unified credit used to reduce tax	\$ 0
11. Gift tax payable	\$ 304,000

Estate

1. Amount of taxable estate	\$1,000,000
2. Plus adjusted taxable gifts	\$1,800,000
3. Estate tax base	\$2,800,000
4. Tentative tax on base	\$1,184,800
5. Less: Gift tax payable	(\$ 498,000)
6. Balance	\$ 686,800
7. Less: Unified credit	(\$ 192,800)
8. Estate tax payable	\$ 494,000

PRE-1977 ESTATE TAX RATES

I. Effective for Estates of U.S. Citizens and Residents Dying Before 1977 ¹

The federal estate tax on estates of U.S. citizens and residents is computed on a "taxable estate," after deduction of a \$60,000 exemption, at the rates below. This amount is further reduced by a state death tax credit computed under Table III, below, or by the actual amount of state death taxes, whichever is less. (Credits are also available for foreign death taxes, certain gift taxes, and federal estate taxes on prior transfers.)

Taxable Estate (After deducting the \$60,000 exemption)		Tax =			Of Excess Over
From	To		+	%	
0	\$ 5,000	0		3	0
\$ 5,000	10,000	\$ 150		7	\$ 5,000
10,000	20,000	500		11	10,000
20,000	30,000	1,600		14	20,000
30,000	40,000	3,000		18	30,000
40,000	50,000	4,800		22	40,000
50,000	60,000	7,000		25	50,000
60,000	100,000	9,500		28	60,000
100,000	250,000	20,700		30	100,000
250,000	500,000	65,700		32	250,000
500,000	750,000	145,700		35	500,000
750,000	1,000,000	233,200		37	750,000
1,000,000	1,250,000	325,700		39	1,000,000
1,250,000	1,500,000	423,200		42	1,250,000
1,500,000	2,000,000	528,200		45	1,500,000
2,000,000	2,500,000	753,200		49	2,000,000
2,500,000	3,000,000	998,200		53	2,500,000
3,000,000	3,500,000	1,263,200		56	3,000,000
3,500,000	4,000,000	1,543,200		59	3,500,000
4,000,000	5,000,000	1,838,200		63	4,000,000
5,000,000	6,000,000	2,468,200		67	5,000,000
6,000,000	7,000,000	3,138,200		70	6,000,000
7,000,000	8,000,000	3,838,200		73	7,000,000
8,000,000	10,000,000	4,568,200		76	8,000,000
10,000,000	.....	6,088,200		77	10,000,000

¹ The table below may not be used in computing taxes on estates of certain members of the Armed Forces. See Code Sec. 2011(d) and Code Sec. 2201.

II. Estates of Nonresidents Not Citizens Dying After November 13, 1966, and Before January 1, 1977

The federal estate tax on estates of nonresidents not citizens dying after November 13, 1966, and before January 1, 1977, after deduction of the \$30,000 exemption, but prior to any credit for state death taxes, gift taxes, or taxes on prior transfers, is computed at the rates below.

<i>Taxable Estate</i> <i>(After deducting the \$30,000 exemption)</i>					<i>Of Excess Over</i>
<i>From</i>	<i>To</i>	<i>Tax =</i>	<i>+</i>	<i>%</i>	
0	\$ 100,000	0		5	0
\$ 100,000	500,000	\$ 5,000		10	\$ 100,000
500,000	1,000,000	45,000		15	500,000
1,000,000	2,000,000	120,000		20	1,000,000
2,000,000	.....	320,000		25	2,000,000

III. State Death Tax Credit

<i>Taxable Estate</i> <i>(After deducting the applicable exemption)</i>					<i>Of Excess Over</i>
<i>From</i>	<i>To</i>	<i>Credit =</i>	<i>+</i>	<i>%</i>	
0	\$ 40,000	0		0	0
\$ 40,000	90,000	0		.8	\$ 40,000
90,000	140,000	\$ 400		1.6	90,000
140,000	240,000	1,200		2.4	140,000
240,000	440,000	3,600		3.2	240,000
440,000	640,000	10,000		4	440,000
640,000	840,000	18,000		4.8	640,000
840,000	1,040,000	27,600		5.6	840,000
1,040,000	1,540,000	38,800		6.4	1,040,000
1,540,000	2,040,000	70,800		7.2	1,540,000
2,040,000	2,540,000	106,800		8	2,040,000
2,540,000	3,040,000	146,800		8.8	2,540,000
3,040,000	3,540,000	190,800		9.6	3,040,000
3,540,000	4,040,000	238,800		10.4	3,540,000
4,040,000	5,040,000	290,800		11.2	4,040,000
5,040,000	6,040,000	402,800		12	5,040,000
6,040,000	7,040,000	522,800		12.8	6,040,000
7,040,000	8,040,000	650,800		13.6	7,040,000
8,040,000	9,040,000	786,800		14.4	8,040,000
9,040,000	10,040,000	930,800		15.2	9,040,000
10,040,000	.....	1,082,800		16	10,040,000

PRE-1977 GIFT TAX RATES

The rate table below is applicable for gifts made in 1976 and prior years. See pages 7-8 for unified rate table for gifts made after 1976. Gifts made prior to 1977 will be taken into account in the computation of the unified transfer tax generated by post-1976 gifts. In computing the tax payable on post-1976 gifts, the reduction for taxes paid previously is to be based upon the unified rate schedule. See illustration at pages 11-12.

● "Taxable gifts," as noted in the table below, are determined by deducting the \$30,000 specific exemption (allowed only once, but cumulative until used up) and by deducting an annual exclusion of \$3,000 per donee of gifts of present interests. (The \$30,000 specific exemption is eliminated for post-1976 gifts. See page 8.)

Taxable Gifts					Of Excess
From	To	Tax =	+	%	Over
.....	\$ 5,000	0		2 1/4%	.....
\$ 5,000	10,000	\$ 112.50		5 1/4%	\$ 5,000
10,000	20,000	375		8 1/4%	10,000
20,000	30,000	1,200		10 1/2%	20,000
30,000	40,000	2,250		13 1/2%	30,000
40,000	50,000	3,600		16 1/2%	40,000
50,000	60,000	5,250		18 3/4%	50,000
60,000	100,000	7,125		21 %	60,000
100,000	250,000	15,525		22 1/2%	100,000
250,000	500,000	49,275		24 %	250,000
500,000	750,000	109,275		26 1/4%	500,000
750,000	1,000,000	174,900		27 3/4%	750,000
1,000,000	1,250,000	244,275		29 1/4%	1,000,000
1,250,000	1,500,000	317,400		31 1/2%	1,250,000
1,500,000	2,000,000	396,150		33 3/4%	1,500,000
2,000,000	2,500,000	564,900		36 3/4%	2,000,000
2,500,000	3,000,000	748,650		39 3/4%	2,500,000
3,000,000	3,500,000	947,400		42 %	3,000,000
3,500,000	4,000,000	1,157,400		44 1/4%	3,500,000
4,000,000	5,000,000	1,378,650		47 1/4%	4,000,000
5,000,000	6,000,000	1,851,150		50 1/4%	5,000,000
6,000,000	7,000,000	2,353,650		52 1/2%	6,000,000
7,000,000	8,000,000	2,878,650		54 3/4%	7,000,000
8,000,000	10,000,000	3,426,150		57 %	8,000,000
10,000,000	.....	4,566,150		57 3/4%	10,000,000

Estates and Trusts

The Tax Rate Schedule below is to be used by an estate or a trust to compute the amount of its income tax.

● 1997 Tax Rates

ESTATES AND TRUSTS FOR TAX YEARS BEGINNING IN 1997

If taxable income is: Over— but not over—		The tax is:	of the amount over—
\$ 0	\$1,650	15%	\$ 0
1,650	3,900	\$ 247.50 + 28%	1,650
3,900	5,950	877.50 + 31%	3,900
5,950	8,100	1,513.00 + 36%	5,950
8,100	.....	2,287.00 + 39.6%	8,100

● 1996 Tax Rates

ESTATES AND TRUSTS FOR TAX YEARS BEGINNING IN 1996

If taxable income is: Over— but not over—		The tax is:	of the amount over—
\$ 0	\$1,600	15%	\$ 0
1,600	3,800	\$ 240 + 28%	1,600
3,800	5,800	856 + 31%	3,800
5,800	7,900	1,476 + 36%	5,800
7,900	.....	2,232 + 39.6%	7,900