

# **Estate and Gift Taxation**



# Estate and Gift Taxation

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FOURTH EDITION

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2053(a)(3)	6.01[A]; 6.02[A], [B]; 6.03[B]; 6.05; 17.01; 17.01[A], [A][1], A[1][b], [A][2], [A][3][a], [C], [C][1], [C][2], [C][2][c]; Ch. 6	2055(e)(5)(B)	18.05
		2055(f)	18.04[C][3]; 24.02[A]; Ch. 18
		2055(g)	18.01[A]
2053(a)(4)	17.01; 17.01[A][3][a], [B], [C][2][b]; 26.02[A]	2056	1.01; 1.08; 14.07; 19.04[A]; 19.07; 26.03[A][1]; Ch. 19
2053(b)	17.01[C][2]; 17.02[B]	2056(a)	19.01; 19.02; 19.04; 19.04[D]; 26.05[B]
2053(c)(1)	17.01[C]	2056(a)(10)	19.03[B][3]
2053(c)(1)(A)	6.01[A]; 6.02[A]; 6.04; 17.01[C], [C][1], [C][2][c]; Ch. 6	2056(b)(1)	6.01[A]; 19.02
		2056(b)(1)–(2)	19.02
2053(c)(1)(B)	17.01[A][3][a], [A][3][b]	2056(b)(1)(C)	19.02
		2056(b)(2)	19.02[C]
2053(c)(1)(D)	17.02[B][4][c]	2056(b)(3)	19.03[A]
2053(c)(2)	17.01; 17.02[B]	2056(b)(4)	19.01; 19.01[B]; 19.04; 19.04[B]
2054	1.01; 17.03; 17.04; 19.01; 20.02[B][e]; 26.03[A][1]; Ch. 17; 317.01[A][1][a]	2056(b)(4)(B)	19.04[C]
2055	1.01; 1.03[B]; 16.03[C]; 17.01[A][1], [C]; 18.02[A]; Ch. 18	2056(b)(5)	19.03[B], [B][1], [B][1] [a], [B][1][b], [B][1][c], [B][1][d], [B][1][e], [B][2], [B][3], [C], [D][4][a]; 26.05[B]
		2056(b)(6)	19.03[C]
2055(a)	18.01; 18.02[A], [C]; 18.06	2056(b)(7)	19.03[B], [B][2], [D], [D][1][a], [D][1][b], [D][2], [D][3], [E]; 19.07; 21.01[B][2]; 22.02[A]; 26.05[B]
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2055(a)(2)	18.01[B], [E]		
2055(a)(2)–(3)	18.01[E]		
2055(a)(3)	18.01[C]		
2055(a)(4)	18.01[D], [E]	2056(b)(7)(B)(i)	19.03[D]

2056(b)(7)(B)(i)(II)	19.03[D]	2056A(b)(11)	26.05[B][2]
2056(b)(7)(B)(ii)(I)	19.03[D][1][a]	2058	1.01; 17.05; 20.01[B]; 26.03[A][1]; Ch. 17
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2056(b)(7)(B)(v)	19.03[D][2]	2101–2104	26.03[A]
2056(b)(7)(C)	19.03[D][3]	2101(b)	26.03[A][2]
2056(b)(8)	19.03[E]; 26.05[B]	2101(c)	26.03[A][2]
2056(b)(9)	19.01; 19.04[A]	2102(a)	26.03[A][2]
2056(b)(10)	19.03[B], [D][2]	2102(b)(1)	26.03[A][2]
2056(c)	19.01; 19.01[B]	2102(b)(2)	26.03[A][2]
2056(c)(1)–(2)	19.01[B]	2102(c)(3)	26.03[A][2]
2056(c)(3)	19.01[B]	2103	26.02; 26.03[A][1]
2056(c)(4)	19.01[B]	2104	26.02
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2056(d)	26.05	2104(b)	26.02[I]
2056(d)(1)	19.01; 19.01[A]; 26.03[A], [A][1]; 26.05[A]	2104(c)	26.02[F], [G]
		2105	26.02
2056(d)(1)(B)	8.02[B]; 26.05[D]	2105(a)	26.02[H]
2056(d)(2)(A)	26.03[A], [A][1]; 26.05[B]	2105(b)	26.02[F], [G]
		2105(b)(1)	26.02[G]
2056(d)(2)(B)	26.05[B][5]	2105(b)(2)	26.02[G]
2056(d)(3)	26.05[A]	2105(b)(3)	26.02[F]
2056(d)(4)	26.05[A]	2105(c)	26.02[B]
2056(d)(5)	26.05[B][5]	2106	26.03[A]
2056(f)(5)(B)	19.07	2106(a)	26.03[A][1]
2056A	19.01[A]; 26.05[B][1], [B][2]	2106(a)(1)	26.02[A]; 26.03[A][1]
		2106(a)(2)	26.03[A][1]
2056A(a)	26.05	2106(a)(2)(D)	26.03[A][1]
2056A(a)(1)(A)	26.05[B][1]	2106(a)(3)	26.03[A][1]
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2056A(a)(2)	26.05[B][1], [B][4]	2106(b)	26.03[A][1]
2056A(a)(3)	26.05[B][1]	2107	26.04[A]
2056A(b)	26.05[B][1], [B][2], [B][4]	2203	20.02[A]
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2056A(b)(1)(A)	26.05[B][2]	2207	14.07; 20.02[A]
2056A(b)(1)(B)	26.05[B][2]	2207A	19.03[D], [D][4][a]; 20.02[A]
2056A(b)(2)	26.05[B][2]		
2056A(b)(3)(A)	26.05[B][2]	2207A(a)	19.03[D], [D][4][b]
2056A(b)(3)(B)	26.05[B][3]	2207A(a)(2)	19.03[D], [D][4][a]
2056A(b)(4)	26.05[B][2]	2207A(b)	19.03[D], [D][4][b]
2056A(b)(6)	26.05[B][2]	2207B	20.02[A]
2056A(b)(10)	26.05[B][2]	2208	26.01[B], [C]
2056A(b)(10)–(12)	26.05	2209	26.01[B], [C]
		2210	1.07[B]

2306(a)(1)	26.02[D]	2505	1.02; 1.03[A], [B]; 1.07
2501	3.02[B][1]; 14.01; 19.03[D][4][a], [D][4][b]; 19.08; Ch. 3		[C][2][c]; 3.02[B][1]; 19.08; 20.01[A][2]; 20.03; 26.03[B][3]
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2501(a)(4)	5.01[A][1]; 5.03; Ch. 5	2512(a)-(b)	1.02; Ch. 3
2501(a)(5)	26.04; 26.04[A]	2512(b)	1.02; 3.01; 3.02[B][1]; 4.01[A][1]; 4.03[A]; 6.01[B], [C]; 6.02[A]; 6.03[A]; 8.02[C][4]; 10.01[A][2][b]; 13.01[A]; 24.04; Ch. 6
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2501(b)	26.01[B], [C]		
2501(c)	26.01[B], [C]		
2502	1.02		
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2502(c)	1.02; 4.03[A]; 20.04		
2503(a)	1.02		
2503(b)	1.02; 1.03[A]; 1.08; 3.02[B][1], [B][2][a]; 3.03; 5.01; 5.01[A], [A][1], [A][2][a], [A][2][c], [B], [C], [C][3], [C][4], [D], [E]; 5.02; 10.03; 16.01[A]; 21.01 [B][1]; 22.03[C][1], [C][2][a][i], [C][2][a][ii]; 22.06[A], [B]; 26.03[B][2]; 26.04[B][1]; 26.05[C]; Ch. 5; Ch. 19	2513(a)	3.02[B][1]; 19.08; 26.03[B], [B][4]
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		2514(b)	14.04[A], [B]; 14.05; 21.01[B][1]; Ch. 21
		2514(c)	14.02
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		2514(c)(3)(A)	14.02[A][1]
		2514(c)(3)(B)	14.02[A][2]
		2514(c)(3)(C)	14.02[A][3]
2503(b)(2)	5.01	2514(d)	14.06
2503(c)	5.01[C], [C][1], [C][2], [C][3], [C][4]; 11.03[C]; Ch. 5	2514(e)	14.05
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2503(c)(2)(A)	5.01[C][2], [C][3]	2516	6.02[B]; 6.03[B]; Ch. 6
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2503(g)(1)	3.02[B][2][b]		
2503(g)(2)	3.02[B][2][b]		

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2518(b)(2)(B)	16.01[A]		26.05[A]
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2518(b)(4)	16.01[C], [D]; 19.06		26.05[C]
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2522(a)(4)	18.01[D], [E]	2612	21.02
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2523(b)(2)	19.07	2623	21.04
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2632(e)(1)(A)	22.05	2651(e)(2)	21.01[A][1][c]
2632(e)(1)(B)	22.05	2651(f)	21.01[A][1][e]
2632(e)(2)(A)	22.05	2651(f)(2)	21.01[A][1][e]
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2701(c)(2)	23.02[B][1]		
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2701(c)(3)(B)	23.04[B]		
2701(c)(3)(C)(i)	23.04[B]		
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2801(d)	26.04[B][1]	6662(g)(1)	7.03[A]
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2801(e)(3)	26.04[B][1]		7.09; 10.05[B], [B][2];
2801(e)(4)(A)	26.04[B][1]		15.01[A], [B], [D];
2801(e)(4)(B)	26.04[B][1]		15.02[D]; 18.04[B][2];
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2001-38, 2001-2 C.B. 124	19.03[D][2]
2003-42, 2003-1 C.B. 993	10.05[B][3]
2003-53, 2003-2 C.B. 230	18.04[B][1][a]
2005-52, 2005-2 C.B. 326	18.04[B][1][a]
2011-48, 2011-42 I.R.B. 527	17.01[A][1][a]
2013-7, 2013-1 I.R.B. 233	26.02[E]
2016-49, 2016-42 I.R.B. 462	19.03[D][2]

#### REVENUE RULINGS

<b>Rev. Rul.</b>	<b>Reference</b>
54-400, 1954-2 C.B. 319	5.01[C]
54-401, 1954-2 C.B. 320	5.01[A]
55-123, 1955-1 C.B. 443	2.04[A]
55-143, 1955-1 C.B. 465	26.02[B]
55-277, 1955-1 C.B. 456	2.05
55-408, 1955-1 C.B. 113	5.01[A][3]

55-438, 1955-2 C.B. 601	2.07
55-687, 1955-2 C.B. 389	5.01[A][2]
55-701, 1955-2 C.B. 836	26.02[E]
57-54, 1957-1 C.B. 298	9.01
57-366, 1957-2 C.B. 618	11.03[C]
57-530, 1957-2 C.B. 621	17.02[A]
57-574, 1957-2 C.B. 161	18.01[E]
59-9, 1959-1 C.B. 232	20.01[D][2]
59-60, 1959-1 C.B. 238–239	7.07[A]
59-60, 1959-1 C.B. 239	7.07[A]
59-60, 1959-1 C.B. 241	7.07[A]
59-60, 1959-1 C.B. 242–243	7.07[A]
59-60, 1959-1 C.B. 243	7.07[A]
59-60, 1959-1 C.B. 237	7.07[A]
59-310, 1959-2 C.B. 146	18.01[B]
59-357, 1959-2 C.B. 212	11.03[C]
60-31, 1960-1 C.B. 174, 178	2.04[B]
60-160, 1960-1 C.B. 374	6.02[C]
61-88, 1961-1 C.B. 417	2.07; 7.08[B]
64-225, 1964-2 C.B. 15	3.02[A]
65-222, 1965-2 C.B. 374	9.01
65-245, 1965-2 C.B. 379	26.02[G]
66-167, 1966-1 C.B. 20	3.02[A]
66-234, 1966-2 C.B. 436	17.02[A]
67-229, 1967-2 C.B. 335	18.02[B]
67-270, 1967-2 C.B. 349	5.01[C][1]
67-325, 1967-2 C.B. 113	18.01[B]
67-370, 1967-2 C.B. 324	2.07
68-379 1968-2 C.B. 414	3.02[B][1]; 6.01[C]; 6.03[A]
68-554, 1968-2 C.B. 412	19.02[A]
68-670, 1968-2 C.B. 413	5.01[C][3]
69-56, 1969-1 C.B. 224	19.03[B][1][a]
69-285, 1969-1 C.B. 222	18.02[A]
69-345, 1969-1 C.B. 226	5.01[C][1]

69-402, 1969-2 C.B. 176	17.02[B][4][c]
69-596, 1969-2 C.B. 179	26.02[G]
70-155, 1970-1 C.B. 189	10.01[A][1][a]
70-348, 1970-2 C.B. 193	11.02[E]
70-452, 1970-2 C.B. 199	18.02[B]
70-513, 1970-2 C.B. 194	11.02[C]; 11.04[A]
70-600, 1970-2 C.B. 194	17.01[A][3][c]
71-67, 1971-1 C.B. 271	6.03[B]; 7.08[B]
71-200, 1971-1 C.B. 272	18.02[A]
71-443, 1971-2 C.B. 337	5.01[A][1]
72-8, 1972-1 C.B. 309	19.02[C]
72-307, 1972-1 C.B. 307	9.03[C]
72-355, 1972-2 C.B. 532	5.01[A][1]; 5.03
72-583, 1972-2 C.B. 534	5.03
73-21, 1973-1 C.B. 405	11.04[C]
73-61, 1973-1 C.B. 408	3.02[B]
73-405, 1973-2 C.B. 321	5.01[B]
74-43, 1974-1 C.B. 285	5.01[C][2]
74-199, 1974-1 C.B. 285	5.03
74-509, 1974-2 C.B. 302	17.02[B][3]
74-556, 1974-2 C.B. 300	11.05[C]
75-71, 1975-1 C.B. 309	3.03
75-72, 1975-1 C.B. 310	4.03[A]
75-100, 1975-1 C.B. 303	9.06
75-127, 1975-1 C.B. 297	2.05
75-350, 1975-2 C.B. 366	14.03[A]
75-351, 1975-2 C.B. 368	14.03[A]
75-414, 1975-2 C.B. 371	18.04[A]
75-506, 1975-2 C.B. 375	5.01[A][2][a]
76-102, 1976-1 C.B. 272	15.02[A]
76-103, 1976-1 C.B. 293	11.02[A]; 11.08[A]
76-274, 1976-2 C.B. 278	9.03[I]
76-304, 1976-2 C.B. 269	15.01[E]
76-357, 1976-2 C.B. 285	18.04[C][2]



76-380, 1976-2 C.B. 270	15.02[B][1][c]
76-502, 1976-2 C.B. 273	14.02
77-97, 1977-1 C.B. 285	18.04[C][1]
77-130, 1977-1 C.B. 289	19.02[A]
77-131, 1977-1 C.B. 295	5.03
77-169, 1977-1 C.B. 286	18.04[C][2]
77-183, 1977-1 C.B. 274	15.02[B][1][a], [B][1][b]
77-274, 1977-2 C.B. 326	17.02[A]
77-299, 1977-2 C.B. 343	5.01[D][2][a]
77-314, 1977-2 C.B. 349	6.03[A]; 6.04
77-358, 1977-2 C.B. 342	5.01[A][2][d]
77-378, 1977-2 C.B. 347	10.05[A]
77-378, 1977-2 C.B. 348-349	10.05[A]
77-461, 1977-2 C.B. 324	17.02[B][4][a]
77-491, 1977-2 C.B. 332	18.02[D]
78-168, 1978-1 C.B. 298	5.01[A]
78-362, 1978-2 C.B. 248	8.01[A]; 8.02[C][1]
78-378, 1978-2 C.B. 229	7.09
78-409, 1978-2 C.B. 234	10.01[A][1][a]
79-46, 1979-1 C.B. 303	9.03[C]
79-62, 1979-1 C.B. 295	12.07
79-63, 1979-1 C.B. 302	14.02[B][2]
79-117, 1979-1 C.B. 305	12.08
79-129, 1979-1 C.B. 306	9.03[I]
79-154, 1979-1 C.B. 301	14.02
79-159, 1979-1 C.B. 308	18.01[A]
79-238, 1979-2 C.B. 339	3.03
79-252, 1979-2 C.B. 333	17.02[B][4][c]
79-312, 1979-2 C.B. 29	6.05
79-354, 1979-2 C.B. 334	19.01[A]
79-363, 1979-2 C.B. 345	6.04
79-372, 1979-2 C.B. 330	8.02[C][3]
79-384, 1979-2 C.B. 344	3.03
79-397, 1979-2 C.B. 322	15.02[A]

80-186, 1980-2 C.B. 280	24.04
80-209, 1980-2 C.B. 248	26.01[B][2]
80-209, 1980-2 C.B. 248, 249	26.01[B]
80-209, 1980-2 C.B. 249	26.01[B][2]
80-363, 1980-2 C.B. 249	26.01[B][3]
81-7, 1981-1 C.B. 474	5.01[B]
81-15, 1981-1 C.B. 457	10.02
81-31, 1981-1 C.B. 475	3.02[C]
81-85, 1981-1 C.B. 452	19.08
81-128, 1981-1 C.B. 469	9.03[D]
81-154, 1981-1 C.B. 470	17.02[B][4][c]
81-166, 1981-1 C.B. 477	9.03[C]
81-182, 1981-2 C.B. 179	15.02[A]
82-63, 1982-1 C.B. 135	14.02[A]
82-141, 1982-2 C.B. 209	9.04
82-145, 1982-2 C.B. 213	9.03[I]
82-184, 1982-2 C.B. 215	19.02[C]
83-30, 1983-1 C.B. 224	7.04[B]
83-81, 1983-1 C.B. 230	17.01[B]
83-108, 1983-2 C.B. 167	5.01[B]
83-147, 1983-2 C.B. 158	9.03[H]
83-158, 1983-2 C.B. 159	18.04[C][2]
84-25, 1984-1 C.B. 191	3.03
84-130, 1984-2 C.B. 194	9.03[C]
84-179, 1984-2 C.B. 195	9.03[F]
86-39, 1986-1 C.B. 301	14.04[B]
86-41, 1986-1 C.B. 300	4.02[A]
88-85, 1988-2 C.B. 333	15.02[B][1][c]
89-31, 1989-1 C.B. 277	18.02[D]
90-21, 1990-1 C.B. 172	9.04
92-68, 1992-2 C.B. 257	3.02[C]
93-12, 1993-1 C.B. 202	7.01[B]; 7.07[C][1]
94-69, 1994-2 C.B. 241	9.06
95-58, 1995-2 C.B. 191	9.03[E]; 11.04[C]

96-56, 1996-2 C.B. 161	5.01[E]
98-8, 1998-1 C.B. 541	19.03[D][4][b]
98-21, 1998-1 C.B. 97	53.04
99-5, 1999-1 C.B. 434	4.01[A][2]
2000-2, 2000-1 C.B. 305	19.03[D][3]
2004-64, 2004-2 C.B. 7	10.01[A][2][a]; 11.03[D]
2006-26, 2006-1 C.B. 939	19.03[D][3]
2008-22, 2008-1 C.B. 796	9.03[G]; 11.03[D]
2011-28, 2011-49 I.R.B. 830	9.03[G]

### SENATE REPORTS

Report	Reference
S. Rep. No. 72-665 (1932)	1.02; 3.01; 3.02[B][1]; 5.01; 5.01[A][1]; 10.01[A][2]
S. Rep. No. 77-1631 (1942)	9.03; 9.03[D]
S. Rep. No. 80-1013 (1948)	19.03[B]
S. Rep. No. 83-1622 (1954)	5.01; 12.05[A]; 15.01; 15.01[C]; 15.02[B][1]; 15.02[B][1][b]; 15.02[D]
S. Rep. No. 91-552 (1969)	18.04[A]
S. Rep. No. 95-745 (1978)	10.02
S. Rep. No. 97-144 (1981)	5.01

### TECHNICAL ADVICE MEMORANDA

TAM	Reference
8140016	24.04
8512004	20.05
8837004	17.01[A][3][c]
8944005	20.05
9131006	11.06
9336002	7.05[A]
9842003	24.03

### WEBSITES

Address	Reference
<a href="http://www.irs.ustreas.gov/pub/irs-soi/10esesttaxsnap.pdf">http://www.irs.ustreas.gov/pub/irs-soi/10esesttaxsnap.pdf</a>	1.07[B]



# Preface

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*Estate and Gift Taxation*, now in its fourth edition, provides teaching materials for a course on the U.S. transfer tax system, as it exists following enactment of the Tax Cuts and Jobs Act of 2017 (and prior to the sunset of various critical provisions scheduled to occur after 2025). The text is structured through 26 discrete chapters, and the chapter headings supply a reasonable course syllabus. While some of the longer or more complicated chapters may require two class sessions, most chapters are intended to be covered in a single class. In addition to incorporating the most recent legislative developments, the third edition discusses the major cases and rulings that have been decided since publication of the second edition.

The first chapter provides an overview of the federal transfer tax regime, one intended to introduce students to the basic structures of the estate tax, gift tax, and generation-skipping transfer (GST) tax. This chapter closes by summarizing the modern-era legislative developments in the transfer tax context. After this introduction, the text proceeds to examine the estate tax and gift tax bases primarily in a context-specific (e.g., life insurance, retained-interest transfers, marital transfers) manner, and the majority of the text is devoted to these topics. The text then transitions to a discussion of the GST tax base and allocation of the GST tax exemption, followed by a discussion of a majority of the special valuation rules under Chapter 14 (apart from §2702, which is addressed earlier in the context of retained-interest transfers). The text closes with a chapter devoted to the application of the U.S. transfer tax regime in the international setting.

This text is intended to serve as a complement to the study of the Code and Regulations. Each chapter contains an overview of the subject that is structured around an assignment to these primary authorities. The text differs considerably from the traditional casebook format. Critical passages of important cases or rulings generally are limited to excerpts in the overview, and edited opinions of seminal decisions appear on only a handful of occasions.

Each chapter closes with a set of sophisticated, practice-oriented problems that require students to identify and resolve issues that would be encountered in an estate planning practice.



# Acknowledgments

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