

SUPPORTING STATEMENT
Internal Revenue Service (IRS)
Form 709 United States Gift (and Generation Skipping Transfer) Tax Return
Form 709-NA - United States Gift (and Generation Skipping Transfer) Tax Return of
Nonresident Not a Citizen of the United States
OMB Control Number 1545-0020

1. CIRCUMSTANCES NECESSITATING COLLECTION OF INFORMATION

Internal Revenue code (IRC) sections 6019 and 6075 require gift tax returns and specify when they are to be filed.

Form 709 is used to report gift transfers and to compute the gift tax on the transfers. Form 709 is also used to report direct transfers subject to the generation-skipping transfer (GST) tax and to compute the tax on those transfers.

Form 709-NA is used to report certain transfers by a nonresident not a citizen of the United States that are subject to the federal gift tax and certain generation-skipping transfer (GST) taxes and to figure the tax due, if any, on those transfers. The Form 709-NA is also used to allocate the lifetime GST exemption to property transferred during a transferor's lifetime.

2. USE OF DATA

The IRS uses the information to collect and enforce the gift and generation-skipping transfer taxes, to verify that these taxes are properly computed, and to compute the tax base for the estate tax.

3. USE OF IMPROVED INFORMATION TECHNOLOGY TO REDUCE BURDEN

The IRS is currently working on programming to allow electronic filing of Forms 709 and 709-NA. We anticipate electronic filing to be enabled by tax year 2025 or earlier.

4. EFFORTS TO IDENTIFY DUPLICATION

The information obtained through this collection is unique and is not already available for use or adaptation from another source.

5. METHODS TO MINIMIZE BURDEN ON SMALL BUSINESSES OR OTHER SMALL ENTITIES

The collection of information requirement will not have a significant economic impact on a substantial number of small entities.

6. CONSEQUENCES OF LESS FREQUENT COLLECTION ON FEDERAL

PROGRAMS OR POLICY ACTIVITIES

The information will be used by the IRS to determine the taxability of reportable transfers. If this information is collected less frequently it would compromise the IRS's ability to enforce tax compliance. Tax compliance is a vital part of the government's ability to meet its mission and serve the public.

7. SPECIAL CIRCUMSTANCES REQUIRING DATA COLLECTION TO BE INCONSISTENT WITH GUIDELINES IN 5 CFR 1320.5(d)(2)

There are no special circumstances requiring data collection to be inconsistent with guidelines in 5 CFR 1320.5(d)(2).

8. CONSULTATION WITH INDIVIDUALS OUTSIDE OF THE AGENCY ON AVAILABILITY OF DATA, FREQUENCY OF COLLECTION, CLARITY OF INSTRUCTIONS AND FORMS, AND DATA ELEMENTS

In response to the Federal register notice dated January 7, 2025 (90 FR 1221), we have received a public comment from American Institute of CPAs. The full comments will be included within submission to the Office of Management and Budget (OMB). The summary of the comments and the IRS responses are below:

Blake Vickers, CPA, CGMA Comments dated January 31, 2025 Requesting Comments on United States Gift (and Generation-Skipping Transfer) Tax Return		
Comment Number	Summary of public comment	IRS response
1.	Provide clarification in the instructions to Form 709 with regarding to Column C in Part 3 of Schedule A, Computation of Taxable Gifts, as to the elections made under section 2632(c) (electing "in and out" of a deemed generation-skipping transfer (GST) tax exemption allocation).	IRS declines to implement these suggestions as the instructions are sufficiently clear.
	Change Form 709 to add two columns for electing in and out of the automatic allocation rules under section 2632(c).	IRS declines to implement this suggestion. The treasury regulations require a Notice to be attached to make an election under IRC § 2632(b) or IRC § 2632(c). The purpose of column (n) is to indicate that a Notice will be attached to the return. Accordingly, checking the box in column (n) is for informational purposes only and has no legal effect.

2.	Changing Form 709 Instructions adding clarification for gifts subject to an estate tax inclusion period (ETIP). • Detailing Grantor Retained Annuity Trust (GRAT) with GST implications, where to report on form and year of reporting • Detailing how to make to make GST allocation election and, at the close of an ETIP, to report a GST allocation election addressing transfer when not a direct skip.	IRS agrees that the Form 709 instructions refer to a transfer to a qualified personal residence trust should be reported on Schedule A, Part 1. We recognize that this may conflict with the Form 709. IRS will consider making further changes to clarify reporting of transfers subject to an ETIP consistent with IRC §§ 2632, 2642, and the regulations thereto.
3.	Remove reporting requirement for Form 709 of all outright gifts of 100% of an asset to charities. If unable to remove requirement add checkbox indicating reported on various related returns.	IRS declines to implement this suggestion. The suggested change would require an amendment to Treasury Regulation § 25.6019-1, which sets forth the rules for reporting gifts to charity.
4.	Expand Form 709 Schedule C Part 1 Column F to allow multiple dates for gifts using the Deceased Spousal Unused Exclusion (DSUE)	IRS recognizes that taxpayers could make gifts that use DSUE on multiple dates and will consider expanding Sch. C., Part 1 as suggested.
5.	Remove reporting requirement for Form 709 of number of donees or clarify how that number is calculated.	IRS declines to implement these suggestions for Tax Year 2024/Processing Year 2025. The reporting of the number of donees may help as part of the review and examination of the Form 709. IRS will evaluate these suggestions, including clarifying how to calculate the number of donees, for future form developments.
6.	Change Form 709 Schedule A that the gift to the trust but indicate in the description the individual(s) that have a withdrawal right allowing for the annual exclusion, to more accurately show the trust as the donee.	IRS declines to implement this suggestion. When property is contributed to a trust and a beneficiary has a withdrawal right, the transfer is a present-interest gift to the beneficiary of the trust to the extent of the beneficiary's withdrawal right. The suggested change could potentially make it more difficult and time-consuming for IRS to review the return.
7.	Change Form 709 Instructions to address what is needed in a trust summary to satisfy the adequate disclosure regulations or developing a form which specific information could be entered.	IRS declines to implement this suggestion, as changing the instructions and/or providing a trust summary template for adequate disclosure purposes could conflict with the adequate disclosure requirements under Treasury Regulation § 301.6501(c)-1 and possibly cause confusion and compliance risks.

8.	Remove Form 709 Instructions requirement to attach trust agreement if previously attached and add checkbox to Form 709 that says, "attached previously" and year attached.	IRS declines to implement this suggestion because of compliance risks; taxpayers may neglect to reattach trust instruments that were modified or reformed since the date the trust instrument was most recently attached. In addition, the copy of the trust should be included so that it is covered by the taxpayer's penalties of perjury statement that the copy of the trust is true and accurate at the time of the gift.
9.	Create a form or sample allocation/election statements for GST allocation/elections under section 2632(c) and provide a procedure to retroactively revoke inadvertent section 2632(c) elections.	IRS declines to implement these suggestions, as sufficient guidance is already provided under Treasury Regulation § 26.2632-1(b). Treasury Regulation § 26.2642-7 was published May 7, 2024, and sets forth the requirements to revoke inadvertent allocations of GST exemption. In general, such relief is obtained through the private letter ruling program. IRS will consider whether simplified procedures should be made available to revoke certain inadvertent allocations of GST exemption, but presently such procedures are explained in Treasury Regulation § 26.2642-7.
10.	Change Form 709 Instructions to clarify for split-gifts all required documents for adequate disclosure is only to be attached to the actual donor's return.	IRS declines to implement this suggestion, as the adequate disclosure section of the instructions already includes a cross-reference to Treasury Regulation § 301.6501(c)-1(e) and (f). IRS is also concerned about compliance risks if preparers rely on such instruction too broadly for years during which both spouses make gifts.
11.	Remove Form 709 Instructions for a gift to be adequately disclosed requirement to provide a "full and complete Form 709" since regulations do not provide this requirement.	IRS acknowledges that the terms "full and complete" do not appear in the regulations but declines to implement the suggestion. In some cases, adequate disclosure might be achieved by less than a full and complete return, and in other cases, the items missing from the return that prevent it from being full and complete will prevent a gift from being adequately disclosed.
12.	Change Form 709 Instructions to clarify "to support the value of your gifts, you must provide information showing how it was determined" and "stock in a closely held corporation (with no reference to partnerships or limited liability companies (LLCs) that balance sheets, income statements, and dividends paid	IRS agrees that this section of the instructions could be clearer and will consider implementing the suggestion. What the instructions mean is that balance sheets should be provided (as mentioned in the regulations) if an appraisal is not utilized.

	for each of the five (5) preceding years must be attached" as they are confusing and not consistent with the adequate disclosure regulations.	
13.	Remove requirement for reporting basis for the remainder interest as it is unknown at time of filing return, or provide clarification how to calculate basis for GRATs, sales, etc. and if the basis if the gift amount or amount transferred to trust.	IRS declines to implement this suggestion because basis reporting will assist the IRS in reviewing the associated income tax with the gifted property.
14.	Allow E-filing of Form 709.	IRS E-File Services and Submission Processing are working toward this goal.
15.	Change Form 709 Instructions to move language on page 9 to page 4 to clarify annual exclusion whether or not gift splitting is elected.	IRS declines to implement this suggestion as the language on page 4 provides a general explanation of the annual exclusion, while the directions on page 9 specifically explain how to complete the form.
16.	Change Form 709 instructions to clarify on page 8 "a statement that the consenting spouse is electing to treat all gifts made to third parties as having been made one-half by each spouse" is the only language of spousal consent that should be included.	IRS will consider clarifying the instructions as suggested. A reference to "consenting spouse is electing to treat all gifts made to third parties as having been made one-half by each spouse" should be sufficient.
17.	Change Form 709 Part 1 Line 19 to read "Did you or your spouse make gifts to third parties?"	IRS already changed language to "Did you and/or your spouse make gifts to third parties?"
18.	Change Form 709 Schedule A Columns B and D to avoid needing to attach additional statements that may face e-filing limitations.	IRS will consider implementing this suggestion to improve e-file processing.
19.	Change Form 709 Instructions and Form 709 Schedule A line B to clarify to indicate that gifts made to section 529 plan would be reportable in Part 1 or Part 2. To read "For each of the 5 years, you report as appropriate in Part 1 or Part 2 of Schedule A one-fifth (20%) of the amount for which you made the election. In column (e), list the date of the gift as the calendar year for which you are deemed to have made the gift (that is, the year of the current Form 709 you are filing)."	IRS will consider implementing this suggestion by changing Schedule A, Line B to: "If you elect under section 529(c)(2)(B) to treat any transfers made this year to a qualified tuition program as made ratably over a 5-year period, check here. Report any such contribution on Part 1 or Part 2, as applicable. See instructions. Attach explanation."

20.	Change Form 709 Instructions to clarify that ratable portions of section 529 plans pursuant to the section 529 election should be reported as of January 1st of the tax year filing.	IRS will consider implementing this suggestion provided it does not conflict with IRC § 529(c) (2)(B).
21.	Change Form 709 Instructions to remove decedent language mentioned on page 3 under the Qualified Disclaimers section paragraph 4a since there would not be a decedent in this context and could lead to confusion.	The IRS declines to implement this suggestion because the instructions follow the provisions of IRC § 2518(b)(4) and Treasury Regulation § 25.2518-2(a)(5).
22.	Change Form 709 Instructions on page 4 first paragraph last line to read "For a gift in trust, each beneficiary having a present interest in such gift is treated as a separate donee..."	IRS declines to implement this recommendation because the instructions are clear as written. The first sentence of the paragraph confirms the present interest requirement. The next sentence confirms that for a gift in trust, each beneficiary of the trust is treated as a separate donee for purposes of the annual exclusion. Some interests might qualify and some might not. The proposed language risks leading taxpayers to an interpretation that limits the separate donee designation to those with a present interest.
23.	Change Form 709 Instructions on page 4 under the transfers subject to the GST tax section and to reference gift subject to both GST taxes starting on page 9 or include similar language as provided on the bottom of page 9 and top of page 10.	The IRS will consider implementing this suggestion in a future Form 709 revision.
24.	Change Form 709 Instructions to clarify on page 8 line 7, consent of spouse item 1 to read "The consent may not be obtained after April 15 (or the extended due date) following the end of the year..."	IRS declines to implement this recommendation because, the instructions as written follow the language of IRC § 2513 and Treasury Regulation § 25.2513-2.

9. EXPLANATION OF DECISION TO PROVIDE ANY PAYMENT OR GIFT TO RESPONDENTS

No payment or gift will be provided to any respondents.

10. ASSURANCE OF CONFIDENTIALITY OF RESPONSES

Generally, tax returns and tax return information are confidential as required by 26 U.S.C. 6103.

11. JUSTIFICATION OF SENSITIVE QUESTIONS

A privacy impact assessment (PIA) has been conducted for information collected under this request part of the “Enforcement Revenue Information System (ERIS)” system, and a Privacy Act System of Records notice (SORN) has been issued for these systems under Treasury/IRS 22.062 - Electronic Filing Records; Treasury/IRS 24.030 - Customer Account Data Engine (CADE) Individual Master File; Treasury/IRS 24.046 - CADE Business Master File (BMF); Treasury/IRS 34.037 - Audit Trail and Security Records. The IRS PIAs can be found at <https://www.irs.gov/privacy-disclosure/privacy-impact-assessments-pia>.

Title 26 U.S.C. 6109 requires inclusion of identifying numbers in returns, statements, or other documents for securing proper identification of persons required to make such returns, statements, or documents and is the authority for social security numbers (SSNs) in IRS systems.

12. ESTIMATED BURDEN OF INFORMATION COLLECTION

The burden estimate is as follows:

Description	# of Respondents	# Responses per Respondent	Annual Responses	Hours per Response	Total Burden Hours
Form 709	224,530	1	224,530	6.2	1,392,086
Form 709-NA	1,000	1	1,000	6.2	6,200
Totals	1,000		225,530		1,398,286

Please continue to assign the OMB number to these regulations as they do not contribute to the burden.

1.1015-1	25.2512-9(e)	25.6019-4
1.1015-1(g) recordkeeping	25.2513-1(c)	25.6061-1
1.170A-12	25.2513-2	25.6065-1
1.401-1	25.2513-3(a) & (b)	25.6075-1
1.664-4	25.2522(a)-1	25.6081-1
20.2031-7	25.2522(c)-3	25.6091-1
25.2207A-1	25.6001-1 recordkeeping	25.6091-2
25.2501-1 through 25.2524-1	25.6011-1	25.6151-1
25.2512-1(j)	25.6019-1(a) & (b)	25.6161-1(b) & (c)
25.2512-2(b),(e),(f)	25.6019-1(d)	26.2662-1(b)
25.2512-3(a)	25.6019-2	27.1-1(a)
25.2512-5	25.6019-3	27.642-1(b) & (c)

13. ESTIMATED TOTAL ANNUAL COST BURDEN TO RESPONDENTS

IRS estimates the total annual cost to respondents at \$28,952,909.91.

To arrive at this figure, 51%¹ of burden of 1,398,286 was multiplied by \$40.60 per hour. IRS anticipates that 51% of taxpayers may use a tax preparer to complete their Form 709 or 709-NA to report gift transfers and compute the gift tax on the transfers.

The above Hourly Wage Rate is the [May 2023 Bureau of Labor Statistics](#) mean wage for “Tax Preparers” (Major Group (13-2082)” of \$27.96 times the wage rate benefit multiplier of 1.4524 (to account for fringe benefits) equaling a fully-loaded wage rate of \$40.60.

The benefits multiplier is estimated by dividing total compensation of \$46.84 by salaries and wages of \$32.25, based on Employer Cost for Employee Compensation, September 2024 data, released [December 17, 2024](#).

14. ESTIMATED ANNUALIZED COST TO THE FEDERAL GOVERNMENT

The Federal government cost estimate is based on a model that considers the following three cost factors for each information product: aggregate labor costs for development, including annualized start-up expenses, operating and maintenance expenses, and distribution of the product that collects the information.

The government computes cost using a multi-step process. First, the government creates a weighted factor for the level of effort to create each information collection product based on variables such as complexity, number of pages, type of product and frequency of revision. Second, the total costs associated with developing the product such as labor cost, and operating expenses associated with the downstream impact such as support functions, are added together to obtain the aggregated total cost. Then, the aggregated total cost and factor are multiplied together to obtain the aggregated cost per product. Lastly, the aggregated cost per product is added to the cost of shipping and printing each product to IRS offices, National Distribution Center, libraries, and other outlets. The result is the Government cost estimate per product.

The government cost estimate for this collection is summarized in the table below.

¹ IRS estimates, a 51% of taxpayers would hire a Tax Preparer to complete their tax return based on IRS Data Book, 2023.

<u>Product</u>	<u>Aggregate Cost per Product (factor applied)</u>		<u>Printing and Distribution</u>		<u>Government Cost Estimate per Product</u>
Form 709	94,660	+	597	=	\$ 95,257
Instructions (Form 709)	86,140	+	375	=	\$ 86,515
Form 709-NA	17,392	+	0	=	\$ 17,392
Instructions (Form 709-NA)	46,116	+	0	=	\$ 46,116
Grand Total	\$244,308	+	\$972	=	\$245,280
Table costs are based on 2023 actuals obtained from IRS Chief Financial Officer and Media and Publications					

15. REASONS FOR CHANGE IN BURDEN

Form 709-NA was developed to report certain transfers by a nonresident not a citizen of the United States that are subject to the federal gift tax and certain generation-skipping transfer (GST) taxes. This increases the burden by 1,000 responses and 6,200 hours due to Agency Discretion.

	Total Approved	Change Due to New Statute	Change Due to Agency Discretion	Change Due to Adjustment in Estimate	Change Due to Potential Violation of the PRA	Previously Approved
Annual Number of Responses	225,530	0	1,000	0	0	224,530
Annual Time Burden (Hr.)	1,398,286	0	6,200	0	0	1,392,086

16. PLANS FOR TABULATION, STATISTICAL ANALYSIS AND PUBLICATION

There are no plans for tabulation, statistical analysis, and publication.

17. REASONS WHY DISPLAYING THE OMB EXPIRATION DATE IS INAPPROPRIATE

The IRS believes that displaying the OMB expiration date is inappropriate because it could cause confusion by leading taxpayers to believe that the form expires as of the expiration date. Taxpayers are not likely to be aware that the IRS intends to request renewal of the OMB approval and obtain a new expiration date before the old one expires.

18. EXCEPTIONS TO THE CERTIFICATION STATEMENT

There are no exceptions to the certification statement.

Note: The following paragraph applies to all of the collections of information in this submission:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.