Ch. 7

Evolution of Current Estate, Gift, and GSTT Rules

Administration's Fiscal Year 2013 Revenue Proposals Relating to Estate, Gift, and GST Tax (2/13/2012)

New Form 706, Schedule PC
### Part 2. Claim Information

Check the box that applies to this claim for refund.

- a. ☐ Protective claim for refund made for unresolved claim or expense.
  
  Amount in contest: 

  Date protective claim for refund filed for this claim or expense:

  Amount of claim or expense partially resolved and/or satisfied and presently claimed as a deduction under section 2053 (do not include amounts previously deducted):

- b. ☐ Partial refund claimed: partial resolution and/or satisfaction of claim or expense for which a protective claim for refund has been filed previously.

  Date protective claim for refund filed for this claim or expense:

  Amount of claim or expense partially resolved and/or satisfied and presently claimed as a deduction under section 2053 (do not include amounts previously deducted):

- c. ☐ Full and final refund claimed for this claim or expense; resolution and/or satisfaction of claim or expense for which a protective claim for refund has been filed previously.

  Date protective claim for refund filed for this claim or expense:

  Amount of claim or expense finally resolved and/or satisfied and presently claimed as a deduction under section 2053 (do not include amounts previously deducted):

### Estate of:

<table>
<thead>
<tr>
<th>A</th>
<th>Form 706 Schedule and Item number</th>
</tr>
</thead>
<tbody>
<tr>
<td>B</td>
<td>Identification of the claim</td>
</tr>
<tr>
<td></td>
<td>• Name or names of the claimant(s)</td>
</tr>
<tr>
<td></td>
<td>• Basis of the claim or other description of the pending claim or expense</td>
</tr>
<tr>
<td></td>
<td>• Reasons and contingencies delaying resolution</td>
</tr>
<tr>
<td></td>
<td>• Status of contested matters</td>
</tr>
<tr>
<td></td>
<td>• Attach copies of relevant pleadings or other documents</td>
</tr>
</tbody>
</table>

### C

Amount, if any, deducted under Treas. Reg. sections 20.2053-1(d)(4) or 20.2053-4(b) or (c) for the identified claim or expense

### D

Amount presently claimed as a deduction under section 2053 for the identified claim
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Estate Could Deduct State Income Taxes Paid, Not Higher Estimated Amount</td>
<td>$26 Mil. Paid to FTB to settle the claim</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Naify preceded the 2009 IRC sec. 2053 Regs.</th>
<th>Treat a proposed tax deficiency as a claim against the estate.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(deduct if not over $500,000, and ...)</td>
</tr>
</tbody>
</table>
Due to a gift giving program by the DOD, the decedent only owned a 1% interest in the SFLP.

Estate of Stone v. Comm’r, TC Memo 2012-48 (2/22/2012) - Real Estate Transferred to FLP Escapes Gross Estate

Estate of Kelly v. Comm’r, TC Memo 2012-73 (3/19/2012) - FLP Escapes Decedent’s Estate
Estate of Williams v. U.S. (5th Cir. 09/25/2012)

FLP Was Formed Despite Incomplete Documents

Estate Tax paid with Form 706:
$147,000,000 (no FLP, no discounts)

Under Texas law Maude’s intent to transfer the $250 Mil. of bonds to the FLP was sufficient to transfer the bonds.

Fifth Circuit also allowed the estate to deduct the interest on the loan from the FLP to pay the estate tax.
Estate Tax Refund of: $115,375,591

Estate of Lockett v. Comm’r, TC Memo 2012-123 (4/25/2012) 100% of Partnership Assets in Gross Estate

Mr. Lockett created a trust for his spouse Lois Lockett. The trust and Lois created a partnership.

After Mr. Lockett’s death the trust was terminated and the trust assets, were distributed to Lois Lockett.
As a result, Lois is the only partner in the partnership...

Evidence that the two sons were partners is rejected.

All partnership assets are in her gross estate.

Estate of Frinfrock-Ware v. U.S. (C. Dist. Ill. 3/20/2012)

District Court Invalidates Limitation in Special Use Valuation Regulations

Reg. sec. 20.2032A-8(a)(2) is invalid to the extent that it bars a partial special use valuation election covering less than 25% of the adjusted value of the gross estate.
Estate of Morgens v. Comm’r, (9th Cir. 05/03/2012)

Gross-up Rule Applies to Gift tax paid by Donees on Deemed QTIP transfer

Estate of Sonnabend (IRS Audit Dispute - July 2012)

Valuation Fight Over Art Work That Cannot Legally Be Sold

$0 Christie’s Value

$65 Million IRS value
Marital Deduction Issues

Court Allows Estate Tax Marital Deduction For Decedent's Same-Sex Spouse

Marital Deduction Not Increased By Transferred Assets Pulled Into Estate

Gift Tax Issues
Wandry v. Comm’r, TC Memo 2012-88 (3/26/2012)
Formula Adjustment Clause Upheld for Gifts of LLC Interests

Dickerson v. Comm’r, TC Memo 2012-60 (3/6/2012)
Transfer of Lottery Ticket to Corporation is a Taxable Gift

Tonda Dickerson
• Tip of ticket
• Income to both 50-50

Gift (not TIP) of winning ticket worth $10 mil. from customer to Tonda

Income to Customer.

Gift of proceeds to family

Gift (not TIP) of winning ticket from customer to Tonda

Gift of proceeds to family

IRS Missed It to Tonda

IRS Missed It

No Annual Exclusion for Gift in Trust

Gifts of Limited Partnership Interests Qualified for Gift Tax Annual Exclusions

U.S. v. Tyler, (Dist. Ct. Pa. 03/13/2012)

Executors Personally Liable For Decedent's Unpaid Income Taxes

Transferee Liability Issues

ECC 201212020 (3/23/2012)

IRS Advice on Executor Personal Liability
U.S. v. Michel (DC NY 07/23/2012)
Executor Personally Liable For Failing To Honor IRS Levy

U.S. v. MacIntyre (S.D. Tex. 3/28/2012)
GRIT Income Beneficiary Was Donee Liable For Unpaid Gift Tax

U.S. v Johnson, (DC Ut. 5/23/2012)
Liability of Trustees and Heirs For Unpaid Estate Tax

Other Issues
PLR 201212021  
(6/23/2012)

Husband Can Roll Over  
Deceased Wife's IRA  
Where Estate Is  
Beneficiary

Freeman v. U.S.  
(E.D. Pa. 1/30/2012)

Penalty Upheld for  
Estate Tax Return Filed  
Late Due to Attorney’s  
Ailments

In re Chilton  
(5th Cir. 3/12/2012)

Debtor's Inherited IRA  
Qualifies for  
Bankruptcy Exemption