2016 SUPPLEMENT

TO

FEDERAL TAXATION OF ESTATES, TRUSTS, AND GIFTS

FOURTH EDITION

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CHAPTER 1: BACKGROUND

Page 15: Replace sentence in last paragraph beginning "For 2014," in third to last line with the following sentence:

For 2016, the exemption amount is $5,450,000. FN 56

FN 56: *See* Rev. Proc. 2015-53; 2015-44 IRB 615.

Page 17: In "Policies" section, add a new paragraph the following:

The IRS Data Book for 2015 reveals that estate and gift tax collections were approximately $20 Billion, which was only 0.6% of all taxes collected by the IRS in 2015.

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CHAPTER 1: BACKGROUND

Page 15: The Supplement includes important administrative and judicial developments since the manuscript for the Fourth Edition was submitted in the fall of 2013. In addition, 2015 legislative developments are included, specifically changes made by the Protecting Americans from Tax Hikes Act of 2015 (the "PATH Act") and the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, as well as the enactment of so-called ABLE legislation in late 2014. . In 2016, President Obama proposed some significant legislative changes, which are also included in the Supplement.

FN 56: *See* Rev. Proc. 2015-53; 2015-44 IRB 615.

The Appendix includes certain inflation-adjusted amounts for 2016 and valuation tables based on an interest rate of 2%, which is the rate used in the Problems and elsewhere in the Fourth Edition.[1] Because the applicable interest rate is determined monthly,[2] you can find the applicable valuation tables for rates other than 2% by using the following link: http://www.irs.gov/Retirement-Plans/Actuarial-Tables.

Page 17: In "Policies" section, add at end of 1st paragraph the following:

The IRS Data Book for 2015 reveals that estate and gift taxes were only 0.6% of all taxes collected by the IRS in 2015.

We wish to express our appreciation to Bryan Bessette, Albany Law School, Class of 2017 and Theresa Colbert, legal assistant at Albany Law School, for their invaluable assistance in preparing this Supplement.

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[1] For most Text Problems and Examples, the year 2016 can be used instead of the year 2014.

[2] For August 2016 the applicable rate was an incredibly low 1.4%. For convenience, the 1.4%, 1.6% and 1.8% rate tables for term certain and for life are reproduced in the Appendix.

CHAPTER 1: BACKGROUND

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The IRS Data Book for 2015 reveals that estate and gift tax collections were approximately $20 Billion, which was only 0.6% of all taxes collected by the IRS in 2015.

Page 34: The applicable credit amount in 2016 is $2,125,800 FN 54 applicable exclusion amount for 2015 is $5,450,000. In the fall of each year, the Service will issue a revenue procedure setting forth the inflation-adjusted amounts for the succeeding year.
For 2016, the exemption amount is $5,450,000. FN 56
Page 37: Replace FN 4 with the following:

FN 56 - See Rev. Proc. 2015-53; 2015-44 IRB 615.
In 2016, the gift tax annual exclusion remains at $14,000. *See* Rev. Proc. 2015-53; 2015-44 IRB 615.

Pages 38-39: For Problems 1-3, substitute 2016 for 2014 and 2017 for 2015.

Page 43: For Problem 1, substitute 2016 for 2014
Estate and gift tax collections were approximately $20 Billion, which was only 0.6% of all taxes collected by the IRS in 2015.
Page 44: For Problem 2, substitute 2016 for 2014 and 2017 for 2015.

Page 47: For Problem 1, substitute 2016 for 2014.

Page 48: Add Problem 3 as follows:

What would be the estate tax payable in Examples 1, 2 and 3 on Pages 45 and 46 if D died in 2016?

Page 55: In second paragraph under *Long term capital gains and losses*, the second line should read:

will be taxed at 20% for the wealthiest taxpayers and at 15% for most others. *See* § 1(h). There are many exceptions,

Pages 53-54: Rev. Proc.2015-53, which is set forth on Supplement Pages 31-36 provides the applicable inflation-adjusted amounts for the year 2016.

Page 57: Add before paragraph beginning "Because of the loss", the following two new paragraphs:

As part of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015, which was signed into law on July 31, 2015, §§ 1014(f) and 6035 and amendments to §§ 6662 and 6674 were enacted. Section 1014(f) imposes a consistency requirement: the basis of property under § 1014(a) for income tax purposes must equal the value of the property for estate tax purposes. Section 1014(f)(1) provides that this consistency requirement applies if the value of property is finally determined for estate tax purposes or absent such determination, the value of property provided under § 6035(a), which generally imposes reporting of value to the IRS and recipient beneficiaries when an estate tax return is required to be filed. § 1014(f)(2) limits the consistency requirement "to any property whose inclusion in the decedent's estate increased the liability for the tax imposed by chapter 11 (reduced by credits allowable against such tax) on such estate."

The reporting requirements will help ensure that the income tax basis for property used by beneficiaries will be the value for the property that was used for estate tax purposes. A penalty on executors (and others required to file an estate tax return) for failure to report as required to the Service is imposed. *See* § 6672, as amended. In addition, § 6662(b)(8) was added to provide a 20% accuracy-related penalty on the amount the understatement of tax results from "any inconsistent estate basis," which in turn is defined by § 6662(k)("if the basis of property claimed on a return exceeds the basis as determined under section 1014(f).").

CHAPTER 1: BACKGROUND

Page 15: Replace sentence in last paragraph beginning "On March 2, 2016, proposed regulations were issued following section 1014, 81 F.R. 11486-11496. These regulations have been heavily criticized (including "unduly burdensome" and "confusing") by many taxpayer organizations *See, e.g.,* Comments by Sections of the American Bar Association, in 2016 TNT 50-21 and 2016 TNT 125-20.

FN 56: *See* Rev. Proc. 2015-53; 2015-44 IRB 615.

Due to the complexity of the area, reporting requirements were delayed by a series of Notices; the latest Notice 2016-27, 2016-15 I.R.B 576 delayed reporting until June 30, 2016 for decedents dying after July 31, 2015.

Page 17: In "Policies" section, add at end of 1st paragraph the following:

Interestingly, President Obama also proposed consistency and reporting requirements for gifts where basis is determined under § 1015. *See* Text at Pages 795-796.

The IRS Data Book for 2015 reveals that estate and gift tax collections were approximately $20 Billion, which was only 0.6% of all taxes collected by the IRS in 2015.

Page 60: Add as Problem 5:

5. Should Congress act to repeal § 1014 and treat the decedent's death as a taxable event for income tax purposes? *See* Supplement Page 29-31(President Obama's proposal which is substantially to that effect).

Page 60: In the 5th to the last line, replace ($1,000 in 2014) with the following:

($1,050 in 2016).

Page 65: Replace the sentence in the first two lines with the following:

In 2016, trust income in excess of $12,400 was taxed at the top rate of 39.6%. FN 63

FN 63: *See* Rev. Proc.2015-53; 2015-44 IRB 615. Section 1411 imposes an additional 3.8% tax on excess net investment income.

Page 65: Under [2], replace the last sentence of the first paragraph with the following:

For example, in 2016 the maximum amount that could have been saved by having taxable income of $12,400 taxed at brackets below 39.6% was $ 1704.

CHAPTER 3: ESTATE TAXATION BASICS

Page 81: Add before paragraph beginning "Although", the following new paragraph:

The application of § 1014(b)(6) is unclear in two instances. First, many non-community property states have enacted the Uniform Disposition of Community Property Rights at Death. Under the Act, the rights of each spouse in property that was acquired (or became and remained) as community property in a community property jurisdiction (state or foreign country) are preserved on the death of the first spouse.[3] Should the surviving spouse therefor get a step-up (or step-down) in basis under § 1014(b)(6) based on the Act's preservation of community property rights?[4] The second area of uncertainty involves those non-community states (Alaska, Arkansas, South Dakota and Tennessee) that have enacted some form of opt-in community property legislation. Should the surviving spouse get a step-up (or step-down) basis for property in basis under § 1014(b)(6) if her state's opt-in community property system has been elected?

Page 96: Add after "$33 Million" in the 5th line:

On August 2, 2016, Proposed Regulations under § 2704, which are designed to curb various abuses, were issued. *See* Reg. 163113-02.

Add after first full paragraph, the following new paragraph:

Estate of Kessel v. Commissioner, T.C. 2014-97, raised the issue whether the knowledge of Bernie Madoff's Ponzi scheme, which finally came to light in 2008, would have been taken into account in valuing a Madoff account of an investor who died in 2006 because "some people had suspected years before Mr. Madoff's arrest that Madoff Investments' record of consistently high returns was simply too good to be true."

Page 98: The Tax Court's decision in *Elkins* was reversed in part by the 5th Circuit in 767 F.3d 443 (5th Cir. 2014) because the Service only argued that no discount should be allowed for co-owned works of art and thus failed to provide expert testimony on the amount of the discount for art works if a discount should be allowed. Because the taxpayer presented substantial evidence on the amount of the discount - 44.75%- the 5th Circuit accepted the taxpayer's expert testimony and rejected the Tax Court's use of a 10% discount. Based on *Elkins,* the Service will be expected to provide expert testimony on the amount of discounts for works of art in future cases.

Page 99: Add Problem 4 as follows:

4. To determine the estate tax value, is it appropriate to consider the price an asset sold for after the decedent died? *See Estate of Newberger. v. Commissioner*, T.C. Memo. 2015-246 (sale of Picasso painting for $12 Million at auction several months after decedent died should be taken into account).

Page 102: Although the Tax Court's decision in *Elkins* was reversed in part by the 5th Circuit in 767 F.3d 443 (5th Cir. 2014), the Tax Court's opinion that disregarded restrictions based on § 2703(a)(2) was not part of the appellate decision.

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[3] The Act also applies to property that was substituted for property that was once community property in a community property jurisdiction.

[4] Even if a state has not enacted the Uniform Act, the preservation of community property rights at death may still be required.

Page 115: The totals should read:

Date of Death	*Six Months After Date of Death*
$6,600,000	$6,520,000

Page 127: The Tax Court's decision in *Estate of Saunders v. Commissioner,* was affirmed by the 9th Circuit in *Riegels v. Commissioner*, 745 F.3d 953 (9th Cir. 2014).

Pages 137-138: Delete the paragraph beginning with "Windsor leaves" on the bottom of Page 137.

Page 138: After the sentence beginning "Issues 1 and 2", add the following paragraph:

Because the *Windsor* decision "only" determined that, for federal purposes, same-sex marriages must be treated on an equal footing with opposite-sex marriages, two issues involving state recognition of same-sex marriages remained for decision: (1) Can a state bar same-sex marriages? and (2) Can a state refuse to recognize lawful same-sex marriages performed in another state?

On June 25, 2015, the Supreme Court in *Obergefell v. Hodges*, 2015 U.S. LEXIS 4250 (2015), a 5-4 decision, answered both questions in the negative. As Justice Kennedy, who wrote the majority opinion, stated:

> The Court, in this decision, holds same-sex couples may exercise the fundamental right to marry in all States. It follows that the Court also must hold—and it now does hold—that there is no lawful basis for a State to refuse to recognize a lawful same-sex marriage performed in another State on the ground of its same-sex character.

Prop. Reg. § 301.7701-18 would change the definitions for "spouse," "husband," and "wife" to reflect the reality that same-sex marriages and opposite-sex marriages are treated in the same way for tax purposes.

Page 163:

[b] Portability Issues

Delete the first sentence and replace it with the following sentence:

The simplicity of the portability concept is belied by its technical statutes and complex final regulations, which were issued and became effective on June 12, 2015. FN 72. *See generally* Richard S. Kinyon & Robin L. Klomparens, *Problems with Portability and Proposed Solutions*, 148 TAX NOTES 881 (2015).

Delete the text of FN 72 and add the following as the text for FN 72:

FN 72. T.D. 9725, 80 Fed. Reg. 34279-34292 (June 16, 2015). The estate tax regulations may be found under Treas. Reg. §§ 20.2001-2 and 20.2010-0 through 2010-3; the gift tax regulations may be found under Treas. Reg. § 2505-0 through 2010-2. Earlier temporary regulations, which were replaced by T.D. 9725, will apply before June 12, 2015.

Page 164:

References in footnotes 74, 75, 77 and 78 should be to the final 2015 regulations, *i.e*. reference should be to Reg. (not Temp. Reg.) and citations should be to regulation sections, *i.e*. the reference to "T" should be dropped.

Footnote 76 should include the following new sentence at the end:

For the most part, the final regulations adopt the rules provided in the temporary regulations.

Page 180: After sentence "Outright devises . . .lessen the estate tax.", add FN 109A as follows:

109A Although the amount of the charitable deduction for the interest passing to a qualifying charitable organization will almost always be the value of the interest that is included in the gross estate, in unusual cases the charitable deduction amount may be less. *See Estate of Dieringer. v. Commissioner,* 146 T.C. No. 8 (2016) (charitable deduction not allowed for value of majority stock interest at death when interest was redeemed after death based on valuation as a minority interest).

Page 190: Replace the **CRAT Example** with the following:

> **CRAT Example:** Decedent created a trust that had an estate tax value of $300,000. At the time of decedent's death, the annuitant, age 77, was entitled to receive an annuity of $15,000 a year for life payable at the end of each year from the trust, with remainder to a qualifying charitable organization. The applicable section 7520 rate was 2.0%.[5] The remainder factor at 2.0% for an individual aged 77 is 0.83515. By converting the remainder factor to an annuity factor,[6] the annuity factor at 2% for an individual aged 77 is 8.6643 (1.00000 minus 0.83515), divided by 0.02). The aggregate annual amount, $15,000, is multiplied by the factor 8.6643. The present value of the annuity at the date of the decedent's death was therefore $129,965 ($15,000 × 8.6643).

Page 191: Add as a new paragraph before the paragraph beginning "The unitrust must":

Like the CRAT, the value of the charitable remainder interest in a CRUT must equal at least 10% on the date of contribution. *See* § 664(d)(2)(D). In *Estate of Schaefer v. Commissioner,* 115 T.C. No. 4 (July 28, 2015), the Tax Court determined that the 10% threshold was not met in a NIM-CRUT because the unitrust rate must be used for valuation purposes under § 664(e). Pursuant to the PATH Act of 2015, the unitrust rate must be used to value the charitable remainder interest for valuation even if the CRUT is in NIM-CRUT or NI-CRUT form. § 664(e).

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[5] Assume that the 2.0% rate was the most favorable § 7520 rate by comparing the rate the month that the testator died with the rate that was in force in the 2 months before the testator died. *See* Treas. Reg. §1.7520-2.
[6] *See* Treas. Reg. § 20.2031-7(d)(2)(iv).

Pages 201- 203: Replace sub-sections **[4]** and **[5]** with the following:

[4] Continuing Significance of the Repealed Section 2011 Credit for State Death Tax Purposes

Notwithstanding its repeal, § 2011 has relevance today since some states continue to impose state death taxation based on § 2011. FN 132.

FN 132: These states include Hawaii, Illinois, Maryland, and Massachusetts. New York also used the § 2011 credit as a basis for taxation for decedents dying before April 1, 2014.

Massachusetts is a good example as it imposes a state estate tax based on the § 2011 credit before it was changed beginning by ERTA. Specifically, Massachusetts Estate Tax Law imposes an estate tax on Massachusetts residents who have no out-of-state property as follows: "A tax is hereby imposed upon the transfer of the estate of each person dying on or after January 1, 1997 who, at the time of death, was a resident of the commonwealth. The amount of the tax shall be the sum equal to the amount by which the credit for state death taxes that would have been allowable to a decedent's estate as computed under Code section 2011, as in effect on December 31, 2000. FN 133.

FN 133: Mass. Stat, ch. 65C § 2A.

In effect, Massachusetts imposes a tax equal to the maximum credit that was allowable under § 2011 when § 2011was in full force and effect as a credit for federal estate tax purposes. FN 134

FN 134: States vary as to the threshold amount after which tax will be imposed. While Massachusetts provides a $1 Million threshold, New Jersey's threshold only exempts $675,000; Hawaii's tracks the federal exemption level. Some states, including Maine, New York, Oregon and Washington have separate estate tax systems, i.e., the § 2011 credit is not used to determine the tax. Pennsylvania only has an inheritance tax.

On the other hand, well over half of the states impose a state death tax equal to the credit that is currently allowable under federal law. FN 135

FN 135: These states include California, Florida, Georgia, Michigan and Texas.

Because no credit is currently allowed under § 2011, as it was repealed for decedents dying after 2004, no state death tax is imposed by these states.

[5] Illustration of How the Repealed Section 2011 Credit Determines the Amount of State Death Tax Imposed

Massachusetts estate taxation provides a good example of how state death taxes may be payable by small and modest estates even though no federal estate tax is payable.

> **Example:** The decedent died unmarried in 2016. She was a domiciliary of Massachusetts. The decedent's federal taxable estate was $1.1 million; no adjusted taxable gifts were made. Although no federal estate tax is payable, Massachusetts estate of $38,800 will be imposed.

The tax of $38,800 is determined by applying § 2011. In turn, the lesser of two calculated amounts will control, that, is the lesser of the two calculated amounts is the credit that would have been allowed under § 2011 and is therefore the estate tax that Massachusetts imposes. The first calculation is

under § 2011(b), which determines the tax based on a table that relies on "the adjusted taxable estate," which is the federal taxable estate (before the current § 2058 deduction) reduced by $60,000. Thus, in the example, the adjusted taxable estate is $1,040,000 and the tax thereon is $38,800.

The second calculation may only limit the amount determined under § 2011(b), This calculation, which is found in § 2011(e), is determined by first calculating what would have been the federal estate tax imposed on the sum of the federal estate tax (before the current 2058 deduction) and adjusted taxable gifts. FN 136

FN 136: States like Massachusetts require use of an earlier tax rate schedule than is provided by the current version of 2001(c). Specifically, Massachusetts effectively requires use of the § 2001(c) schedule that was in effect at the end of 2000.

In our example, the federal estate tax on $1.1 Million would have been $386,800, based on the 2000 rate schedule under § 2001(c). The next step is to subtract the unified credit that would have been allowable had the exemption level been $1 Million FN 137; that credit amount is $345,800. The difference between $386,800 and $345,800 is $41,000. Because $41,000 is greater than the calculated § 2011(b) amount of $38,800, the maximum credit allowable under § 2011 is the lesser amount of $38,800.

FN 137: Massachusetts limits the credit to $345,800 based on an exclusion amount of $1 Million, Other states may be more generous. For example, the credit in Delaware and Hawaii is based on the annually adjusted federal amount. The Illinois credit is based on a $4 Million exclusion amount; in Connecticut and Maine the exclusion amount is $2 Million. On the other hand, New Jersey allows a credit based on an exclusion amount of $675,000.

Massachusetts estate tax will not be payable if the § 2011(e) calculation is zero. Consider the following example:

> **Example:** The decedent dies unmarried in 2016. She was a domiciliary of Massachusetts. The decedent's federal taxable estate is $1 million; no adjusted taxable gifts were made. Of course, no federal estate tax is payable. Nor will Massachusetts estate tax be payable because the amount determined under § 2011(e) would be zero (tax on $1 Million of $345,800, less a unified credit of $345,800.).

The Massachusetts estate tax can be minimized or eliminated by making adjusted taxable gifts. Here's an extreme example of how Massachusetts estate tax can be eliminated.

> **Example:** The decedent died unmarried in 2016. She was a domiciliary of New York. Absent death bed planning, the decedent's federal taxable estate would have been $5 Million; assume no adjusted taxable gifts were made. Although no federal estate tax was payable, Massachusetts estate tax of $391,600 would have been payable.

Shortly before death but in 2016, the decedent, or her agent under a durable power of attorney with gift making authority, made a gift of $4,900,000 for which no § 2503(b) exclusion was allowable to the persons who would have taken under the decedent's will. Because the decedent's taxable estate has been reduced to $100,000, no Massachusetts estate tax is payable since the § 2011(b) amount is zero. FN 138

FN 138: The § 2011(e) amount, which will be significant because adjusted taxable gifts are taken into account, is not relevant because it only serves to limit the credit determined under § 2011(b).

PROBLEM

Do you see why Massachusetts estate taxes can be eliminated by lifetime gifting? How could Massachusetts prevent such opportunistic planning? Could Massachusetts estate taxes be reduced or even eliminated by re-domiciling to a state that does not impose a death tax?

Page 207: In the **Example,** the first line should read:

The decedent, a United States citizen, died in 2014, owning real . . .

CHAPTER 4: GIFT TAXATION BASICS

Page 215: In the 3d to the last line in the last paragraph, delete "*See, e.g.,* 10 T.C. 916, *acq.* 1949-1 C.B. 1" and insert in lieu thereof:

See, e.g., Estate of Redstone v. Commissioner, 145 T.C. No. 11 (2015) (Edward Redstone did not make gifts by transferring property in trust for his children because the transfers fell within bad business exception; source of consideration not relevant). *But cf.* Redstone v. Commissioner, T.C. Memo. 2015-237 (Sumner Redstone made gifts in 1972 by transferring property in trust for his children; unlike transfers by his brother Edward, these transfers were not made in the ordinary course of business; statute of limitations not applicable because no gift tax return was filed)

Page 235: Before sentence starting "Nonetheless," in 1st line, add as follows:

Where a trust owns a minority interest in a corporation, a sale back by another shareholder to the corporation for below market value will be an indirect gift to the other shareholders and for the stock interest that was in trust the beneficiary is the donee, not the trust, which resulted in donee liability under § 6324(b). *United States v. Marshall*, 798 F.3d 296 (5th Cir. August 19, 2015), *withdrawing* 771 F.3d 854 (5th Cir. November 10, 2014)

Page 253

Before the paragraph beginning "A properly drafted", add the following new paragraph:

Mikel v. Commissioner, T.C. Memo 2015-64, illustrates how *Crummey* demand powers can be used to minimize taxable gifts. Husband and Wife created a trust over which 60 beneficiaries were given the legally enforceable right to demand $24,000 for up to 30 days; proper notification was required. The Service claimed that the demand rights were illusory because as a practical matter the beneficiaries would not contest the trustee's wrongful refusal to distribute as a forfeiture clause would apply. The court, however, disagreed that the forfeiture provision would apply. The bottom line: each spouse was entitled to gift tax annual exclusions of $720,000.

After the paragraph ending with "*see* Pages 610-613", add the following:

QUESTION

Mikel v. Commissioner illustrates how effective *Crummey* demand powers can be. President Obama has proposed limiting the annual exclusion for *Crummey* demand powers to an annual amount of $50,000. *See* Supplement Pages 27-28. Do you agree with this proposal?

Page 260: In the 3rd line from the bottom of the page, change $56,000 to $42,000.

Page 262: After the 2d line, add as follows:

[d] ABLE Accounts: Section 529A

In late December 2014, Congress enacted 529A, which is entitled Qualified ABLE Programs. Patterned after § 529, § 529A is a tax-favored savings program for achieving a better life experience (ABLE) by blind or otherwise disabled individuals. Specifically, a qualified ABLE program is one created by a state to allow for the creation of a state-administered ABLE account for a designated

beneficiary.[7] Extensive proposed regulations were issued on June 22, 2015. *See* REG 102837-15, 80 F.R. 35602.

An ABLE account is an account created by or on behalf of a designated beneficiary that meets all of the requirements of § 529A. In turn, a designated beneficiary must be an eligible individual, that is a person who is blind or otherwise disabled based on various criteria but only if the disabling condition began before the individual was 26 years old.

Contributions to an ABLE account must be in cash. The annual amount that may be contributed to an ABLE savings account is the gift tax exclusion amount for the year. For example, in 2016 a total of $14,000 may be contributed by the account owner or others to the ABLE savings account. Also, there may be only one ABLE savings account for a designated beneficiary. The funds in the ABLE account can be used to pay qualifying disability expenses of the designated beneficiary.

There are several tax benefits which are mostly favorable. First, gains and other income earned in the ABLE account are exempt from income tax, thus allowing a tax-free buildup of the account. Second, the cash contribution is treated as a gift of a present interest for both gift and GST-tax purposes, thus allowing the contributor to exclude the contribution under the gift or GST-tax annual exclusions.[8] Third, distributions for qualified disability expenses are not included in gross income of the qualified beneficiary. One negative tax result is that the amount in the ABLE account on the death of the designated beneficiary is included in the gross estate of the designated beneficiary. *See* Prop. Reg. § 1.529A-4(d).

ABLE accounts are designed to provide supplemental benefits for a blind or otherwise disabled eligible individual. As a result, neither ABLE accounts nor qualified distributions will be taken into account to determine a des by/s entitlement to governmental benefits.[9]

Several states have already enacted qualified ABLE programs pursuant to 529A. A listing is provided in http://www.thearc.org/what-we-do/public-policy/policy-issues/able-legislation-by-state. *See, e.g*, N.Y. MENTAL HYGIENE LAW art. 84 (effective April 1, 2016 for implementation by the State Comptroller).

Page 275: Add as new paragraph to **"[b] Transfer to Political Organizations: Section 2501(a)** as follows:

The PATH Act of 2015 provides that the gift tax does not apply to the transfer of money or other property, made after December 18, 2015, to organizations tax exempt under §§ 501(c)(4), § 501(c)(5), or Code § 501(c)(6). § 2501(a)(6). No inference is to be drawn that a transfer to any such organization would have constituted a transfer for gift tax purposes. PATH Act § 408(c).

Page 287: Under "CONCLUSION" delete first reference to 16.915 Present Interest in AVLP

After last line on the page, add as follows:

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[7] As a result of the PATH Act of 2015, a designated beneficiary need not be a resident of the state that offers an ABLE Account.

[8] Of course, if the designated beneficiary contributes cash to his or her ABLE account, no gift results.

[9] ABLE accounts in excess of $100,000 and distributions for qualified disability expenses may be taken into account for SSI, but not Medicaid, purposes.

On August 2, 2016, Treasury issued revisions to Reg. § 25.2704-2 to curb this abuse. *See* Proposed Reg. 163113-02.

Page 291: In footnote 32, add before *Wimmer* cite:

Estate of Purdue v. Commissioner, 145 T.C. Memo. 2015-249 and

Page 303: After sentence ending "revenue rulings." And before "Alternatively", add *See* FSA 20152201F (no adequate disclosure when method for valuation not disclosed)

[2] Portability

Footnote 43 should read: *See* § 25.2505-2(b).

PAGE 304: Replace the **PROBLEM** as follows:

Husband 1 (H1) dies in 2011, survived by Wife (W). Neither has made any taxable gifts during H1's lifetime. H1's executor elects portability of H1's deceased spousal unused exclusion (DSUE) amount. The DSUE amount of H1 as computed on the estate tax return filed on behalf of H1's estate is $5,000,000. In 2012, W makes taxable gifts to her children valued at $2,000,000. W reports the gifts on a timely filed gift tax return. W is considered to have applied $2,000,000 of H1's DSUE amount to the 2012 taxable gifts, in accordance with [Treas. Reg. § 25.2505-2(b)] and, therefore, W owes no gift tax. W is considered to have an applicable exclusion amount remaining in the amount of $8,120,000 ($3,000,000 of H1's remaining DSUE amount plus W's own $5,120,000 basic exclusion amount). In 2013, W marries Husband 2 (H2). H2 dies on June 30, 2016. H2's executor elects portability of H2's DSUE amount, which is properly computed on H2's estate tax return to be $2,000,000.

What is the DSUE amount for making gifts in 2016 after June 30, 2016? *See* Treas. Reg. §25.2505-2(c) (Example).

If W died on December 12, 2016 without making any gifts after June 30, 2016, what would be the DSUE amount for estate tax purposes? *See* Treas. Reg. §25.2010-3(c)(2) (Example).

CHAPTER 5: GENERATION-SKIPPING TRANSFER TAX BASICS

Page 307: Immediately before **§ 5.02**, delete the last sentence and add as follows:

The GST exemption is $5,450,000 in 2016. In 2017 and years thereafter, the GST exemption will be $5 Million as indexed for inflation.

Page 319: In the 5th line, add the following sentence after "in 2014."

The GST exemption is $5,450,000 in 2016.

CHAPTER 6: TRANSFERS NEAR DEATH

Page 341: Add at the end of the paragraph beginning "The effect of the potential", the following:

In *Steinberg v. Commissioner*, 145 T.C. No. 7 (2015), the Tax Court determined the value for the consideration to pay the potential estate tax liability on the § 2035(b) gross-up and in effect allowed a net, net gift.

CHAPTER 7: RETAINED INTERESTS

Page 388: Add after last paragraph:

Estate of Purdue v. Commissioner, 145 T.C. Memo. 2015-249, explains the analysis to be used.

> In the context of family limited partnerships, the bona fide sale for adequate and full consideration exception is met where the record establishes the existence of a legitimate and significant nontax reason for creating the family limited partnership and the transferors received partnership interests proportional to the value of the property transferred. *Id.* at 118; *see, e.g., Estate of Mirowski v. Commissioner,* T.C. Memo. 2008–74 (applying *Estate of Bongard* [124 T.C. 94 [2005] in the context of an LLC). The objective evidence must indicate that the nontax reason was a significant factor that motivated the partnership's creation. *Estate of* Bongard *v. Commissioner,* 124 T.C. at 118. A significant purpose must be an actual motivation, not a theoretical justification. *Id.* A list of factors to be considered when deciding whether a nontax reason existed includes: (1) the taxpayer's standing on both sides of the transaction; (2) the taxpayer's financial dependence on distributions from the partnership; (3) the taxpayer's commingling of partnership funds with the taxpayer's own; (4) the taxpayer's actual failure to transfer the property to the partnership; (5) discounting the value of the partnership interests relative to the value of the property contributed; and (6) the taxpayer's old age or poor health when the partnership was formed. *Id.* at 118–119;

The Tax Court concluded in *Estate of Purdue v. Commissioner* that the taxpayer had objective nontax reasons, as opposed to merely theoretical reasons, to form the LLC in issue so that § 2036(a)(1) did not apply. *But see Estate of Holliday. v. Commissioner*, T.C. Memo. 2016-51 (§ 2036(a)(1) applied because agreement implied and no bona sale occurred because there was no legitimate and significant nontax reason for transferring marketable securities to FLP).

CHAPTER 9: RETENTION OF POWERS OTHER THAN THE POWER TO REVOKE

Page 469: Add before **ESTATE OF GOODWYN v. COMMISSIONER**:

In a series of Private Letter Rulings the IRS has confirmed its favorable approach to Incomplete Gift Non-grantor (*Ding/Ning/Ing*) Trusts. See Private Letter Rulings 201430003 through 201430007, 201510001 through 201510008, and 201550005 through 201550010, 201550012. In 2014 New York responded by enacting legislation which subjects the grantor to New York income tax on the income of such trusts "[i]n the case of a taxpayer who transferred property to an incomplete gift non-grantor trust, …to the extent such income and deductions of such trust would be taken into account in computing the taxpayer's federal taxable income if such trust in its entirety were treated as a grantor trust for federal tax purposes. For purposes of this paragraph, an "incomplete gift non-grantor trust" means a resident trust that meets the following conditions: (i) the trust does not qualify as a grantor trust under section six hundred seventy-one through six hundred seventy-nine of the internal revenue code, and (2) the grantor's transfer of assets to the trust is treated as an incomplete gift under section twenty-five hundred eleven of the internal revenue code, and the regulations thereunder." N.Y. Tax Law 612(b)(41). *Compare* Jeffrey Schoenblum, *Strange Bedfellows: The Federal Constitution, Out-Of-State Nongrantor Accumulation Trusts, And The Complete Avoidance Of State Income Taxation,* 67 VAND. L. REV. 1945 (2014)(discussing, *inter alia*, the constitutionality of the New York statute*) with* Alyssa A. DiRusso, *Pro And Con (Law): Considering The Irrevocable Nongrantor Trust Technique*, 67 VAND. L. REV. 1999 (2014) (responding to Professor Schoenblum).

In a related development, the North Carolina Court of Appeals has held unconstitutional that state's attempt to tax to the trust the accumulated trust income where it was conceded that the only "connection between the…Trust and North Carolina…is the residence of the beneficiaries." *Kaestner Family Trust v. North Carolina Dept. Of Revenue*, 2016 WL 3585978 1880607 (July 5, 2016).

Note, on the other hand, that the New York approach is to tax the trust income (accumulated or distributed) to the grantor rather than to the trust or beneficiaries, presumably on the theory that the powers of the grantor that render the trust an incomplete gift for federal gift tax purposes are constitutionally sufficient to warrant taxing the grantor on the trust income, whether it is accumulated or distributed to the beneficiaries. Note also that state taxing authorities could, alternatively, take the position that they are not bound by the federal PLRs as to whether the trusts are grantor trusts for federal income tax purposes (a kind of state-*Bosch* approach). *See* the treatment of *Commissioner v. Estate of Bosch*, 387 U.S. 456 (1967) at Text Pages 25-31.

Page 473: Insert before the **PROBLEMS**, the following:

For a discussion of the impact of "trust protectors" (unrelated, but loyal, to the grantor) on the "independent" trustee exception of § 674(c), see *SEC v. Wyly*, 56 F. Supp. 3d 494 (S.D.N.Y. 2014).

CHAPTER 10: LIFE INSURANCE

Page 503: After the sentence ending "gift tax consequences", add FN 2A as follows:

2A Gift tax consequences can arise on the payment of premiums when a person is or is treated as the owner of a policy under a split-dollar arrangement. Gift tax consequences can be determined under either an economic benefit regime or a loan regime. In *Estate of Morrissette. v. Commissioner*, 146 T.C. No. 11 (2016), the Tax Court held that a split-dollar arrangement was subject to gift taxation under the economic benefit regime provided under Treas. Reg. 1.61-22. This result obtained because the donor was treated as the owner of life insurance policies even the policies were not actually owned by the donor because the donees received no economic benefits other than current life insurance protection.

CHAPTER 11: ANNUITIES AND OTHER RETIREMENT ARRANGEMENTS

Page 556: In the paragraph beginning "The Pension Protection Act", the second sentence should read:

Based on indexing for inflation, the limitation for 2016 is $18,000, and will thereafter be adjusted for inflation in $500 increments. FN 5

FN 5: *See* § 402(g)(2). Pursuant to § 414(v)(2)(B)(i), employees age 50 or older may be allowed to make additional annual catch-up contributions—$24,000 in 2016—if the employer establishes catch-up contributions as a plan feature.

Page 557: Add as new sentence at the end of the first paragraph in footnote 6:

For 2016, the defined contribution limit is $53,000.

Add as new sentence at the end of the second paragraph in footnote 6:

For 2016, the defined benefit limit is $210,000.

Page 558: The fourth full sentence should read:

The amount in 2016 is $5,500.

The last three sentences in the first full paragraph should read:

Based on inflation adjustments, the applicable deduction amount for 2016 is follows: The deduction will be disallowed entirely if an unmarried, active participant's modified AGI is $71,000 or more, and $118,000 or more if a joint return is filed. If the individual is not an active participant but his or her spouse is, then the IRA deduction will be disallowed if the couple's modified AGI exceeds $194,000 or more.

Page 561: In the last paragraph on Page 561, add FN 11A after § 403(b) as follows:

FN 11A. Rollovers into SIMPLE IRAs were authorized by the he PATH Act of 2015.

Page 563: Replace the Example with the following and add footnote 13A:

Alice, who owned an IRA, turned 70½ during 2008. As a result, her first MRD was required no later than April 1, 2009. In 2016, she will mark her 78th birthday. The MRD for 2016 will be the value in the account on December 31, 2015 divided by 20.3, which is the life expectancy factor for a person age 78 under the Uniform Distribution Table. Assuming the account balance on December 31, 2013 was $203,000, Alice must receive a MRD of $10,000 ($203,000/20.3) in 2016. FN 13A.

FN 13A: Instead of receiving a distribution of $10,000, Alice could have authorized the IRA custodian to transfer $10,000 to a qualified charity as the PATH Act of 2015 made permanent the earlier rule that up to $100,000 may be directly transferred to a qualified charity and treated as if the IRA owner, if over 701/2, received the distribution. *See* § 408(d)(8).

CHAPTER 14: INCOME TAXATION OF ESTATES, TRUSTS, AND BENEFICIARIES

Page 675: At end of paragraph beginning "A positive consequence", add the following:

See analysis of relationship of deductions in respect of a decedent to § 642(g), in *Batchelor-Robjohns* v. U.S., 788 F3d 1280 (11 Cir. 2015), discussed on Supplement Page 20.

Pages 690-692: Replace the text at the end of Page 690 beginning with "Under the proposed regulations" and the text of the proposed regulations on Pages 690-692, with the following:

Final regulations, effective on July 17, 2014 and applicable to taxable years beginning in 2015, provide as follows:

§ 1.67–4 Costs paid or incurred by estates or non-grantor trusts.

(b) "Commonly" or "Customarily" Incurred—

(1) In general. In analyzing a cost to determine whether it commonly or customarily would be incurred by a hypothetical individual owning the same property, it is the type of product or service rendered to the estate or non-grantor trust in exchange for the cost, rather than the description of the cost of that product or service, that is determinative. In addition to the types of costs described as commonly or customarily incurred by individuals in paragraphs (b)(2), (3), (4), and (5) of this section, costs that are incurred commonly or customarily by individuals also include, for example, costs incurred in defense of a claim against the estate, the decedent, or the non-grantor trust that are unrelated to the existence, validity, or administration of the estate or trust.

(2) Ownership costs. Ownership costs are costs that are chargeable to or incurred by an owner of property simply by reason of being the owner of the property. Thus, for purposes of section 67(e), ownership costs are commonly or customarily incurred by a hypothetical individual owner of such property. Such ownership costs include, but are not limited to, partnership costs deemed to be passed through to and reportable by a partner if these costs are defined as miscellaneous itemized deductions pursuant to section 67(b), condominium fees, insurance premiums, maintenance and lawn services, and automobile registration and insurance costs. Other expenses incurred merely by reason of the ownership of property may be fully deductible under other provisions of the Code, such as sections 62(a)(4), 162, or 164(a), which would not be miscellaneous itemized deductions subject to section 67(e).

(3) Tax preparation fees. Costs relating to all estate and generation-skipping transfer tax returns, fiduciary income tax returns, and the decedent's final individual income tax returns are not subject to the 2-percent floor. The costs of preparing all other tax returns (for example, gift tax returns) are costs commonly and customarily incurred by individuals and thus are subject to the 2-percent floor.

(4) Investment advisory fees. Fees for investment advice (including any related services that would be provided to any individual investor as part of an investment advisory fee) are incurred commonly or customarily by a hypothetical individual investor and therefore are subject to the 2-percent floor. However, certain incremental costs of investment advice beyond the amount that normally would be charged to an individual investor are not subject to the 2-percent floor. For this purpose, such an incremental cost is a special, additional charge that is added solely because the investment advice is rendered to a trust or estate rather than to an individual or attributable to an unusual investment objective or the need for a specialized balancing of the interests of various parties (beyond the usual balancing of the varying interests of current beneficiaries and remaindermen) such that a reasonable comparison with individual investors would be improper. The portion of the investment advisory fees

not subject to the 2-percent floor by reason of the preceding sentence is limited to the amount of those fees, if any, that exceeds the fees normally charged to an individual investor.

(5) Appraisal fees. Appraisal fees incurred by an estate or a non-grantor trust to determine the fair market value of assets as of the decedent's date of death (or the alternate valuation date), to determine value for purposes of making distributions, or as otherwise required to properly prepare the estate's or trust's tax returns, or a generation-skipping transfer tax return, are not incurred commonly or customarily by an individual and thus are not subject to the 2-percent floor. The cost of appraisals for other purposes (for example, insurance) is commonly or customarily incurred by individuals and is subject to the 2-percent floor.

(6) Certain Fiduciary Expenses. Certain other fiduciary expenses are not commonly or customarily incurred by individuals, and thus are not subject to the 2-percent floor. Such expenses include without limitation the following: Probate court fees and costs; fiduciary bond premiums; legal publication costs of notices to creditors or heirs; the cost of certified copies of the decedent's death certificate; and costs related to fiduciary accounts.

(c) Bundled fees—

(1) In general. If an estate or a non-grantor trust pays a single fee, commission, or other expense (such as a fiduciary's commission, attorney's fee, or accountant's fee) for both costs that are subject to the 2-percent floor and costs (in more than a de minimis amount) that are not, then, except to the extent provided otherwise by guidance published in the Internal Revenue Bulletin, the single fee, commission, or other expense (bundled fee) must be allocated, for purposes of computing the adjusted gross income of the estate or non-grantor trust in compliance with section 67(e), between the costs that are subject to the 2-percent floor and those that are not.

(2) Exception. If a bundled fee is not computed on an hourly basis, only the portion of that fee that is attributable to investment advice is subject to the 2-percent floor; the remaining portion is not subject to that floor.

(3) Expenses Not Subject to Allocation. Out-of-pocket expenses billed to the estate or non-grantor trust are treated as separate from the bundled fee. In addition, payments made from the bundled fee to third parties that would have been subject to the 2-percent floor if they had been paid directly by the estate or non-grantor trust are subject to the 2-percent floor, as are any fees or expenses separately assessed by the fiduciary or other payee of the bundled fee (in addition to the usual or basic bundled fee) for services rendered to the estate or non-grantor trust that are commonly or customarily incurred by an individual.

(4) Reasonable Method. Any reasonable method may be used to allocate a bundled fee between those costs that are subject to the 2-percent floor and those costs that are not, including without limitation the allocation of a portion of a fiduciary commission that is a bundled fee to investment advice. Facts that may be considered in determining whether an allocation is reasonable include, but are not limited to, the percentage of the value of the corpus subject to investment advice, whether a third party advisor would have charged a comparable fee for similar advisory services, and the amount of the fiduciary's attention to the trust or estate that is devoted to investment advice as compared to dealings with beneficiaries and distribution decisions and other fiduciary functions. The reasonable method standard does not apply to determine the portion of the bundled fee attributable to payments made to third parties for expenses subject to the 2-percent floor or to any other separately assessed expense commonly or customarily incurred by an individual, because those payments and expenses are readily identifiable without any discretion on the part of the fiduciary or return preparer.

Page 696: After the sentence beginning "Besides permitting", add as follows:

In *Estate of Belmont v. Commissioner*, 144 T.C. No. 6 (Feb. 19, 2015) and *Estate of DiMarco v. Commissioner*, T.C. Memo 2015-184., a charitable deduction was denied because under the facts there was more than a negligible chance that the amount set aside for charity would not be so devoted, thus violating Treas. Reg. § 1.642(c)-2(d).

Page 697: At end of first paragraph (ending with "final return."), add as new paragraphs the following:

In *Batchelor-Robjohns* v. U.S., 788 F3d 1280 (11 Cir. 2015) the taxpayer sold stock in a corporation for a substantial capital gain which he reported on his 1999 income tax return. Thereafter the taxpayer was sued for repayment of some of the purchase price of the stock on various grounds. Before the repayment suits were completed, the taxpayer died. After his death his estate settled the repayment cases and, in 2005, paid back some of the proceeds of the capital gain that had been reported previously by the taxpayer on his 1999 income tax return. The estate deducted the settlement payments as a debt on the 706 form for estate tax purposes under §2053. Thereafter the estate attempted to use §1341 to reduce its 2005 income tax. That section provides relief for a taxpayer who has, under a claim of right (but erroneously as it turns out), included in income amounts received in an earlier year, and then, in a later year, repays such amounts. It applies, however, only if there would be a "deduction…allowable" in the later year for the amounts repaid.

In *Batchelor-Robjohns* the Eleventh Circuit Court of Appeals held that §642(g) prevented the estate from using §1341 because it had deducted the payments on the estate tax under§ 2053, which thus precluded a "deduction" from being "allowable" in 2005. The Court also held that the §642(g) exception for §691(b) deductions in respect of a decedent did not apply because §691(b) lists as deductions in respect of a decedent only those deductions allowable under §§ 162, 153, 164, 212, and 611, whereas the repayments by the estate in 2005 were properly characterized as (capital) losses (§165).

Page 724: Insert at the end of footnote 33:

But see Frank Aragona Trust v. Commissioner, 142 T.C. 165 (2014) (holding that even if (contrary to *Mattie Carter*) the activities of non-trustee employees should be disregarded, which the Court did not decide, the activities of trustee employees cannot be disregarded.) *See generally,* Mark Berkowitz and Jessica Duran, *100 is the New 500-Palnning for the NII Tax*, 146 TAX NOTES 1625 (2015).

In the text after the "PROBLEM", replace ($11,950.00 in 2013) with ($12,500 in 2016).

Add thereafter:

Final regulations under § 1411 were issued in December of 2013. *See T.D. 9644,* 78 Fed. Reg. 72394-72449.

Page 781: Add before paragraph beginning "When the income", the following new paragraph:

On August 12, 2105, final regulations, which adopted proposed 2014 regulations, were issued to close a loophole that had been exploited by taxpayers. Specifically, a taxpayer had been able to use a stepped-up basis to determine gain on sale or other disposition of a term interest in CRTs when the charitable interest was also sold or disposed of. Treasury Regulation Section 1.1014-5(c), which is generally applicable to sales and other dispositions of interests in CRTs occurring after January 15, 2014, closes this loophole.

CHAPTER 15: PERSPECTIVES ON THE CURRENT WEALTH TRANSFER TAX SYSTEM

Page 793: Add at the end of part IV:

Recent articles include:

Karen C. Burke & Grayson M.P. McCouch, *The Moving Target of Tax Reform*, 93 N. CAROLINA L. REV. 649 (2015).

Wendy C. Gerzog, *What's Wrong with A Federal Inheritance Tax?*, 49 REAL PROP. TR. & EST. L.J. 163 (2014).

Page 794: Add after "**President Obama's Reform Proposals":**

On January 17, 2015, the White House, in advance of President Obama's State of the Union Address on January 20, 2015, released a FACT SHEET, entitled "A Simpler, Fairer Tax Code That Responsibly Invests in Middle Class Families," which provided in part as follows:

> Middle class families today bear too much of the tax burden because of unfair loopholes that are only available to the wealthy and big corporations. In his State of the Union address, the President will outline his plan to simplify our complex tax code for individuals, make it fairer by eliminating some of the biggest loopholes, and use the savings to responsibly pay for the investments we need to help middle class families get ahead and grow the economy.
>
> The President will put forward reforms that include eliminating the biggest loophole that lets the wealthiest avoid paying their fair share of taxes:
>
> - **Close the trust fund loophole—the single largest capital gains tax loophole—to ensure the wealthiest Americans pay their fair share on inherited assets**. Hundreds of billions of dollars escape capital gains taxation each year because of the "stepped-up" basis loophole that lets the wealthy pass appreciated assets onto their heirs tax-free.
>
> - **Raise the top capital gains and dividend rate back to the rate under President Reagan**. The President's plan would increase the total capital gains and dividends rates for high-income households to 28 percent.

The FACT SHEET further discusses the repeal of Section 1014 for beneficiaries of wealthy decedents and make death a realizable event:

Eliminating the Biggest Loopholes that let the Wealthiest Avoid Paying Their Fair Share of Taxes and Reforming Financial Sector Taxation

Reforming the Taxation of Capital Gains

Rather than make it easier for middle-class families to make ends meet, our tax system has changed over time in ways that make it easier for the wealthy to avoid paying their fair share. Though President Obama restored top tax rates on the highest income Americans to their levels under President Clinton, high-income tax rates remain historically low, especially on capital income. Capital income taxes

are also much lower than tax rates on income from work, which explains how the highest-income 400 taxpayers in 2012—who obtained 68 percent of their income from capital gains—paid income tax at an effective rate of 17 percent, even though the top marginal income tax rate was 35 percent.

The problem is that the U.S. capital income tax system is too broken to address this unfairness just by raising tax rates. Current rules let substantial capital gains income escape tax altogether. Raising the capital gains rate without also addressing these loopholes would encourage wealthy individuals to take further advantage of the opportunities the current system provides to defer land avoid tax.

The largest capital gains loophole—perhaps the largest single loophole in the entire individual income tax code—is a provision known as "stepped-up basis." Stepped-up basis refers to the fact that capital gains on assets held until death are never subject to income taxes. Not only do bequests to heirs go untaxed, but the "tax basis" of inherited assets used to compute the gain if they are later sold is immediately increased ("stepped-up") to the value at the date of death—making the capital gain income forever exempt from taxes. For example, suppose an individual leaves stock worth $50 million to an heir, who immediately sells it. When purchased, the stock was worth $10 million, so the capital gain is $40 million. However, the heir's basis in the stock is "stepped up" to the $50 million gain when he inherited it—so no income tax is due on the sale, or ever due on the $40 million of gain. Each year, hundreds of billions in capital gains avoid tax as a result of stepped-up basis.

The President's proposal would close the stepped-up basis loophole by treating bequests and gifts other than to charitable organizations as realization events, like other cases where assets change hands. It would also increase the total top capital gains and dividend rate to 28 percent—the rate under President Reagan.[10] (The top rate applies to couples with incomes over about $500,000.) It would:

- almost exclusively impact the top 1 percent. 99 percent of the impact of the President's capital gains reform proposal (including eliminating stepped-up basis and raising the capital gains rate) would be on the top 1 percent, and more than 80 percent on the top 0.1 percent (those with incomes over $2 million). Under the President's proposal, wealthy people would still get a preferential rate on their income from investments, but they would no longer be able to accumulate extra wealth by paying no capital gains tax whatsoever.

- Address a basic unfairness in the tax system. Most middle-class retirees spend down their assets during retirement, which means they owe income taxes on whatever capital gains they've accrued. But the wealthy can often afford to hold onto assets until death—which is what lets them use the stepped-up basis loophole to avoid ever having to pay tax on capital gains.

- Unlock capital for productive investment. By letting very wealthy investors make their capital gains disappear at death, stepped-up basis creates strong "lock-in" incentives to hold assets for generations, even when resources could be

[10] The actual proposal made for the Fiscal Year 2016 would increase the rate to 24.2%, which would result in an overall tax of 28% based on the Medicare Tax of 3.8% under § 1411.

reinvested more productively elsewhere. The proposal would sharply reduce these incentives, making it a pro-growth way to raise revenue.

- Protect the middle-class and small businesses to ensure that it would impose neither tax nor compliance burdens on middle-class families, the President's proposal includes the following protections:

- For couples, no tax would be due until the death of the second spouse.

- Capital gains of up to $200,000 per couple ($100,000 per individual) could still be bequeathed free of tax. Note that, since capital gains generally represent only a fraction of an asset's value, this exemption would allow couples to bequeath more than $200,000 without owing taxes. The exemption would be automatically portable between spouses.

- In addition to the basic exemption, couples would have an additional $500,000 exemption for personal residences ($250,000 per individual). This exemption would also be automatically portable between spouses.

- Tangible personal property other than expensive art and similar collectibles (e.g. bequests or gifts of clothing, furniture, and small family heirlooms) would be tax-exempt. In addition to avoiding any tax burden on these transfers, this exclusion would prevent families from having to value and report them.

As a result of these provisions, only a tiny minority of small businesses could possibly be affected by the repeal of stepped-up basis. However, the President's proposal also includes extra protections that ensure no small family-owned business would ever have to be sold for tax reasons:

- No tax would be due on inherited small, family-owned and operated businesses—unless and until the business was sold.

- Any closely-held business would have the option to pay tax on gains over 15 years.

The Obama Administration's actual proposal for capital gains reform for the Fiscal Year 2017 is set forth on Supplement Pages 29-31.

Page 794:

Text Pages 794-802 set out several reform proposals in for the fiscal year 2014. Many of these proposals were continued for subsequent fiscal years, including for the most recent fiscal year 2017. A few of the proposals in the text were significantly modified, including proposals relating to consistency in value (Text Pages 795-797), GRATS (Text Pages 797-798) and grantor trusts (Text Pages 799-800).

These modified proposals, along with new proposals involving the gift tax annual exclusion and executors, are set forth below.

General Explanations of the Administration's Fiscal Year 2017 Revenue Proposals
Department of the Treasury
February 2016[11]

EXPAND REQUIREMENT OF CONSISTENCY IN VALUE FOR TRANSFER AND INCOME TAX PURPOSES

Current Law

Section 1014 provides that the basis of property acquired from a decedent generally is the fair market value of the property on the decedent's date of death. Similarly, property included in the decedent's gross estate for estate tax purposes generally must be valued at its fair market value on the date of death. Although the same valuation standard applies to both provisions, until the enactment on July 31, 2015, of the Surface Transportation and Veterans Health Care Choice Improvement Act of 2015 (the Act), there was no requirement that the recipient's basis in that property be the same as the value reported for estate tax purposes. This Act amended section 1014 to provide generally that the recipient's initial basis in property as determined under section 1014 cannot exceed the final value of that property for estate tax purposes. This consistency requirement applies to property whose inclusion in the decedent's gross estate increases the estate's liability for federal estate tax.

Reasons for Change

Because the consistency requirement enacted in 2015 applies only to the particular items of property that generate a federal estate tax, the requirement does not apply to property transferred by gift, or to property that qualifies for the estate tax marital or charitable deduction, or to any property of an estate with a total value that does not exceed the applicable exclusion amount ($ 5,450,000 for 2016). Although the exclusion of property given on death to charities (tax-exempt organizations) has only a minimal impact for income tax purposes, there is a possible effect on the annual excise tax imposed on certain such organizations. However, the exclusion from the application of the consistency requirement of property qualifying for the estate tax marital deduction is significant because an unlimited amount of property may qualify for the estate tax marital deduction in a decedent's estate tax proceeding. Although it is true that the value of such property passing to the decedent's surviving spouse may be increased without incurring any federal estate tax, and a high estate tax value provides a high cap on the recipient's permissible basis, current law contains provisions to prevent an inaccurately high estate tax valuation. Specifically, the executor certifies to the accuracy of the information on the estate tax return under penalties of perjury, and significant underpayment penalties are imposed on the understatement of capital gains and thus income tax that would result from an overstatement of basis.

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[11] This document is available online at:
http://www.treasury.gov/resource-center/tax-policy/Pages/general_explanation.aspx.

Several federal transfer tax proposals for fiscal year 2014, which are found in the text beginning at Page 794, are continued for fiscal year 2017 and are not reproduced in this Supplement.

Proposal

The proposal would expand the property subject to the consistency requirement imposed under section 1014(f) to also include (1) property qualifying for the estate tax marital deduction, provided a return is required to be filed under section 6018, even though that property does not increase the estate's federal estate tax liability, and (2) property transferred by gift, provided that the gift is required to be reported on a federal gift tax return.

The proposal would be effective for transfers after the year of enactment.

MODIFY TRANSFER TAX RULES FOR GRANTOR RETAINED ANNUITY TRUSTS (GRATS) AND OTHER GRANTOR TRUSTS

Current Law

Section 2702 provides that, if an interest in a trust is transferred to a family member, any interest retained by the grantor is valued at zero for purposes of determining the transfer tax value of the gift to the family member(s). This rule does not apply if the retained interest is a "qualified interest." A fixed annuity, such as the annuity interest retained by the grantor of a GRAT, is one form of qualified interest, so the value of the gift of the remainder interest in the GRAT is determined by deducting the present value of the retained annuity during the GRAT term from the fair market value of the property contributed to the trust.

Generally, a GRAT is an irrevocable trust funded with assets expected to appreciate in value, in which the grantor retains an annuity interest for a term of years that the grantor expects to survive. At the end of that term, the assets then remaining in the trust are transferred to (or held in further trust for) the beneficiaries. The value of the grantor's retained annuity is based in part on the applicable Federal rate under section 7520 in effect for the month in which the GRAT is created. Therefore, to the extent the GRAT's assets appreciate at a rate that exceeds that statutory interest rate, that appreciation will have been transferred, free of gift tax, to the remainder beneficiary or beneficiaries of the GRAT.

If the grantor dies during the GRAT term, the trust assets (at least the portion needed to produce the retained annuity) are included in the grantor's gross estate for estate tax purposes. To this extent, although the beneficiaries will own the remaining trust assets, the estate tax benefit of creating the GRAT (specifically, the tax-free transfer of the appreciation during the GRAT term in excess of the annuity payments) is not realized.

Another popular method of removing an asset's future appreciation from one's gross estate for estate tax purposes, while avoiding transfer and income taxes, is the sale of the asset to a grantor trust of which the seller is the deemed owner for income tax purposes. A grantor trust is a trust, whether revocable or irrevocable, of which an individual is treated as the owner for income tax purposes. Thus, for income tax purposes, a grantor trust is taxed as if the deemed owner had owned the trust assets directly, and the deemed owner and the trust are treated as the same person. This results in transactions between the trust and the deemed owner being ignored for income tax purposes; specifically, no capital gain is recognized when an appreciated asset is sold by the deemed owner to the trust. For transfer tax purposes, however, the trust and the deemed owner are separate persons and, under certain circumstances, the trust is not included in the deemed owner's gross estate for estate tax purposes at the death of the deemed owner. In this way, the post-sale appreciation has been removed from the deemed owner's estate for estate tax purposes.

Reasons for Change

GRATs and sales to grantor trusts are used for transferring wealth while minimizing the gift and income tax cost of transfers. In both cases, the greater the post-transaction appreciation, the greater the transfer tax benefit achieved. The gift tax cost of a GRAT often is essentially eliminated by minimizing the term of the GRAT (thus reducing the risk of the grantor's death during the term), and by retaining an annuity interest significant enough to reduce the gift tax value of the remainder interest to close to zero. In addition, with both GRATs and sales to grantor trusts, future capital gains taxes can be avoided by the grantor's purchase at fair market value of the appreciated asset from the trust and the subsequent inclusion of that asset in the grantor's gross estate at death. Under current law, the basis in that asset is then adjusted (in this case, "stepped up") to its fair market value at the time of the grantor's death, often at an estate tax cost that has been significantly reduced or entirely eliminated by the grantor's lifetime exclusion from estate tax.

Proposal

The proposal would require that a GRAT have a minimum term of ten years and a maximum term of the life expectancy of the annuitant plus ten years to impose some downside risk in the use of a GRAT. The proposal also would include a requirement that the remainder interest in the GRAT at the time the interest is created must have a minimum value equal to the greater of 25 percent of the value of the assets contributed to the GRAT or $ 500,000 (but not more than the value of the assets contributed). In addition, the proposal would prohibit any decrease in the annuity during the GRAT term, and would prohibit the grantor from engaging in a tax-free exchange of any asset held in the trust.

If a person who is a deemed owner under the grantor trust rules of all or a portion of any other type of trust engages in a transaction with that trust that constitutes a sale, exchange, or comparable transaction that is disregarded for income tax purposes by reason of the person's treatment as a deemed owner of the trust, then the portion of the trust attributable to the property received by the trust in that transaction (including all retained income therefrom, appreciation thereon, and reinvestments thereof, net of the amount of the consideration received by the person in that transaction) would be subject to estate tax as part of the gross estate of the deemed owner, would be subject to gift tax at any time during the deemed owner's life when his or her treatment as a deemed owner of the trust is terminated, and would be treated as a gift by the deemed owner to the extent any distribution is made to another person (except in discharge of the deemed owner's obligation to the distribute) during the life of the deemed owner. The proposal would reduce the amount subject to transfer tax by any portion of that amount that was treated as a prior taxable gift by the deemed owner. The transfer tax imposed by this proposal would be payable from the trust.

The proposal would not change the treatment of any trust that already is includable in the grantor's gross estate under existing provisions of the Code, including without limitation the following: grantor retained income trusts; grantor retained annuity trusts; personal residence trusts; and qualified personal residence trusts. Similarly, it would not apply to any trust having the exclusive purpose of paying deferred compensation under a nonqualified deferred compensation plan if the assets of such trust are available to satisfy claims of general creditors of the grantor. It also would not apply to any irrevocable trust whose only assets typically consist of one or more life insurance policies on the life of the grantor and/or the grantor's spouse.

The proposal as applicable to GRATs would apply to GRATs created after the date of enactment. The proposal as applicable to other grantor trusts would be effective with regard to trusts that engage in a described transaction on or after the date of enactment. Regulatory authority would be granted, including the ability to create exceptions to this provision.

SIMPLIFY GIFT TAX EXCLUSION FOR ANNUAL GIFTS

Current Law

The first $ 14,000 of gifts made to each donee in 2016 is excluded from the donor's taxable gifts (and therefore does not use up any of the donor's applicable exclusion amount for gift and estate tax purposes). This annual gift tax exclusion is indexed for inflation and there is no limit on the number of donees to whom such excluded gifts may be made by a donor in any one year. To qualify for this exclusion, each gift must be of a present interest rather than a future interest in the donated property. For these purposes, a present interest is an unrestricted right to the immediate use, possession, or enjoyment of property or the income from property (including life estates and term interests). Generally, a contribution to a trust for the donee is a future interest.

Reasons for Change

To take advantage of this annual gift tax exclusion without having to transfer the property outright to the donee, a donor often contributes property to a trust and gives each trust beneficiary (donee) a *Crummey* power. *Crummey* powers are used particularly in irrevocable trusts to hold property for the benefit of minor children.

In order for a *Crummey* power to convert a donor's transfer into the gift of a present interest, the trustee of the recipient trust must timely notify each beneficiary of the existence and scope of his or her right to withdraw funds from the trust. If the appropriate records cannot be produced at the time of any gift or estate tax audit of the grantor, the gift tax exclusion may be denied to the grantor, thereby causing retroactive changes in the grantor's tax liabilities and remaining applicable exclusion amount. Because of the common use of these withdrawal powers, the number of beneficiaries typically involved, and the differing terms of each such withdrawal power, the cost to taxpayers of complying with the *Crummey* rules is significant, as is the cost to IRS of enforcing the rules.

In addition, the IRS is concerned about the lack of a limit on the number of beneficiaries to whom *Crummey* powers are given. The IRS's concern has been that *Crummey* powers could be given to multiple discretionary beneficiaries, most of whom would never receive a distribution from the trust, and thereby inappropriately exclude from gift tax a large total amount of contributions to the trust. (For example, a power could be given to each beneficiary of a discretionary trust for the grantor's descendants and friendly accommodation parties in the hope that the accommodation parties will not exercise their *Crummey* powers.) The IRS has sought (unsuccessfully) to limit the number of available *Crummey* powers by requiring each powerholder to have some meaningful vested economic interest in the trust over which the power extends. See Estate of Cristofani v. Comm*issione*r, 97 T.C. 74 (1991); Kohlsaat v. Comm*issione*r, 73 TCM 2732 (1997).

Proposal

The proposal would eliminate the present interest requirement for gifts that qualify for the gift tax annual exclusion. Instead, the proposal would define a new category of transfers (without regard to the existence of any withdrawal or put rights), and would impose an annual limit of $ 50,000 (indexed for inflation after 2017) per donor on the donor's transfers of property within this new category that will qualify for the gift tax annual exclusion. This new $ 50,000 per-donor limit would not provide an exclusion in addition to the annual per-donee exclusion; rather, it would be a further limit on those amounts that otherwise would qualify for the annual per-donee exclusion. Thus, a donor's transfers in the new category in a single year in excess of a total amount of $ 50,000 would be taxable, even if the total gifts to each individual

donee did not exceed $ 14,000. The new category would include transfers in trust (other than to a trust described in section 2642(c)(2)), transfers of interests in passthrough entities, transfers of interests subject to a prohibition on sale, and other transfers of property that, without regard to withdrawal, put, or other such rights in the donee, cannot immediately be liquidated by the donee.

The proposal would be effective for gifts made after the year of enactment.

EXPAND APPLICABILITY OF DEFINITION OF EXECUTOR

Current Law

The Code defines "executor" for purposes of the estate tax to be the person who is appointed, qualified, and acting within the United States as executor or administrator of the decedent's estate or, if none, then "any person in actual or constructive possession of any property of the decedent." This could include, for example, the trustee of the decedent's revocable trust, an IRA or life insurance beneficiary, or a surviving joint tenant of jointly owned property.

Reasons for Change

Because the Code's definition of executor currently applies only for purposes of the estate tax, no one (including the decedent's surviving spouse who filed a joint income tax return) has the authority to act on behalf of the decedent with regard to a tax liability that arose prior to the decedent's death. Thus, there is no one with authority to extend the statute of limitations, claim a refund, agree to a compromise or assessment, or pursue judicial relief in connection with the decedent's share of a tax liability. This problem has started to arise with more frequency as reporting obligations, particularly with regard to an interest in a foreign asset or account, have increased, and survivors have attempted to resolve a decedent's failure to comply.

In addition, in the absence of an appointed executor, multiple persons may meet the definition of "executor" and, on occasion, more than one of them has each filed a separate estate tax return for the decedent's estate or made conflicting tax elections.

Proposal

To empower an authorized party to act on behalf of the decedent in all matters relating to the decedent's tax liabilities (whether arising before, upon, or after death), the proposal would expressly make the tax code's definition of executor applicable for all tax purposes, and authorize such executor to do anything on behalf of the decedent in connection with the decedent's pre-death tax liabilities or obligations that the decedent could have done if still living. In addition, the proposal would grant regulatory authority to adopt rules to resolve conflicts among multiple executors authorized by this provision.

The proposal would apply upon enactment, regardless of a decedent's date of death.

Based on the FACT SHEET, set forth on Supplement Pages 21-23, President Obama's Revenue Proposals for the Fiscal Years 2016 and 2017 included proposals to reform the taxation of capital gains by increasing the rate of tax on capital gains and dividends to 24.2% AND by drastically reducing the benefits of § 1014.[12]

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[12] General Explanations of the Administration's Fiscal Year 2016 Revenue Proposals at 156-157 (Feb. 2015). General Explanations of the Administration's Fiscal Year 2017 Revenue Proposals at 155-157 (Feb. 2016).

REFORM THE TAXATION OF CAPITAL INCOME

Current Law

Capital gains are taxable only upon the sale or other disposition of an appreciated asset. Most capital gains and dividends are taxed at graduated rates, with 20 percent generally being the highest rate. In addition, higher-income taxpayers are subject to a tax of 3.8 percent of the lesser of net investment income, including capital gains and dividends, or modified AGI in excess of $ 200,000 ($ 250,000 for married couples filing jointly, $ 125,000 for married persons filing separately, or $ 12,400 for estates and trusts).

When a donor gives an appreciated asset to a donee during life, the donee's basis in the asset is its basis in the hands of the donor; there is no realization of capital gain by the donor at the time of the gift, and there is no recognition of capital gain by the donee until the donee later disposes of that asset. When an appreciated asset is held by a decedent at death, the decedent's heir receives a basis in that asset equal to its fair market value at the date of the decedent's death. As a result, the appreciation accruing during the decedent's life on assets that are still held by the decedent at death is never subjected to income tax.

Reasons for Change

Preferential tax rates on long-term capital gains and qualified dividends disproportionately benefit high-income taxpayers and provide many high-income taxpayers with a lower tax rate than many low- and middle-income taxpayers.

Because the person who inherits an appreciated asset receives a basis in that asset equal to the asset's fair market value on the decedent's death, the appreciation that accrued during the decedent's life is never subjected to income tax. In contrast, less-wealthy individuals who must spend down their assets during retirement must pay income tax on their realized capital gains. This increases the inequity in the tax treatment of capital gains. In addition, the preferential treatment for assets held until death produces an incentive for taxpayers to inefficiently lock in portfolios of assets and hold them primarily for the purpose of avoiding capital gains tax on the appreciation, rather than reinvesting the capital in more economically productive investments.

Proposal

The proposal would increase the highest long-term capital gains and qualified dividend tax rate from 20 percent to 24.2 percent. The 3.8-percent net investment income tax would continue to apply as under current law. The maximum total capital gains and dividend tax rate including net investment income tax would thus rise to 28 percent.

Under the proposal, transfers of appreciated property generally would be treated as a sale of the property. The donor or deceased owner of an appreciated asset would realize a capital gain at the time the asset is given or bequeathed to another. The amount of the gain realized would be the excess of the asset's fair market value on the date of the transfer over the donor's basis in that asset. That gain would be taxable income to the donor in the year the transfer was made, and to the decedent either on the final individual

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Additional proposals were made in the income and retirement areas, These and the many other proposals contained in the Fiscal Year 2017 Revenue Proposals can be found at , http://www.treasury.gov/resource-center/tax-policy/Pages/general_explanation.aspx

return or on a separate capital gains return. The unlimited use of capital losses and carry-forwards would be allowed against ordinary income on the decedent's final income tax return, and the tax imposed on gains deemed realized at death would be deductible on the estate tax return of the decedent's estate (if any). Gifts or bequests to a spouse or to charity would carry the basis of the donor or decedent. Capital gain would not be realized until the spouse disposes of the asset or dies, and appreciated property donated or bequeathed to charity would be exempt from capital gains tax.

The proposal would exempt any gain on all tangible personal property such as household furnishings and personal effects (excluding collectibles). The proposal also would allow a $ 100,000 per-person exclusion of other capital gains recognized by reason of death that would be indexed for inflation after 2017, and would be portable to the decedent's surviving spouse under the same rules that apply to portability for estate and gift tax purposes (making the exclusion effectively $ 200,000 per couple). The $ 250,000 per person exclusion under current law for capital gain on a principal residence would apply to all residences, and also would be portable to the decedent's surviving spouse (making the exclusion effectively $ 500,000 per couple).

The exclusion under current law for capital gain on certain small business stock also would apply. In addition, payment of tax on the appreciation of certain small family-owned and family-operated businesses would not be due until the business is sold or ceases to be family-owned and operated. The proposal would further allow a 15-year fixed-rate payment plan for the tax on appreciated assets transferred at death, other than liquid assets such as publicly traded financial assets and other than businesses for which the deferral election is made.

The proposal also would include other legislative changes designed to facilitate and implement this proposal, including without limitation: the allowance of a deduction for the full cost of appraisals of appreciated assets; the imposition of liens; the waiver of penalty for underpayment of estimated tax if the underpayment is attributable to unrealized gains at death; the grant of a right of recovery of the tax on unrealized gains; rules to determine who has the right to select the return filed; the achievement of consistency in valuation for transfer and income tax purposes; and a broad grant of regulatory authority to provide implementing rules.

To facilitate the transition to taxing gains at death and gift, the Secretary would be granted authority to issue any regulations necessary or appropriate to implement the proposal, including rules and safe harbors for determining the basis of assets in cases where complete records are unavailable.

This proposal would be effective for capital gains realized and qualified dividends received in taxable years beginning after December 31, 2016, and for gains on gifts made and of decedents dying after December 31, 2016.

APPENDIX

Rev. Proc. 2015-53, 2015-44 I.R.B. 615

SECTION 1. PURPOSE

This revenue procedure sets forth [selected] inflation-adjusted items for 2016.

SECTION 3. 2016 ADJUSTED ITEMS

.01 Tax Rate Tables. For taxable years beginning in 2016, the tax rate tables under section 1 are as follows:

TABLE 1 – Section 1(a) **– Married Individuals Filing Joint Returns and Surviving Spouses**

If Taxable Income Is:	**The Tax Is:**
Not over $ 18,550	10% of the taxable income
Over $ 18,550 but not over $ 75,300	$ 1,855 plus 15% of the excess over $ 18,550
Over $ 75,300 but not over $ 151,900	$ 10,367.50 plus 25% of the excess over $ 75,300
Over $ 151,900 but not over $ 231,450	$ 29,517.50 plus 28% of the excess over $ 151,900
Over $ 231,450 but not over $ 413,350	$ 51,791.50 plus 33% of the excess over $ 231,450
Over $ 413,350 but not over $ 466,950	$ 111,818.50 plus 35% of the excess over $ 413,350
Over $ 466,950	$ 130,578.50 plus 39.6% of the excess over $ 466,950

TABLE 2 – Section 1(b) **– Heads of Households**

If Taxable Income Is:	**The Tax Is:**
Not over $ 13,250	10% of the taxable income
Over $ 13,250 but not over $ 50,400	$ 1,325 plus 15% of the excess over $ 13,250
Over $ 50,400 but not over $ 130,150	$ 6,897.50 plus 25% of the excess over $ 50,400
Over $ 130,150 but not over $ 210,800	$ 26,835 plus 28% of the excess over $ 130,150
Over $ 210,800 but not over $ 413,350	$ 49,417 plus 33% of the excess over $ 210,800
Over $ 413,350 not over $ 441,000	$ 116,258.50 plus 35% of the excess over $ 413,350
Over $ 441,000	$ 125,936 plus 39.6% of the excess over $ 441,000

TABLE 3 – Section 1(c) **– Unmarried Individuals (other than Surviving Spouses and Heads of Households)**

If Taxable Income Is:	**The Tax Is:**
Not over $ 9,275	10% of the taxable income
Over $ 9,275 but not over $ 37,650	$ 927.50 plus 15% of the excess over $ 9,275
Over $ 37,650 but not over $ 91,150	$ 5,183.75 plus 25% of the excess over $ 37,650
Over $ 91,150 but not over $ 190,150	$ 18,558.75 plus 28% of the excess over $ 91,150
Over $ 190,150 but not over $ 413,350	$ 46,278.75 plus 33% of the excess over $ 190,150
Over $ 413,350 not over $ 415,050	$ 119,934.75 plus 35% of the excess over $ 413,350
Over $ 415,050	$ 120,529.75 plus 39.6% of the excess over $ 415,050

TABLE 4 – Section 1(d) **– Married Individuals Filing Separate Returns**

If Taxable Income Is:	The Tax Is:
Not over $ 9,275	10% of the taxable income
Over $ 9,275 but not over $ 37,650	$ 927.50 plus 15% of the excess over $ 9,275
Over $ 37,650 but not over $ 75,950	$ 5,183.75 plus 25% of the excess over $ 37,650
Over $ 75,950 but not over $ 115,725	$ 14,758.75 plus 28% of the excess over $ 75,950
Over $ 115,725 but not over $ 206,675	$ 25,895.75 plus 33% of the excess over $ 115,725
Over $ 206,675 not over $ 233,475	$ 55,909.25 plus 35% of the excess over $ 206,675
Over $ 233,475	$ 65,289.25 plus 39.6% of the excess over $ 233,475

TABLE 5 – Section 1(e) **– Estates and Trusts**

If Taxable Income Is:	The Tax Is:
Not over $ 2,550	15% of the taxable income
Over $ 2,550 but not over $ 5,950	$ 382.50 plus 25% of the excess over $ 2,550
Over $ 5,950 but not over $ 9,050	$ 1,232.50 plus 28% of the excess over $ 5,950
Over $ 9,050 but not over $ 12,400	$ 2,100.50 plus 33% of the excess over $ 9,050
Over $ 12,400	$ 3,206 plus 39.6% of the excess over $ 12,400

.02 Unearned Income of Minor Children Taxed as if Parent's Income (the "Kiddie Tax"). For taxable years beginning in 2016, the amount in section 1(g)(4)(A)(ii)(I), which is used to reduce the net unearned income reported on the child's return that is subject to the "kiddie tax," is $ 1,050. This $ 1,050 amount is the same as the amount provided in section 63(c)(5)(A), as adjusted for inflation. The same $ 1,050 amount is used for purposes of section 1(g)(7) (that is, to determine whether a parent may elect to include a child's gross income in the parent's gross income and to calculate the "kiddie tax"). For example, one of the requirements for the parental election is that a child's gross income is more than the amount referenced in section 1(g)(4)(A)(ii)(I) but less than 10 times that amount; thus, a child's gross income for 2016 must be more than $ 1,050 but less than $ 10,500.

.14 Standard Deduction.

(1) In general. For taxable years beginning in 2016, the standard deduction amounts under section 63(c)(2) are as follows:

Filing Status	**Standard Deduction**
Married Individuals Filing Joint Returns and Surviving Spouses (section 1(a))	$ 12,600
Heads of Households (section 1(b))	$ 9,300
Unmarried Individuals (other than Surviving Spouses and Heads of Households) (section 1(c))	$ 6,300
Married Individuals Filing Separate Returns (section 1(d))	$ 6,300

(2) Dependent. For taxable years beginning in 2016, the standard deduction amount under section 63(c)(5) for an individual who may be claimed as a dependent by another taxpayer cannot exceed the greater of (1) $ 1,050, or (2) the sum of $ 350 and the individual's earned income.

(3) Aged or blind. For taxable years beginning in 2016, the additional standard deduction amount under section 63(f) for the aged or the blind is $ 1,250. The additional standard deduction amount is increased to $ 1,550 if the individual is also unmarried and not a surviving spouse.

.15 Overall Limitation on Itemized Deductions. For taxable years beginning in 2016, the applicable amounts under section 68(b) are $ 311,300 in the case of a joint return or a surviving spouse, $ 285,350 in the case of a head of household, $ 259,400 in the case of an individual who is not married and who is not a surviving spouse or head of household, $ 155,650 in the case of a married individual filing a separate return.

.24 Personal Exemption.

(1) For taxable years beginning in 2016, the personal exemption amount under section 151(d) is $ 4,050.

(2) Phaseout. For taxable years beginning in 2016, the personal exemption phases out for taxpayers with the following adjusted gross income amounts:

Filing Status	**AGI – Beginning of Phaseout**	**AGI – Completed Phaseout**
Married Individuals Filing Joint Returns and Surviving Spouses (section 1(a))	$ 311,300	$ 433,800
Heads of Households (section 1(b))	$ 285,350	$ 407,850
Unmarried Individuals (other than Surviving Spouses and Heads of Households) (section 1(c))	$ 259,400	$ 381,900
Married Individuals Filing Separate Returns (section 1(d))	$ 155,650	$ 216,900

.33 Unified Credit Against Estate Tax. For an estate of any decedent dying in calendar year 2016, the basic exclusion amount is $ 5,450,000 for determining the amount of the unified credit against estate tax under section 2010.

.34 Valuation of Qualified Real Property in Decedent's Gross Estate. For an estate of a decedent dying in calendar year 2016, if the executor elects to use the special use valuation method under section 2032A for qualified real property, the aggregate decrease in the value of qualified real property resulting from electing to use section 2032A for purposes of the estate tax cannot exceed $ 1,110,000.

.35 Annual Exclusion for Gifts.

(1) For calendar year 2016, the first $ 14,000 of gifts to any person (other than gifts of future interests in property) are not included in the total amount of taxable gifts under section 2503 made during that year.

(2) For calendar year 2016, the first $ 148,000 of gifts to a spouse who is not a citizen of the United States (other than gifts of future interests in property) are not included in the total amount of taxable gifts under section 2503 and 2523(i)(2) made during that year.

Actuarial Tables

Table B

Annuity, Income, and Remainder Interests for a Term Certain

Interest Rates							
	1.4%				1.6%		
Years	Annuity	Income Interest	Remainder	Years	Annuity	Income Interest	Remainder
1	0.9862	0.013807	0.986193	1	0.9843	0.015748	0.984252
2	1.9588	0.027423	0.972577	2	1.9530	0.031248	0.968752
3	2.9179	0.040851	0.959149	3	2.9065	0.046504	0.953496
4	3.8638	0.054094	0.945906	4	3.8450	0.061520	0.938480
5	4.7967	0.067153	0.932847	5	4.7687	0.076299	0.923701
6	5.7166	0.080033	0.919967	6	5.6778	0.090845	0.909155
7	6.6239	0.092735	0.907265	7	6.5727	0.105163	0.894837
8	7.5186	0.105261	0.894739	8	7.4534	0.119255	0.880745
9	8.4010	0.117614	0.882386	9	8.3203	0.133125	0.866875
10	9.2712	0.129797	0.870203	10	9.1735	0.146776	0.853224
11	10.1294	0.141812	0.858188	11	10.0133	0.160213	0.839787
12	10.9758	0.153661	0.846339	12	10.8399	0.173438	0.826562
13	11.8104	0.165346	0.834654	13	11.6534	0.186455	0.813545
14	12.6335	0.176870	0.823130	14	12.4541	0.199266	0.800734
15	13.4453	0.188234	0.811766	15	13.2423	0.211876	0.788124
16	14.2459	0.199442	0.800558	16	14.0180	0.224288	0.775712
17	15.0354	0.210495	0.789505	17	14.7815	0.236504	0.763496
18	15.8140	0.221396	0.778604	18	15.5330	0.248527	0.751473
19	16.5818	0.232146	0.767854	19	16.2726	0.260361	0.739639
20	17.3391	0.242747	0.757253	20	17.0006	0.272009	0.727991
21	18.0859	0.253202	0.746798	21	17.7171	0.283474	0.716526
22	18.8224	0.263513	0.736487	22	18.4223	0.294758	0.705242
23	19.5487	0.273682	0.726318	23	19.1165	0.305864	0.694136
24	20.2650	0.283710	0.716290	24	19.7997	0.316795	0.683205
25	20.9714	0.293599	0.706401	25	20.4721	0.327554	0.672446
26	21.6680	0.303352	0.696648	26	21.1340	0.338144	0.661856
27	22.3551	0.312971	0.687029	27	21.7854	0.348567	0.651433
28	23.0326	0.322456	0.677544	28	22.4266	0.358826	0.641174
29	23.7008	0.331811	0.668189	29	23.0577	0.368923	0.631077
30	24.3598	0.341037	0.658963	30	23.6788	0.378861	0.621139
31	25.0096	0.350135	0.649865	31	24.2902	0.388643	0.611357
32	25.6505	0.359107	0.640893	32	24.8919	0.398270	0.601730
33	26.2826	0.367956	0.632044	33	25.4842	0.407746	0.592254
34	26.9059	0.376682	0.623318	34	26.0671	0.417073	0.582927
35	27.5206	0.385288	0.614712	35	26.6408	0.426253	0.573747
36	28.1268	0.393775	0.606225	36	27.2055	0.435289	0.564711
37	28.7247	0.402145	0.597855	37	27.7614	0.444182	0.555818
38	29.3143	0.410400	0.589600	38	28.3084	0.452935	0.547065
39	29.8957	0.418540	0.581460	39	28.8469	0.461550	0.538450
40	30.4692	0.426568	0.573432	40	29.3768	0.470030	0.529970
41	31.0347	0.434485	0.565515	41	29.8985	0.478376	0.521624
42	31.5924	0.442293	0.557707	42	30.4119	0.486590	0.513410
43	32.1424	0.449993	0.550007	43	30.9172	0.494675	0.505325
44	32.6848	0.457587	0.542413	44	31.4146	0.502633	0.497367
45	33.2197	0.465076	0.534924	45	31.9041	0.510466	0.489534
46	33.7473	0.472462	0.527538	46	32.3859	0.518175	0.481825
47	34.2675	0.479745	0.520255	47	32.8602	0.525763	0.474237
48	34.7806	0.486928	0.513072	48	33.3269	0.533231	0.466769
49	35.2866	0.494012	0.505988	49	33.7864	0.540582	0.459418
50	35.7856	0.500998	0.499002	50	34.2385	0.547817	0.452183
51	36.2777	0.507888	0.492112	51	34.6836	0.554938	0.445062
52	36.7630	0.514682	0.485318	52	35.1217	0.561946	0.438054
53	37.2416	0.521383	0.478617	53	35.5528	0.568845	0.431155
54	37.7136	0.527991	0.472009	54	35.9772	0.575635	0.424365
55	38.1791	0.534508	0.465492	55	36.3949	0.582318	0.417682
56	38.6382	0.540935	0.459065	56	36.8060	0.588895	0.411105
57	39.0909	0.547273	0.452727	57	37.2106	0.595369	0.404631
58	39.5374	0.553523	0.446477	58	37.6089	0.601742	0.398258
59	39.9777	0.559688	0.440312	59	38.0008	0.608013	0.391987
60	40.4119	0.565767	0.434233	60	38.3867	0.614186	0.385814

Table B

Annuity, Income, and Remainder Interests for a Term Certain

Interest Rates							
	1.8%				2.0%		
Years	Annuity	Income Interest	Remainder	Years	Annuity	Income Interest	Remainder
1	0.9823	0.017682	0.982318	1	0.9804	0.019608	0.980392
2	1.9473	0.035051	0.964949	2	1.9416	0.038831	0.961169
3	2.8952	0.052113	0.947887	3	2.8839	0.057678	0.942322
4	3.8263	0.068873	0.931127	4	3.8077	0.076155	0.923845
5	4.7409	0.085337	0.914663	5	4.7135	0.094269	0.905731
6	5.6394	0.101510	0.898490	6	5.6014	0.112029	0.887971
7	6.5220	0.117397	0.882603	7	6.4720	0.129440	0.870560
8	7.3890	0.133003	0.866997	8	7.3255	0.146510	0.853490
9	8.2407	0.148333	0.851667	9	8.1622	0.163245	0.836755
10	9.0773	0.163392	0.836608	10	8.9826	0.179652	0.820348
11	9.8991	0.178184	0.821816	11	9.7868	0.195737	0.804263
12	10.7064	0.192715	0.807285	12	10.5753	0.211507	0.788493
13	11.4994	0.206990	0.793010	13	11.3484	0.226967	0.773033
14	12.2784	0.221011	0.778989	14	12.1062	0.242125	0.757875
15	13.0436	0.234785	0.765215	15	12.8493	0.256985	0.743015
16	13.7953	0.248316	0.751684	16	13.5777	0.271554	0.728446
17	14.5337	0.261607	0.738393	17	14.2919	0.285837	0.714163
18	15.2590	0.274663	0.725337	18	14.9920	0.299841	0.700159
19	15.9716	0.287488	0.712512	19	15.6785	0.313569	0.686431
20	16.6715	0.300086	0.699914	20	16.3514	0.327029	0.672971
21	17.3590	0.312462	0.687538	21	17.0112	0.340224	0.659776
22	18.0344	0.324619	0.675381	22	17.6580	0.353161	0.646839
23	18.6978	0.336561	0.663439	23	18.2922	0.365844	0.634156
24	19.3495	0.348292	0.651708	24	18.9139	0.378279	0.621721
25	19.9897	0.359815	0.640185	25	19.5235	0.390469	0.609531
26	20.6186	0.371134	0.628866	26	20.1210	0.402421	0.597579
27	21.2363	0.382254	0.617746	27	20.7069	0.414138	0.585862
28	21.8432	0.393177	0.606823	28	21.2813	0.425625	0.574375
29	22.4392	0.403906	0.596094	29	21.8444	0.436888	0.563112
30	23.0248	0.414446	0.585554	30	22.3965	0.447929	0.552071
31	23.6000	0.424800	0.575200	31	22.9377	0.458754	0.541246
32	24.1650	0.434971	0.565029	32	23.4683	0.469367	0.530633
33	24.7201	0.444961	0.555039	33	23.9886	0.479771	0.520229
34	25.2653	0.454775	0.545225	34	24.4986	0.489972	0.510028
35	25.8009	0.464416	0.535584	35	24.9986	0.499972	0.500028
36	26.3270	0.473886	0.526114	36	25.4888	0.509777	0.490223
37	26.8438	0.483188	0.516812	37	25.9695	0.519389	0.480611
38	27.3515	0.492327	0.507673	38	26.4406	0.528813	0.471187
39	27.8502	0.501303	0.498697	39	26.9026	0.538052	0.461948
40	28.3401	0.510121	0.489879	40	27.3555	0.547110	0.452890
41	28.8213	0.518783	0.481217	41	27.7995	0.555990	0.444010
42	29.2940	0.527292	0.472708	42	28.2348	0.564696	0.435304
43	29.7583	0.535650	0.464350	43	28.6616	0.573231	0.426769
44	30.2145	0.543860	0.456140	44	29.0800	0.581599	0.418401
45	30.6625	0.551926	0.448074	45	29.4902	0.589803	0.410197
46	31.1027	0.559848	0.440152	46	29.8923	0.597846	0.402154
47	31.5351	0.567631	0.432369	47	30.2866	0.605732	0.394268
48	31.9598	0.575276	0.424724	48	30.6731	0.613462	0.386538
49	32.3770	0.582786	0.417214	49	31.0521	0.621042	0.378958
50	32.7868	0.590163	0.409837	50	31.4236	0.628472	0.371528
51	33.1894	0.597410	0.402590	51	31.7878	0.635757	0.364243
52	33.5849	0.604528	0.395472	52	32.1449	0.642899	0.357101
53	33.9734	0.611521	0.388479	53	32.4950	0.649901	0.350099
54	34.3550	0.618390	0.381610	54	32.8383	0.656766	0.343234
55	34.7299	0.625137	0.374863	55	33.1748	0.663496	0.336504
56	35.0981	0.631766	0.368234	56	33.5047	0.670094	0.329906
57	35.4598	0.638277	0.361723	57	33.8281	0.676563	0.323437
58	35.8151	0.644672	0.355328	58	34.1452	0.682905	0.317095
59	36.1642	0.650955	0.349045	59	34.4561	0.689122	0.310878
60	36.5071	0.657127	0.342873	60	34.7609	0.695218	0.304782

Table S - Based on Life Table 2000CM

Interest at 1.4 Percent

Age	Annuity	Life Estate	Remainder	Age	Annuity	Life Estate	Remainder
0	46.1313	0.64584	0.35416	**55**	20.8206	0.29149	0.70851
1	46.1010	0.64541	0.35459	**56**	20.2495	0.28349	0.71651
2	45.7697	0.64078	0.35922	**57**	19.6800	0.27552	0.72448
3	45.4258	0.63596	0.36404	**58**	19.1129	0.26758	0.73242
4	45.0732	0.63102	0.36898	**59**	18.5479	0.25967	0.74033
5	44.7138	0.62599	0.37401	**60**	17.9844	0.25178	0.74822
6	44.3479	0.62087	0.37913	**61**	17.4232	0.24392	0.75608
7	43.9769	0.61568	0.38432	**62**	16.8654	0.23612	0.76388
8	43.5997	0.61040	0.38960	**63**	16.3116	0.22836	0.77164
9	43.2162	0.60503	0.39497	**64**	15.7620	0.22067	0.77933
10	42.8269	0.59958	0.40042	**65**	15.2163	0.21303	0.78697
11	42.4317	0.59404	0.40596	**66**	14.6707	0.20539	0.79461
12	42.0309	0.58843	0.41157	**67**	14.1266	0.19777	0.80223
13	41.6262	0.58277	0.41723	**68**	13.5858	0.19020	0.80980
14	41.2190	0.57707	0.42293	**69**	13.0496	0.18269	0.81731
15	40.8107	0.57135	0.42865	**70**	12.5189	0.17527	0.82473
16	40.4019	0.56563	0.43437	**71**	11.9937	0.16791	0.83209
17	39.9916	0.55988	0.44012	**72**	11.4748	0.16065	0.83935
18	39.5795	0.55411	0.44589	**73**	10.9637	0.15349	0.84651
19	39.1645	0.54830	0.45170	**74**	10.4623	0.14647	0.85353
20	38.7450	0.54243	0.45757	**75**	9.9722	0.13961	0.86039
21	38.3217	0.53650	0.46350	**76**	9.4942	0.13292	0.86708
22	37.8940	0.53052	0.46948	**77**	9.0284	0.12640	0.87360
23	37.4611	0.52446	0.47554	**78**	8.5752	0.12005	0.87995
24	37.0218	0.51831	0.48169	**79**	8.1349	0.11389	0.88611
25	36.5752	0.51205	0.48795	**80**	7.7083	0.10792	0.89208
26	36.1212	0.50570	0.49430	**81**	7.2956	0.10214	0.89786
27	35.6597	0.49924	0.50076	**82**	6.8970	0.09656	0.90344
28	35.1910	0.49267	0.50733	**83**	6.5130	0.09118	0.90882
29	34.7160	0.48602	0.51398	**84**	6.1436	0.08601	0.91399
30	34.2354	0.47930	0.52070	**85**	5.7891	0.08105	0.91895
31	33.7490	0.47249	0.52751	**86**	5.4496	0.07629	0.92371
32	33.2571	0.46560	0.53440	**87**	5.1252	0.07175	0.92825
33	32.7595	0.45863	0.54137	**88**	4.8155	0.06742	0.93258
34	32.2575	0.45161	0.54839	**89**	4.5209	0.06329	0.93671
35	31.7505	0.44451	0.55549	**90**	4.2411	0.05938	0.94062
36	31.2388	0.43734	0.56266	**91**	3.9757	0.05566	0.94434
37	30.7225	0.43011	0.56989	**92**	3.7247	0.05215	0.94785
38	30.2014	0.42282	0.57718	**93**	3.4880	0.04883	0.95117
39	29.6763	0.41547	0.58453	**94**	3.2648	0.04571	0.95429
40	29.1473	0.40806	0.59194	**95**	3.0545	0.04276	0.95724
41	28.6145	0.40060	0.59940	**96**	2.8577	0.04001	0.95999
42	28.0784	0.39310	0.60690	**97**	2.6732	0.03742	0.96258
43	27.5381	0.38553	0.61447	**98**	2.5003	0.03500	0.96500
44	26.9945	0.37792	0.62208	**99**	2.3381	0.03273	0.96727
45	26.4477	0.37027	0.62973	**100**	2.1878	0.03063	0.96937
46	25.8975	0.36257	0.63743	**101**	2.0458	0.02864	0.97136
47	25.3447	0.35483	0.64517	**102**	1.9149	0.02681	0.97319
48	24.7890	0.34705	0.65295	**103**	1.7857	0.02500	0.97500
49	24.2305	0.33923	0.66077	**104**	1.6668	0.02334	0.97666
50	23.6684	0.33136	0.66864	**105**	1.5497	0.02170	0.97830
51	23.1035	0.32345	0.67655	**106**	1.4047	0.01967	0.98033
52	22.5354	0.31550	0.68450	**107**	1.2413	0.01738	0.98262
53	21.9650	0.30751	0.69249	**108**	0.9828	0.01376	0.98624
54	21.3931	0.29950	0.70050	**109**	0.4931	0.00690	0.99310

Table S - Based on Life Table 2000CM

Interest at 1.6 Percent

Age	Annuity	Life Estate	Remainder	Age	Annuity	Life Estate	Remainder
0	43.2834	0.69253	0.30747	**55**	20.2512	0.32402	0.67598
1	43.2802	0.69248	0.30752	**56**	19.7091	0.31535	0.68465
2	42.9946	0.68791	0.31209	**57**	19.1677	0.30668	0.69332
3	42.6968	0.68315	0.31685	**58**	18.6279	0.29805	0.70195
4	42.3908	0.67825	0.32175	**59**	18.0893	0.28943	0.71057
5	42.0780	0.67325	0.32675	**60**	17.5514	0.28082	0.71918
6	41.7590	0.66814	0.33186	**61**	17.0150	0.27224	0.72776
7	41.4347	0.66296	0.33704	**62**	16.4812	0.26370	0.73630
8	41.1044	0.65767	0.34233	**63**	15.9505	0.25521	0.74479
9	40.7679	0.65229	0.34771	**64**	15.4230	0.24677	0.75323
10	40.4255	0.64681	0.35319	**65**	14.8987	0.23838	0.76162
11	40.0773	0.64124	0.35876	**66**	14.3737	0.22998	0.77002
12	39.7234	0.63557	0.36443	**67**	13.8495	0.22159	0.77841
13	39.3654	0.62985	0.37015	**68**	13.3277	0.21324	0.78676
14	39.0048	0.62408	0.37592	**69**	12.8097	0.20496	0.79504
15	38.6427	0.61828	0.38172	**70**	12.2964	0.19674	0.80326
16	38.2798	0.61248	0.38752	**71**	11.7877	0.18860	0.81140
17	37.9152	0.60664	0.39336	**72**	11.2845	0.18055	0.81945
18	37.5484	0.60077	0.39923	**73**	10.7884	0.17261	0.82739
19	37.1785	0.59486	0.40514	**74**	10.3010	0.16482	0.83518
20	36.8040	0.58886	0.41114	**75**	9.8241	0.15719	0.84281
21	36.4254	0.58281	0.41719	**76**	9.3585	0.14974	0.85026
22	36.0423	0.57668	0.42332	**77**	8.9043	0.14247	0.85753
23	35.6538	0.57046	0.42954	**78**	8.4618	0.13539	0.86461
24	35.2588	0.56414	0.43586	**79**	8.0316	0.12851	0.87149
25	34.8564	0.55770	0.44230	**80**	7.6144	0.12183	0.87817
26	34.4465	0.55114	0.44886	**81**	7.2104	0.11537	0.88463
27	34.0290	0.54446	0.45554	**82**	6.8198	0.10912	0.89088
28	33.6041	0.53767	0.46233	**83**	6.4432	0.10309	0.89691
29	33.1727	0.53076	0.46924	**84**	6.0806	0.09729	0.90271
30	32.7354	0.52377	0.47623	**85**	5.7323	0.09172	0.90828
31	32.2920	0.51667	0.48333	**86**	5.3985	0.08638	0.91362
32	31.8428	0.50948	0.49052	**87**	5.0793	0.08127	0.91873
33	31.3876	0.50220	0.49780	**88**	4.7744	0.07639	0.92361
34	30.9275	0.49484	0.50516	**89**	4.4840	0.07174	0.92826
35	30.4621	0.48739	0.51261	**90**	4.2081	0.06733	0.93267
36	29.9916	0.47986	0.52014	**91**	3.9462	0.06314	0.93686
37	29.5160	0.47226	0.52774	**92**	3.6983	0.05917	0.94083
38	29.0351	0.46456	0.53544	**93**	3.4645	0.05543	0.94457
39	28.5498	0.45680	0.54320	**94**	3.2438	0.05190	0.94810
40	28.0601	0.44896	0.55104	**95**	3.0358	0.04857	0.95143
41	27.5662	0.44106	0.55894	**96**	2.8410	0.04546	0.95454
42	27.0682	0.43309	0.56691	**97**	2.6583	0.04253	0.95747
43	26.5656	0.42505	0.57495	**98**	2.4870	0.03979	0.96021
44	26.0591	0.41695	0.58305	**99**	2.3263	0.03722	0.96278
45	25.5489	0.40878	0.59122	**100**	2.1773	0.03484	0.96516
46	25.0346	0.40055	0.59945	**101**	2.0364	0.03258	0.96742
47	24.5171	0.39227	0.60773	**102**	1.9066	0.03050	0.96950
48	23.9960	0.38394	0.61606	**103**	1.7783	0.02845	0.97155
49	23.4714	0.37554	0.62446	**104**	1.6603	0.02656	0.97344
50	22.9428	0.36708	0.63292	**105**	1.5441	0.02470	0.97530
51	22.4105	0.35857	0.64143	**106**	1.4000	0.02240	0.97760
52	21.8744	0.34999	0.65001	**107**	1.2376	0.01980	0.98020
53	21.3353	0.34137	0.65863	**108**	0.9804	0.01569	0.98431
54	20.7939	0.33270	0.66730	**109**	0.4921	0.00787	0.99213

Table S - Based on Life Table 2000CM

Interest at 1.8 Percent

Age	Annuity	Estate	Remainder	Age	Annuity	Estate	Remainder
0	40.6971	0.73255	0.26745	**55**	19.7056	0.35470	0.64530
1	40.7161	0.73289	0.26711	**56**	19.1907	0.34543	0.65457
2	40.4696	0.72845	0.27155	**57**	18.6758	0.33616	0.66384
3	40.2116	0.72381	0.27619	**58**	18.1618	0.32691	0.67309
4	39.9456	0.71902	0.28098	**59**	17.6482	0.31767	0.68233
5	39.6731	0.71412	0.28588	**60**	17.1345	0.30842	0.69158
6	39.3944	0.70910	0.29090	**61**	16.6216	0.29919	0.70081
7	39.1107	0.70399	0.29601	**62**	16.1105	0.28999	0.71001
8	38.8211	0.69878	0.30122	**63**	15.6017	0.28083	0.71917
9	38.5254	0.69346	0.30654	**64**	15.0954	0.27172	0.72828
10	38.2239	0.68803	0.31197	**65**	14.5915	0.26265	0.73735
11	37.9166	0.68250	0.31750	**66**	14.0862	0.25355	0.74645
12	37.6037	0.67687	0.32313	**67**	13.5810	0.24446	0.75554
13	37.2867	0.67116	0.32884	**68**	13.0774	0.23539	0.76461
14	36.9669	0.66540	0.33460	**69**	12.5768	0.22638	0.77362
15	36.6454	0.65962	0.34038	**70**	12.0802	0.21744	0.78256
16	36.3229	0.65381	0.34619	**71**	11.5874	0.20857	0.79143
17	35.9985	0.64797	0.35203	**72**	11.0993	0.19979	0.80021
18	35.6717	0.64209	0.35791	**73**	10.6175	0.19112	0.80888
19	35.3417	0.63615	0.36385	**74**	10.1437	0.18259	0.81741
20	35.0070	0.63013	0.36987	**75**	9.6796	0.17423	0.82577
21	34.6681	0.62403	0.37597	**76**	9.2259	0.16607	0.83393
22	34.3247	0.61784	0.38216	**77**	8.7829	0.15809	0.84191
23	33.9758	0.61156	0.38844	**78**	8.3510	0.15032	0.84968
24	33.6203	0.60516	0.39484	**79**	7.9306	0.14275	0.85725
25	33.2574	0.59863	0.40137	**80**	7.5225	0.13540	0.86460
26	32.8869	0.59196	0.40804	**81**	7.1269	0.12828	0.87172
27	32.5088	0.58516	0.41484	**82**	6.7441	0.12139	0.87861
28	32.1233	0.57822	0.42178	**83**	6.3746	0.11474	0.88526
29	31.7311	0.57116	0.42884	**84**	6.0187	0.10834	0.89166
30	31.3329	0.56399	0.43601	**85**	5.6765	0.10218	0.89782
31	30.9284	0.55671	0.44329	**86**	5.3482	0.09627	0.90373
32	30.5178	0.54932	0.45068	**87**	5.0341	0.09061	0.90939
33	30.1010	0.54182	0.45818	**88**	4.7338	0.08521	0.91479
34	29.6791	0.53422	0.46578	**89**	4.4476	0.08006	0.91994
35	29.2515	0.52653	0.47347	**90**	4.1755	0.07516	0.92484
36	28.8184	0.51873	0.48127	**91**	3.9171	0.07051	0.92949
37	28.3800	0.51084	0.48916	**92**	3.6723	0.06610	0.93390
38	27.9360	0.50285	0.49715	**93**	3.4412	0.06194	0.93806
39	27.4872	0.49477	0.50523	**94**	3.2230	0.05801	0.94199
40	27.0335	0.48660	0.51340	**95**	3.0173	0.05431	0.94569
41	26.5752	0.47835	0.52165	**96**	2.8244	0.05084	0.94916
42	26.1124	0.47002	0.52998	**97**	2.6436	0.04758	0.95242
43	25.6446	0.46160	0.53840	**98**	2.4739	0.04453	0.95547
44	25.1724	0.45310	0.54690	**99**	2.3146	0.04166	0.95834
45	24.6959	0.44453	0.55547	**100**	2.1668	0.03900	0.96100
46	24.2149	0.43587	0.56413	**101**	2.0271	0.03649	0.96351
47	23.7301	0.42714	0.57286	**102**	1.8983	0.03417	0.96583
48	23.2412	0.41834	0.58166	**103**	1.7709	0.03188	0.96812
49	22.7483	0.40947	0.59053	**104**	1.6539	0.02977	0.97023
50	22.2507	0.40051	0.59949	**105**	1.5385	0.02769	0.97231
51	21.7489	0.39148	0.60852	**106**	1.3954	0.02512	0.97488
52	21.2429	0.38237	0.61763	**107**	1.2340	0.02221	0.97779
53	20.7331	0.37320	0.62680	**108**	0.9780	0.01760	0.98240
54	20.2203	0.36397	0.63603	**109**	0.4912	0.00884	0.99116

Table S - Based on Life Table 2000CM

Interest at 2.0 Percent

Age	Annuity	Estate	Remainder	Age	Annuity	Estate	Remainder
0	38.3436	0.76687	0.23313	**55**	19.1825	0.38365	0.61635
1	38.3807	0.76761	0.23239	**56**	18.6933	0.37387	0.62613
2	38.1678	0.76336	0.23664	**57**	18.2034	0.36407	0.63593
3	37.9440	0.75888	0.24112	**58**	17.7136	0.35427	0.64573
4	37.7125	0.75425	0.24575	**59**	17.2236	0.34447	0.65553
5	37.4748	0.74950	0.25050	**60**	16.7330	0.33466	0.66534
6	37.2311	0.74462	0.25538	**61**	16.2423	0.32485	0.67515
7	36.9825	0.73965	0.26035	**62**	15.7528	0.31506	0.68494
8	36.7282	0.73456	0.26544	**63**	15.2649	0.30530	0.69470
9	36.4680	0.72936	0.27064	**64**	14.7787	0.29557	0.70443
10	36.2021	0.72404	0.27596	**65**	14.2943	0.28589	0.71411
11	35.9306	0.71861	0.28139	**66**	13.8077	0.27615	0.72385
12	35.6536	0.71307	0.28693	**67**	13.3206	0.26641	0.73359
13	35.3724	0.70745	0.29255	**68**	12.8345	0.25669	0.74331
14	35.0885	0.70177	0.29823	**69**	12.3507	0.24701	0.75299
15	34.8028	0.69606	0.30394	**70**	11.8701	0.23740	0.76260
16	34.5158	0.69032	0.30968	**71**	11.3926	0.22785	0.77215
17	34.2268	0.68454	0.31546	**72**	10.9190	0.21838	0.78162
18	33.9354	0.67871	0.32129	**73**	10.4510	0.20902	0.79098
19	33.6407	0.67281	0.32719	**74**	9.9903	0.19981	0.80019
20	33.3413	0.66683	0.33317	**75**	9.5385	0.19077	0.80923
21	33.0377	0.66075	0.33925	**76**	9.0964	0.18193	0.81807
22	32.7294	0.65459	0.34541	**77**	8.6643	0.17329	0.82671
23	32.4158	0.64832	0.35168	**78**	8.2425	0.16485	0.83515
24	32.0956	0.64191	0.35809	**79**	7.8316	0.15663	0.84337
25	31.7680	0.63536	0.36464	**80**	7.4324	0.14865	0.85135
26	31.4330	0.62866	0.37134	**81**	7.0450	0.14090	0.85910
27	31.0903	0.62181	0.37819	**82**	6.6698	0.13340	0.86660
28	30.7401	0.61480	0.38520	**83**	6.3073	0.12615	0.87385
29	30.3833	0.60767	0.39233	**84**	5.9579	0.11916	0.88084
30	30.0203	0.60041	0.39959	**85**	5.6216	0.11243	0.88757
31	29.6509	0.59302	0.40698	**86**	5.2988	0.10598	0.89402
32	29.2753	0.58551	0.41449	**87**	4.9896	0.09979	0.90021
33	28.8934	0.57787	0.42213	**88**	4.6938	0.09388	0.90612
34	28.5061	0.57012	0.42988	**89**	4.4118	0.08824	0.91176
35	28.1130	0.56226	0.43774	**90**	4.1434	0.08287	0.91713
36	27.7141	0.55428	0.44572	**91**	3.8884	0.07777	0.92223
37	27.3097	0.54619	0.45381	**92**	3.6466	0.07293	0.92707
38	26.8994	0.53799	0.46201	**93**	3.4183	0.06837	0.93163
39	26.4839	0.52968	0.47032	**94**	3.2025	0.06405	0.93595
40	26.0634	0.52127	0.47873	**95**	2.9990	0.05998	0.94002
41	25.6378	0.51276	0.48724	**96**	2.8081	0.05616	0.94384
42	25.2075	0.50415	0.49585	**97**	2.6290	0.05258	0.94742
43	24.7716	0.49543	0.50457	**98**	2.4609	0.04922	0.95078
44	24.3311	0.48662	0.51338	**99**	2.3029	0.04606	0.95394
45	23.8859	0.47772	0.52228	**100**	2.1565	0.04313	0.95687
46	23.4357	0.46871	0.53129	**101**	2.0179	0.04036	0.95964
47	22.9813	0.45963	0.54037	**102**	1.8901	0.03780	0.96220
48	22.5224	0.45045	0.54955	**103**	1.7637	0.03527	0.96473
49	22.0589	0.44118	0.55882	**104**	1.6474	0.03295	0.96705
50	21.5904	0.43181	0.56819	**105**	1.5329	0.03066	0.96934
51	21.1171	0.42234	0.57766	**106**	1.3908	0.02782	0.97218
52	20.6390	0.41278	0.58722	**107**	1.2303	0.02461	0.97539
53	20.1567	0.40313	0.59687	**108**	0.9756	0.01951	0.98049
54	19.6709	0.39342	0.60658	**109**	0.4902	0.00980	0.99020