

the decedent. It does not include a power created or held on property transferred by the decedent.

A power of appointment includes all powers which are, in substance and effect, powers of appointment regardless of how they are identified and regardless of local property laws. For example, if a settlor transfers property in trust for the life of the settlor's spouse, with a power in the spouse to appropriate or consume the principal of the trust, the spouse has a power of appointment.

Some powers do not in themselves constitute a power of appointment. For example, a power to amend only administrative provisions of a trust that cannot substantially affect the beneficial enjoyment of the trust property or income is not a power of appointment. A power to manage, invest, or control assets, or to allocate receipts and disbursements, when exercised only in a fiduciary capacity, is not a power of appointment.

General power of appointment. A *general power of appointment* is a power that is exercisable in favor of the decedent, the decedent's estate, the decedent's creditors, or the creditors of the decedent's estate, except the following.

1. A power to consume, invade, or appropriate property for the benefit of the decedent that is limited by an ascertainable standard relating to health, education, support, or maintenance of the decedent.
2. A power exercisable by the decedent only in conjunction with:
 - a. The creator of the power; or
 - b. A person who has a substantial interest in the property subject to the power, which is adverse to the exercise of the power in favor of the decedent.

A part of a power is considered a general power of appointment if the power:

1. May only be exercised by the decedent in conjunction with another person, and
2. Is also exercisable in favor of the other person (in addition to being exercisable in favor of the decedent, the decedent's creditors, the decedent's estate, or the creditors of the decedent's estate).

When there is a partial power, figure the amount included in the gross estate by dividing the value of the property by the number of persons (including the decedent) in favor of whom the power is exercisable.

Date power was created. Generally, a power of appointment created by will is considered created on the date of the testator's death.

A power of appointment created by an inter vivos instrument is considered created on the date the instrument takes effect. If the holder of a power exercises it by creating a second power, the second power is considered as created at the time of the exercise of the first.

Attachments

If the decedent ever possessed a power of appointment, attach a certified or verified copy of the instrument granting the power and a certified or verified copy of any instrument by which the power was exercised or released. You must file these copies even if you contend that the power was not a general power of appointment, and that the property is not otherwise includible in the gross estate.

Schedule I—Annuities



If any assets to which the special rule of Regulations section 20.2010-2(a)(7)(ii) applies are reported on this schedule, do not enter any value in the last three columns. See the instructions for Part 5—Recapitulation, line 10, for information on how to estimate and report the value of these assets.

Complete Schedule I and file it with the return if you answered "Yes" to question 16 of *Part 4—General Information*.

Enter on Schedule I every annuity that meets all of the conditions under *General*, later, and every annuity described in paragraphs (a) through (h) of *Annuities Under Approved Plans*, later, even if the annuities are wholly or partially excluded from the gross estate.

For a discussion regarding the QTIP treatment of certain joint and survivor annuities, see the Schedule M, line 3, instructions.

General

These rules apply to all types of annuities, including pension plans, individual retirement arrangements (IRAs), purchased commercial annuities, and private annuities.

In general, you must include in the gross estate all or part of the value of any annuity that meets the following requirements.

- It is receivable by a beneficiary following the death of the decedent and by reason of surviving the decedent.
- The annuity is under a contract or agreement entered into after March 3, 1931.
- The annuity was payable to the decedent (or the decedent possessed the right to receive the annuity) either alone or in conjunction with another, for the decedent's life or for any period not ascertainable without reference to the decedent's death or for any period that did not in fact end before the decedent's death.
- The contract or agreement is not a policy of insurance on the life of the decedent.

Note. A *private annuity* is an annuity issued by a party not engaged in the business of writing annuity contracts, typically a junior generation family member or a family trust.

An annuity contract that provides periodic payments to a person for life and ceases at the person's death is not includible in the gross estate. Social security benefits are not includible in the gross estate even if the surviving spouse receives benefits.

An annuity or other payment that is not includible in the decedent's or the survivor's gross estate as an annuity may still be includible under some other applicable provision of the law. For example, see *Powers of Appointment* and the instructions for *Schedule G—Transfers During Decedent's Life*, earlier. See also Regulations section 20.2039-1(e).

If the decedent retired before January 1, 1985, see *Annuities Under Approved Plans*, later, for rules that allow the exclusion of part or all of certain annuities.

Part Includible

If the decedent contributed only part of the purchase price of the contract or agreement, include in the gross estate only that part of the value of the annuity receivable by the

surviving beneficiary that the decedent's contribution to the purchase price of the annuity or agreement bears to the total purchase price.

For example, if the value of the survivor's annuity was \$20,000 and the decedent had contributed 75% of the purchase price of the contract, the amount includible is \$15,000 (75% (0.75) × \$20,000).

Except as provided under *Annuities Under Approved Plans*, later, contributions made by the decedent's employer to the purchase price of the contract or agreement are considered made by the decedent if they were made by the employer because of the decedent's employment. For more information, see section 2039(b).

Definitions

Annuity. An *annuity* consists of one or more payments extending over any period of time. The payments may be equal or unequal, conditional or unconditional, periodic or sporadic.

Examples. The following are examples of contracts (but not necessarily the only forms of contracts) for annuities that must be included in the gross estate.

1. A contract under which the decedent immediately before death was receiving or was entitled to receive, for the duration of life, an annuity with payments to continue after death to a designated beneficiary, if surviving the decedent.
2. A contract under which the decedent immediately before death was receiving or was entitled to receive, together with another person, an annuity payable to the decedent and the other person for their joint lives, with payments to continue to the survivor following the death of either.
3. A contract or agreement entered into by the decedent and employer under which the decedent immediately before death and following retirement was receiving, or was entitled to receive, an annuity payable to the decedent for life. After the decedent's death, if survived by a designated beneficiary, the annuity was payable to the beneficiary with payments either fixed by contract or subject to an option or election exercised or exercisable by the decedent. However, see *Annuities Under Approved Plans*, later.
4. A contract or agreement entered into by the decedent and the decedent's employer under which at the decedent's death, before retirement, or before the expiration of a stated period of time, an annuity was payable to a designated beneficiary, if surviving the decedent. However, see *Annuities Under Approved Plans*, later.
5. A contract or agreement under which the decedent immediately before death was receiving, or was entitled to receive, an annuity for a stated period of time, with the annuity to continue to a designated beneficiary, surviving the decedent, upon the decedent's death and before the expiration of that period of time.
6. An annuity contract or other arrangement providing for a series of substantially equal periodic payments to be made to a beneficiary for life or over a period of at least 36 months after the date of the decedent's death under an individual retirement account, annuity, or bond as

described in section 2039(e) (before its repeal by P.L. 98-369).

Payable to the decedent. An annuity or other payment was payable to the decedent if, at the time of death, the decedent was in fact receiving an annuity or other payment, with or without an enforceable right to have the payments continued.

Right to receive an annuity. The decedent had the right to receive an annuity or other payment if, immediately before death, the decedent had an enforceable right to receive payments at some time in the future, whether or not at the time of death the decedent had a present right to receive payments.

Annuities Under Approved Plans

The following rules relate to whether part or all of an otherwise includible annuity may be excluded. These rules have been repealed and apply only if the decedent either:

- On December 31, 1984, was both a participant in the plan and in pay status (for example, had received at least one benefit payment on or before December 31, 1984) and had irrevocably elected the form of the benefit before July 18, 1984; or
- Had separated from service before January 1, 1985, and did not change the form of benefit before death.

The amount excluded cannot exceed \$100,000 unless either of the following conditions is met.

- On December 31, 1982, the decedent was both a participant in the plan and in pay status (for example, had received at least one benefit payment on or before December 31, 1982) and the decedent irrevocably elected the form of the benefit before January 1, 1983.
- The decedent separated from service before January 1, 1983, and did not change the form of benefit before death.

Approved Plans

Approved plans may be separated into two categories.

- Pension, profit-sharing, stock bonus, and other similar plans.
- IRAs and retirement bonds.

Different exclusion rules apply to the two categories of plans.

Pension, etc., plans. The following plans are approved plans for the exclusion rules.

a. An employees' trust (or a contract purchased by an employees' trust) forming part of a pension, stock bonus, or profit-sharing plan that met all the requirements of section 401(a), either at the time of the decedent's separation from employment (whether by death or otherwise) or at the time of the termination of the plan (if earlier).

b. A retirement annuity contract purchased by the employer (but not by an employees' trust) under a plan that, at the time of the decedent's separation from employment (by death or otherwise), or at the time of the termination of the plan (if earlier), was a plan described in section 403(a).

c. A retirement annuity contract purchased for an employee by an employer that is an organization referred to in section 170(b)(1)(A)(ii) or (vi), or that is a religious organization (other than a trust), and that is exempt from tax under section 501(a).

d. Chapter 73 of title 10 of the United States Code.

e. A bond purchase plan described in section 405 (before its repeal by P.L. 98-369, effective for obligations issued after December 31, 1983).

Exclusion rules for pension, etc., plans. If an annuity under an *approved plan* described in (a) through (e) above is receivable by a beneficiary other than the executor and the decedent made no contributions under the plan toward the cost, no part of the value of the annuity, subject to the \$100,000 limitation (if applicable), is includible in the gross estate.

If the decedent made a contribution under a plan described in (a) through (e) above toward the cost, include in the gross estate on this schedule that proportion of the value of the annuity which the amount of the decedent's contribution under the plan bears to the total amount of all contributions under the plan. The remaining value of the annuity is excludable from the gross estate subject to the \$100,000 limitation (if applicable). For the rules to determine whether the decedent made contributions to the plan, see Regulations section 20.2039-1(c).

IRAs and retirement bonds. The following plans are approved plans for the exclusion rules.

f. An individual retirement account described in section 408(a).

g. An individual retirement annuity described in section 408(b).

h. A retirement bond described in section 409(a) (before its repeal by P.L. 98-369).

Exclusion rules for IRAs and retirement bonds. These plans are approved plans only if they provide for a series of substantially equal periodic payments made to a beneficiary for life, or over a period of at least 36 months after the date of the decedent's death.

Subject to the \$100,000 limitation (if applicable), if an annuity under a "plan" described in (f) through (h) above is receivable by a beneficiary other than the executor, the entire value of the annuity is excludable from the gross estate even if the decedent made a contribution under the plan.

However, if any payment to or for an account or annuity described in paragraph (f), (g), or (h) earlier was not allowable as an income tax deduction under section 219 (and was not a rollover contribution, as described in section 2039(e) before its repeal by P.L. 98-369), include in the gross estate on this schedule that proportion of the value of the annuity which the amount not allowable as a deduction under section 219 and not a rollover contribution bears to the total amount paid to or for such account or annuity. For more information, see Regulations section 20.2039-5.

Rules applicable to all approved plans. The following rules apply to all approved plans described in paragraphs (a) through (h), earlier.

If any part of an annuity under a "plan" described in (a) through (h), earlier, is receivable by the executor, it is generally includible in the gross estate to the extent that it is receivable by the executor in that capacity. In general, the annuity is receivable by the executor if it is to be paid to the executor or if there is an agreement (expressed or implied) that it will be applied by the beneficiary for the benefit of the estate (such as in discharge of the estate's liability for death taxes or debts of the decedent, etc.) or that its distribution will be governed to any extent by the terms of the decedent's will or the laws of descent and distribution.

If data available to you does not indicate whether the plan satisfies the requirements of section 401(a), 403(a), 408(a), 408(b), or 409(a), you may obtain that information from the IRS office where the employer's principal place of business is located.

Line A. Lump-Sum Distribution Election

Note. The following rules have been repealed and apply only if the decedent:

- On December 31, 1984, was both a participant in the plan and in pay status (for example, had received at least one benefit payment on or before December 31, 1984) and had irrevocably elected the form of the benefit before July 18, 1984; or
- Had separated from service before January 1, 1985, and did not change the form of benefit before death.

Generally, the entire amount of any lump-sum distribution is included in the decedent's gross estate. However, under this special rule, all or part of a lump-sum distribution from a qualified (approved) plan will be excluded if the lump-sum distribution is included in the recipient's income for income tax purposes.

If the decedent was born before 1936, the recipient may be eligible to elect special "10-year averaging" rules (under repealed section 402(e)) and capital gain treatment (under repealed section 402(a)(2)) in figuring the income tax on the distribution. For more information, see Pub. 575, Pension and Annuity Income. If this option is available, the estate tax exclusion cannot be claimed unless the recipient elects to forego the "10-year averaging" and capital gain treatment in figuring the income tax on the distribution. The recipient elects to forego this treatment by treating the distribution as taxable on the recipient's income tax return, as described in Regulations section 20.2039-4(d). The election is irrevocable.

The amount excluded from the gross estate is the portion attributable to the employer contributions. The portion, if any, attributable to the employee-decedent's contributions is always includible. Also, you may not figure the gross estate in accordance with this election unless you check "Yes" on line A and attach the names, addresses, and identifying numbers of the recipients of the lump-sum distributions. See Regulations section 20.2039-4(d)(2).

How To Complete Schedule I

In describing an annuity, give the name and address of the grantor of the annuity. Specify if the annuity is under an approved plan.

IF . . .	THEN . . .
the annuity is under an approved plan	state the ratio of the decedent's contribution to the total purchase price of the annuity.
the decedent was employed at the time of death and an annuity as described earlier in <i>Definitions, Annuity, Example 4</i> became payable to any beneficiary because the beneficiary survived the decedent	state the ratio of the decedent's contribution to the total purchase price of the annuity.

IF . . .	THEN . . .
an annuity under an individual retirement account or annuity became payable to any beneficiary because that beneficiary survived the decedent and is payable to the beneficiary for life or for at least 36 months following the decedent's death	state the ratio of the amount paid for the individual retirement account or annuity that was not allowable as an income tax deduction under section 219 (other than a rollover contribution) to the total amount paid for the account or annuity.
the annuity is payable out of a trust or other fund	the description should be sufficiently complete to fully identify it.
the annuity is payable for a term of years	include the duration of the term and the date on which it began.
the annuity is payable for the life of a person other than the decedent	include the date of birth of that person.
the annuity is wholly or partially excluded from the gross estate	enter the amount excluded under "Description" and explain how you figured the exclusion.

Schedule J—Funeral Expenses and Expenses Incurred in Administering Property Subject to Claims



Use Schedule PC to make a protective claim for refund for expenses which are not currently deductible under section 2053. For such a claim, report the expense on Schedule J but without a value in the last column.

General. Complete and file Schedule J if you claim a deduction on item 14 of *Part 5—Recapitulation*.

On Schedule J, itemize funeral expenses and expenses incurred in administering property subject to claims. List the names and addresses of persons to whom the expenses are payable and describe the nature of the expense. **Do not list expenses incurred in administering property not subject to claims on this schedule. List them on Schedule L instead.**

The deduction is limited to the amount paid for these expenses that is allowable under local law but may not exceed:

1. The value of property subject to claims included in the gross estate, plus
2. The amount paid out of property included in the gross estate but not subject to claims. This amount must actually be paid by the due date of the estate tax return.

The applicable local law under which the estate is being administered determines which property is and is not subject to claims. If under local law a particular property interest included in the gross estate would bear the burden for the payment of the expenses, then the property is considered property subject to claims.

Unlike certain claims against the estate for debts of the decedent (see the instructions for Schedule K), you cannot deduct expenses incurred in administering property subject

to claims on both the estate tax return and the estate's income tax return. If you choose to deduct them on the estate tax return, you cannot deduct them on a Form 1041, U.S. Income Tax Return for Estates and Trusts, filed for the estate. Funeral expenses are only deductible on the estate tax return.

Funeral expenses. Itemize funeral expenses on line A. Deduct from the expenses any amounts that were reimbursed, such as death benefits payable by the SSA or the Veterans Administration.

Executors' commissions. When you file the return, you may deduct commissions that have actually been paid to you or that you expect will be paid. Do not deduct commissions if none will be collected. If the amount of the commissions has not been fixed by decree of the proper court, the deduction will be allowed on the final examination of the return, provided that:

- The Chief, Estate and Gift/Excise Tax Examination, is reasonably satisfied that the commissions claimed will be paid;
- The amount entered as a deduction is within the amount allowable by the laws of the jurisdiction where the estate is being administered; and
- It is in accordance with the usually accepted practice in that jurisdiction for estates of similar size and character.

If you have not been paid the commissions claimed at the time of the final examination of the return, you must support the amount you deducted with an affidavit or statement signed under the penalties of perjury that the amount has been agreed upon and will be paid.

You may not deduct a bequest or devise made to you instead of commissions. If, however, the decedent fixed by will the compensation payable to you for services to be rendered in the administration of the estate, you may deduct this amount to the extent it is not more than the compensation allowable by the local law or practice.

Do not deduct on this schedule amounts paid as trustees' commissions whether received by you acting in the capacity of a trustee or by a separate trustee. If such amounts were paid in administering property not subject to claims, deduct them on Schedule L.

Note. Executors' commissions are taxable income to the executors. Therefore, be sure to include them as income on your individual income tax return.

Attorney fees. Enter the amount of attorney fees that have actually been paid or that you reasonably expect to be paid. If, on the final examination of the return, the fees claimed have not been awarded by the proper court and paid, the deduction will be allowed, provided the Chief, Estate and Gift/Excise Tax Examination, is reasonably satisfied that the amount claimed will be paid and that it does not exceed a reasonable payment for the services performed, taking into account the size and character of the estate and the local law and practice. If the fees claimed have not been paid at the time of final examination of the return, the amount deducted must be supported by an affidavit, or statement signed under penalties of perjury, by the executor or the attorney stating that the amount has been agreed upon and will be paid.

Do not deduct attorney fees incidental to litigation incurred by the beneficiaries. These expenses are charged against the beneficiaries personally and are not administration expenses authorized by the Code.

more than annually) as payments are being made and possibly qualify for a partial refund based on the amounts paid through the date of the notice.

Specific Instructions

Part 1. General Information

Complete Part 1 by providing information that is correct and complete as of the time Schedule PC is filed. If filing an updated Schedule PC with a supplemental Form 706 or as notice of final resolution of the protective claim for refund, be sure to update the information from the original filing to ensure that it is accurate. Be particularly careful to verify that contact information (addresses and telephone numbers) and the reason for filing Schedule PC are indicated correctly. If the fiduciary is different from the executor identified on page 1 of Form 706 or has changed since the initial notice of protective claim for refund was filed, attach letters testamentary, letters of administration, or similar documentation evidencing the fiduciary's authority to file the protective claim for refund on behalf of the estate. Include a copy of Form 56, Notice Concerning Fiduciary Relationship, if it has been filed.

Part 2. Claim Information

For a protective claim for refund to be properly filed and considered, the claim or expense forming the basis of the potential section 2053 deduction must be clearly identified. Using the check boxes provided, indicate whether you are filing the initial claim for refund, a claim for partial refund, or a final claim.

On the chart in Part 2, give the Form 706 schedule and item number of the claim or expense. List any amounts claimed under exceptions for ascertainable amounts (Regulations section 20.2053-1(d)(4)), claims and counterclaims in related matters (Regulations section 20.2053-4(b)), or claims under \$500,000 (Regulations section 20.2053-4(c)). Provide all relevant information as described, including, most importantly, an explanation of the reasons and contingencies delaying the actual payment to be made in satisfaction of the claim or expense. Complete columns E and F only if filing a notice of partial or final resolution. Show the amount of ancillary or related expenses to be included in the claim for refund and indicate whether this amount is estimated, agreed upon, or has been paid. Also show the amount being claimed for refund.

If continuing	Report	Where on Continuation Schedule
Schedule E, Pt. 2	<i>Percentage includible</i>	<i>Alternate valuation date</i>
Schedules J, L, M	<i>Continued description of deduction</i>	<i>Alternate valuation date and Alternate value</i>
Schedule O	<i>Character of institution</i>	<i>Alternate valuation date and Alternate value</i>
Schedule O	<i>Amount of each deduction</i>	<i>Value at date of death or amount deductible</i>

Note. If you made partial claims for a recurring expense, the amount presently claimed as a deduction under section 2053 will only include the amount presently claimed, not the cumulative amount.

Part 3. Other Schedules PC and Forms 843 Filed by the Estate

On the chart in Part 3, provide information on other protective claims for refund that have been previously filed on behalf of the estate (if any), whether on other Schedules PC or on Form 843. When the initial claim for refund is filed, only information from Form(s) 843 need be included in Part 3. However, when filing a partial or final claim for refund, complete Part 3 by including the status of all claims filed by or on behalf of the estate, including those filed on other Schedules PC with Form 706. For each such claim, give the place of filing, date of filing, and amount of the claim.

Continuation Schedule

When you need to list more assets or deductions than you have room for on one of the main schedules, use the Continuation Schedule at the end of Form 706. It provides a uniform format for listing additional assets from Schedules A through I and additional deductions from Schedules J, K, L, M, and O.

Please remember to do the following.

- Use a separate Continuation Schedule for each main schedule you are continuing. Do not combine assets or deductions from different schedules on one Continuation Schedule.
- Make copies of the blank schedule before completing it if you expect to need more than one.
- Use as many Continuation Schedules as needed to list all the assets or deductions.
- Enter the letter of the schedule you are continuing in the space at the top of the Continuation Schedule.
- Use the Unit value column **only** if continuing Schedule B, E, or G. For all other schedules, use this space to continue the description.
- Carry the total from the Continuation Schedules forward to the appropriate line on the main schedule.

Privacy Act and Paperwork Reduction Act Notice. We ask for the information on this form to carry out the Internal Revenue laws of the United States. You are required to give us the information. We need it to ensure that you are complying with these laws and to allow us to figure and collect the right amount of tax. Subtitle B and section 6109, and the regulations require you to provide this information.

You are not required to provide the information requested on a form that is subject to the Paperwork Reduction Act unless the form displays a valid OMB control number. Books or records relating to a form or its instructions must be retained as long as their contents may become material in the administration of any Internal Revenue law. Generally, tax returns and return information are confidential as required by section 6103. However, section 6103 allows or requires the Internal Revenue