# 32nd Annual Tax Symposium

## A CLIENT ASKED ME TO PREPARE A FEDERAL ESTATE TAX RETURN

#### **PSHAW! HOW HARD CAN IT BE?**

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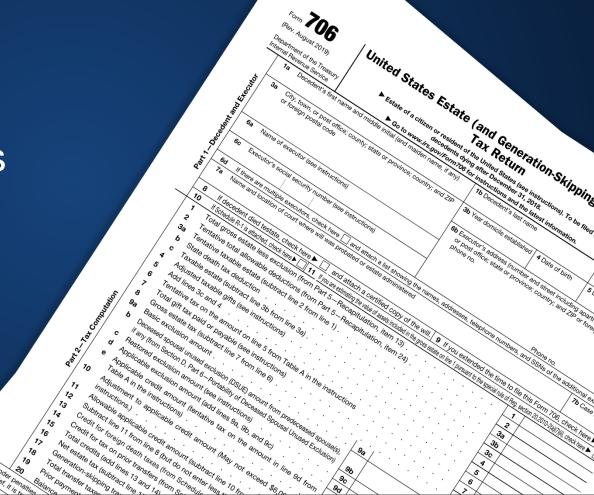


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#### **OVERVIEW**

- Form 706
- Discloses a decedent's assets, liabilities, and administrative expenses
- BE PROACTIVE!!
- Heavy reliance on third parties
- Be compassionate





#### **MUST A RETURN BE PREPARED?**

- Not every estate is required to file a return
- If the estate exceeds the filing threshold, a return must be prepared:
  - \$12,920,000 for decedents
     dying in 2023
  - \$13,610,000 for decedents
     dying in 2024



#### MUST A RETURN BE PREPARED?

- Lifetime taxable gifts must be taken into account
- Example:
  - Gross estate is \$11 million
  - Lifetime taxable gifts are \$5 million
- Return must be filed even though gross estate is under the filing threshold



#### MUST A RETURN BE PREPARED?

- Ignore debts when determining if the estate exceeds the filing threshold
- Example:
  - Gross estate is \$15 million
  - Debts are \$6 million
  - Net estate is \$9 million
- Return must be filed even though net estate is under the filing threshold



#### SHOULD A RETURN BE PREPARED?

- Even if a return is not required, it may be advisable
- Establish basis for hard to value assets
  - Business interests
  - Real estate (754 election)
  - Artwork and collectibles



#### SHOULD A RETURN BE PREPARED?

- Elect portability
- Portability allows a surviving spouse to use (during life and upon death) the deceased spouse's unused exemption
- "DSUE"
- Return must be filed (i.e., surviving spouse is not automatically entitled to the deceased spouse's DSUE)



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- Identify the assets
- Review with the decedent's spouse/family and advisors
- Check tax returns
- Go through the decedent's residence



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- Value the assets
- Standard is "fair market value"
  - Treas. Reg. 20.2031-1(b)
    - Willing buyer/seller
    - Neither being under compulsion
    - Reasonable knowledge of relevant facts



- Cash is cash
- Marketable securities
  - NOT equal to closing price
  - Mean of high/low trading price
  - Special rules apply when decedent dies on a weekend or holiday



- Real estate may require an appraisal
- Interest in a closely-held business almost certainly requires an appraisal
- Other assets may require an appraisal (e.g., artwork)
- IRS has specific requirements for appraisals



- Assets are valued as of date of death
- Alternate valuation date (AVD) may be elected
  - Valuation date is six months after date of death
  - Estate tax liability must be reduced
  - Assets sold prior to AVD valued at sale price



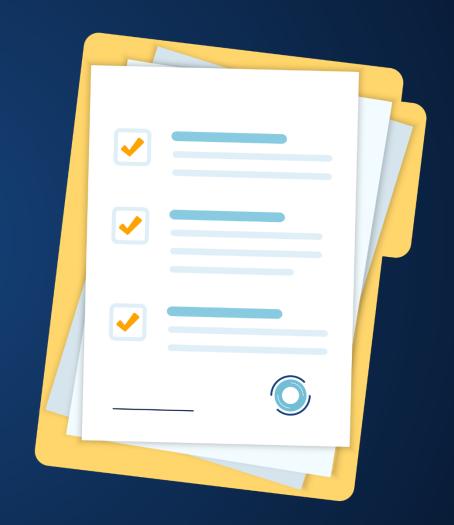
- Return is due nine months after date of death
- Automatic six month extension may be obtained
  - Only extends time to file
  - DOES NOT extend time to pay
- If filing only for portability, return is due five years after date of death



- Don't forget the ancillary documents/forms
  - Death certificate
  - Will and trust
  - Forms 56, 2848, 8971
- Get a closing letter to give your fiduciary (and yourself) peace of mind



- Start early
- Be persistent
- Overdisclose
- Organize for ease of review
- Don't do it by hand!





### THANK YOU



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